

PUBLIC MATTER

FILED

SEP 27 2017

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES**

In the Matter of)	Case No. 15-O-11272 -YDR
)	
ANDREW YOSHITERU SCHROEDER,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 231087.)	ENROLLMENT
)	

Respondent Andrew Yoshiteru Schroeder (Respondent) was charged with five counts of misconduct. He failed to participate in these proceedings, either in person or through counsel, and his default was entered. Thereafter, the Office of Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.¹

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC), and the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source. And, all statutory references are to the Business and Professions Code, unless otherwise indicated.

² If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(F)(2).)



In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that Respondent be disbarred from the practice of law.

FINDINGS AND CONCLUSIONS

Jurisdiction

Respondent was admitted to practice law in this state on June 1, 2004, and has been a member since then.

Procedural Requirements Have Been Satisfied

On August 24, 2016, the State Bar properly filed and served an NDC on Respondent by certified mail, return receipt requested, at his membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The return receipt card for the NDC, which had been sent by certified mail, return receipt requested, was not returned to the State Bar.

Reasonable diligence was used to notify Respondent of this proceeding. The State Bar took additional steps to notify Respondent by: (1) emailing a courtesy copy of the NDC to him on August 24, 2017, at his email membership records address; (2) telephoning him on September 26, 2016, at his official membership telephone number; (3) mailing a Notice of Intent to File Motion for Default on September 27, 2016, which included a copy of the NDC and also informed him that an initial status conference had been scheduled for October 3, 2016, at 1:30 p.m., in the Los Angeles venue of the State Bar Court; and (4) emailing a copy of the Notice of Intent to File Motion for Default letter to Respondent's membership records email address and two other email addresses, which a Lexis Nexis search indicated were associated with Respondent. No response to any of the emails sent by the State Bar was received from Respondent. No message could be left at Respondent's official membership telephone number,

as no voice message mailbox had been set up. And, none of the letters mailed on September 27, 2016, were returned to the State Bar as undeliverable or for any other reason.

Respondent failed to file a response to the NDC. On October 6, 2016, OCTC filed and properly served a motion for entry of Respondent's default on Respondent at his membership records address. The motion complied with all of the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on December 5, 2016. The order entering the default was served on Respondent at his membership records address by certified mail, return receipt requested, as well as by first class mail. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order. He has remained inactively enrolled since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On July 31, 2017, the State Bar properly filed and served the petition for disbarment on Respondent at his membership records address. As required by rule 5.85(A), the State Bar reported in the petition that: (1) the State Bar has not received any contact from Respondent since his default was entered; (2) there are no other disciplinary matters pending against Respondent; (3) Respondent does not have a prior record of discipline; and (4) the Client Security Fund has not paid any claims as a result of Respondent's misconduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default.

The case was submitted for decision on August 31, 2017.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of Respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

Case No. 15-O-11272 (Chang Matter)

Count One – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal) by constructively terminating his employment when he failed to take any action on his client's behalf after notifying the client, Vincent Chang (Chang), that a patent application had been filed in the matter, but failing to inform the client that he, i.e., Respondent, was withdrawing from employment.

Count Two – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failure to render an accounting) by failing after he terminated his employment to provide his client with an accounting of the \$3,325 advanced fees and advanced costs (i.e., \$2900 advanced fees + \$425 advanced costs = \$3,325), received from his client.

Count Three – Respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to return client papers/property) by failing to promptly release all papers and property to his client, Vincent Chang, upon the client's March 25, 2015 request to Respondent for his file.

Count Four – Respondent willfully violated section 6068, subdivision (i) (failure to cooperate with the State Bar in a disciplinary investigation) by failing to provide substantive responses to the State Bar's April 7 and 28, 2015 letters, which he received, and to the State Bar's June 16, 2015 email, which he also received. The State Bar's two letters and its email

requested that Respondent provide the State Bar with a response to the allegations of misconduct being investigated in the instant matter, i.e., case number 15-O-11272.

Count Five – Respondent willfully violated section 6106 (moral turpitude, dishonesty, or corruption) by stating in writing to his client, Chang, that a patent application had been filed with the United States Patent and Trademark Office, when at the time Respondent made the aforementioned written representation to his client, Respondent knew or was grossly negligent in not knowing that his statement that a patent application had been filed was false.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(F) have been satisfied and Respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) reasonable diligence was used to notify Respondent of the proceedings prior to the entry of his default;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC, deemed admitted by the entry of the default, support a finding that Respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, Respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent **Andrew Yoshiteru Schroeder**, State Bar number 231087, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

The court also recommends that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

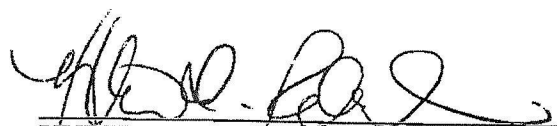
Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that **Andrew Yoshiteru Schroeder**, State Bar number 231087, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: September 27, 2017


YVETTE D. ROLAND
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 27, 2017, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

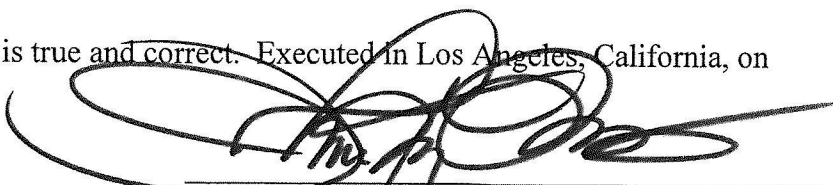
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ANDREW Y. SCHROEDER
LAW OFFICE OF ANDREW SCHROEDER
PO BOX 573
LOS ANGELES, CA 90078**

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

JAMIE KIM, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 27, 2017.



Johnnie Lee Smith
Case Administrator
State Bar Court