



PUBLIC MATTER

FILED

JAN 24 2019

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STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

In the Matter of)	Case Nos. 15-O-14147 (16-O-17613;
)	17-O-06032)-MC
CHRISTOPHER MATTHEW WEIDINGER,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 262347.)	INVOLUNTARY INACTIVE
)	ENROLLMENT
)	

In this matter, respondent Christopher Matthew Weidinger (Respondent) was charged with nine counts of misconduct involving three correlated matters. Respondent failed to participate either in person or through counsel, and his default was entered. The Office of Chief Trial Counsel of the State Bar of California (OCTC) 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, OCTC 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.

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

Respondent was admitted to practice law in this state on February 13, 2009, and has been a member since then.

Procedural Requirements Have Been Satisfied

On July 10, 2018, OCTC properly filed and served an NDC on Respondent's then-attorney by certified mail, return receipt requested, at the attorney'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 NDC was not returned to OCTC by the U.S. Postal Service as undeliverable.

In addition, Respondent had actual notice of this proceeding. After learning that Respondent was no longer represented by counsel, OCTC – on July 13, 2018 – served a copy of the NDC on Respondent by certified mail, return receipt requested, at his membership records address. Again, the NDC was not returned to OCTC by the U.S. Postal Service as undeliverable.

Following Respondent's non-appearance at the initial status conference in this matter, OCTC emailed Respondent – on August 7, 2018 – and informed him that a default motion would be filed if he did not file a response to the NDC. Respondent replied to this email that same day and stated that he would file his answer by the following day.

On or about August 7, 2018, Respondent attempted to file an answer, but it was rejected by the court because it failed to meet multiple filing requirements. On or about August 10, 2018, the court issued a notice of rejection to Respondent at his official membership records address. OCTC also promptly notified Respondent, via email, that his answer had been rejected by the

court. On August 15, 2018, Respondent replied to OCTC's email and stated that he would re-file his answer.

Thereafter, however, Respondent did not properly file a response to the NDC. On August 21, 2018, OCTC filed and properly served a motion for entry of Respondent's default. The motion included a supporting declaration of reasonable diligence by Senior Trial Counsel Carla Cheung 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 September 6, 2018. The order entering 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, and he has remained inactively enrolled since that time.

On or about September 25, 2018, Respondent emailed OCTC and inquired about the disbarment process. That same day, OCTC informed Respondent that he could: (1) stipulate to disbarment; (2) let the default remain and choose to not oppose a petition for disbarment; or (3) move to set aside the default and proceed to trial. Respondent replied to OCTC's email and indicated his preference was to let the default stand.

Respondent did not subsequently 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 December 11, 2018, OCTC filed the petition for disbarment. OCTC reported in the petition that: (1) it had some contact with Respondent since the default was entered – culminating with Respondent's email indicating his preference to let the default stand; (2) Respondent has other disciplinary matters

pending; (3) Respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct. 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 January 8, 2019.

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-14147

Count One – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by, on or about February 6, 2013, knowingly and intentionally submitting a written application and E-Forms Agreement to the administrator of the Department of Industrial Relation Electronic Adjudication Management System that misrepresented Respondent to be attorney John Mersereau (Mersereau), without Mersereau's knowledge or consent.

Count Two – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by, on or about July 1, 2013, knowingly and intentionally misrepresenting himself to be Mersereau (without Mersereau's knowledge or consent) in an email communication sent to Sharawn Laws (Sharawn).

Count Three – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by, on or about July 2, 2013, knowingly and intentionally

misrepresenting himself to be Mersereau (without Mersereau's knowledge or consent) at an in-person meeting with Sharawn.

Count Four – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by, between in or about July 2013 and April 2014, representing Sharawn before the Workers' Compensation Appeals Board (WCAB) while knowingly and intentionally misrepresenting himself to be Mersereau (without Mersereau's knowledge or consent) in filed documents and correspondence with opposing counsel.

Count Five – Respondent willfully violated Business and Professions Code section 6068, subdivision (d) (seeking to mislead a judge) by, between on or about July 15 and November 18, 2013, knowingly and intentionally misrepresenting himself to be Mersereau (without Mersereau's knowledge or consent) in four documents filed in the WCAB in the matter of *Sharawn Laws v. The City and County of San Francisco*.

Case No. 16-O-17613

Count Six – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by, in or about May 2014, representing Tamara Harman before the WCAB while knowingly and intentionally misrepresenting himself to be Mersereau (without Mersereau's knowledge or consent) in filed documents.

Count Seven – Respondent willfully violated Business and Professions Code section 6068, subdivision (d) (seeking to mislead a judge) by, in or about May 2014, knowingly and intentionally misrepresenting himself to be Mersereau (without Mersereau's knowledge or consent) in two documents filed with the WCAB in the matter of *Tamara Harman v. Dolan Foster Enterprises*.

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Case No. 17-O-06032

Count Eight – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by, between in or about January 2013 and January 2017, representing clients in 88 matters before the WCAB while knowingly and intentionally misrepresenting himself to be Mersereau (without Mersereau’s knowledge or consent) in filed documents and correspondence with opposing counsel, third parties, and the WCAB.

Count Nine – Respondent willfully violated Business and Professions Code section 6068, subdivision (d) (seeking to mislead a judge) by, between in or about January 2013 and January 2017, representing clients in 88 matters before the WCAB while knowingly and intentionally misrepresenting himself to be Mersereau (without Mersereau’s knowledge or consent) in filed documents and correspondence with the WCAB.

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) Respondent had actual notice 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 disbarment.

RECOMMENDATIONS

Discipline - Disbarment

It is recommended that Christopher Matthew Weidinger, State Bar Number 262347, be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

It is further recommended 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 imposing discipline in this matter.³

Costs

It is also recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

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³ For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney’s failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Christopher Matthew Weidinger, State Bar number 262347, 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: January 24, 2019



MANJARI CHAWLA
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 Court Specialist 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 January 24, 2019, 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:

CHRISTOPHER M. WEIDINGER
LAW OFFICE OF CHRISTOPHER M. WEIDINGER
825 VAN NESS AVE STE 604
SAN FRANCISCO, CA 94109 - 7893

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

Carla L. Cheung, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 24, 2019.



Vincent Au
Court Specialist
State Bar Court