

PUBLIC MATTER

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**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of)	Case Nos. 15-O-13894
)	(16-O-10552)-PEM
GREGORY RICHARD KAIGHN,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 124049.)	INVOLUNTARY INACTIVE
_____)	ENROLLMENT

Respondent Gregory Richard Kaighn (respondent) was charged with four 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 (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 that the court recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source. Furthermore, 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 October 14, 1986, and has been a member since then.

Procedural Requirements Have Been Satisfied

On March 23, 2017, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, at Respondent's 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 and the NDC were not returned to the State Bar.

The State Bar took additional steps to contact respondent, and did provide him with actual notice about these proceedings. On March 23, 2017, the State Bar sent a courtesy copy of the NDC by regular first-class mail to Respondent at his membership records address. Thereafter, on April 19, 2017, respondent contacted the State Bar by email. On the same date, the State Bar sent an email reply, informing respondent that he was required to file a response to the NDC. On April 30, 2017, respondent emailed a letter to this court stating that he will not "attempt to defend this case in the traditional sense" and that he "will not participate in further 'State Bar litigation' under such obviously corrupt circumstances."

Respondent failed to file a response to the NDC. On May 2, 2017, the State Bar properly filed and served a motion for entry of respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the

State Bar 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 May 18, 2017. The order entering the default was served on respondent at his membership records address by certified mail, return receipt requested. 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 September 20, 2017, the State Bar properly filed and served the petition for disbarment on respondent at his official membership records address. As required by rule 5.85(A), the State Bar reported in the petition that: (1) there has been no contact with respondent since his default was entered; (2) there are other matters pending against respondent; (3) respondent has no prior records 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 October 17, 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, except as otherwise noted, 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-13894 (The Brody Matter)

Count One - Respondent willfully violated section 6068, subdivision (b) (failure to maintain respect due court), by making false, disparaging comments in a pleading about Court Commissioner Kenneth Brody when respondent had no reasonable basis to believe the statements were true, respondent had not conducted any reasonable investigation to determine whether the statements were true, and respondent made the statements with reckless disregard for the truth.

Case No. 16-O-10552 (The Coyle Matter)

Count Two - The court does not find respondent culpable of willfully violating rule 3-200(A) of the Rules of Professional Conduct (prohibited objectives of employment), as the facts deemed admitted as a result of the entry of respondent's default do not support a finding by clear and convincing evidence that respondent continued employment when he knew that the objective of the employment was to bring an action without probable cause and for the purpose of harassing various defendants.

Count Three – Respondent willfully violated section 6068, subdivision (g) (commencement of action with corrupt motive), by encouraging the commencement and continuation of an action with a corrupt motive of passion or interest when he filed a complaint with the intent to harass the defendants identified in the pleading.

Case No. 15-O-13894 (The Brody Matter)

Case No. 16-O-10552 (The Coyle Matter)

Count Four – Respondent willfully violated section 6106 (moral turpitude) by publishing disparaging statements of fact about Court Commissioner Kenneth Brody when respondent knew that the statements were false (case No. 15-O-13894) and by filing a complaint with the intent to harass the defendants identified in the pleading (case No. 16-O-10552).

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 actual 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 respondent's disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Gregory Richard Kaighn, State Bar number 124049, 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.

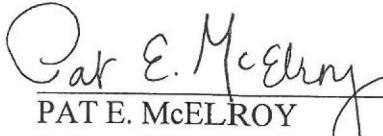
Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being 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 Gregory Richard Kaighn, State Bar number 124049, 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: November 7, 2017


PAT E. McELROY
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 San Francisco, On November 7, 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 San Francisco, California, addressed as follows:

GREGORY R. KAIGHN
1390 BROADWAY
STE B-345
PLACERVILLE, CA 95667

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

KEVIN B. TAYLOR, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 7, 2017.



Laurretta Cramer
Case Administrator
State Bar Court