

PUBLIC MATTER

FILED ✓

JUL 19 2017

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No. 16-N-15572-DFM
)	
JOSEPH FRIEDEN HANAN,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 229936.)	ENROLLMENT
_____)	

Respondent Joseph Frieden Hanan (Respondent) was charged with wilfully violating California Rules of Court, rule 9.20. He failed to participate in this proceeding, either in person or through counsel, and his default was entered. 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 rule(s) 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

Jurisdiction

Respondent was admitted to practice law in California on January 23, 2004, and has been a member since then.

Procedural Requirements Have Been Satisfied

On October 17, 2016, the State Bar filed the NDC in the State Bar Court. On October 24, 2016, the State Bar properly served the NDC on Respondent by certified mail, return receipt requested, at Respondent's membership records address.³ The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) A return receipt for the mailing was received by the State Bar on October 26, 2016. On the return receipt, the USPS employee indicated that the certified letter had been delivered to the address provided on the October 24, 2016 mailing. That address was Respondent's official membership records address.

Thereafter, the State Bar took additional steps to inform Respondent of these proceedings. On November 21, 2016, Deputy Trial Counsel Ann Kim, who was assigned to this

³ Based on the "Declaration of Service by Certified Mail, Return Receipt Requested" which was signed under penalty of perjury by the legal secretary employed by the State Bar, and which declaration is on file in this matter, it is clear that the legal secretary, whose responsibility it was to serve Respondent with the Notice of Disciplinary Charges, erroneously believed that Respondent was represented by counsel. On October 17, 2016, the secretary placed a copy of the NDC in an envelope addressed to the attorney, whom she believed was representing Respondent in this proceeding, for collection as certified mail. Thereafter, on October 24, 2016, after having learned that Respondent was not being represented by counsel in this proceeding, the secretary deposited for mailing with the United States Postal Service a true copy of the Notice of Disciplinary Charges in this matter in a sealed envelope, which was addressed to Respondent at his then official membership records address for collection and mailing as certified mail, return receipt requested.

matter at that time, telephoned Respondent at his official membership telephone number. As Respondent did not answer the phone, Deputy Kim left a voicemail message for him. On that same date, the State Bar Court held an initial Status Conference in this matter. Deputy Kim appeared on behalf of the State Bar; Respondent did not appear.

Another deputy trial counsel (DTC), Nina Sarraf-Yazdi, was assigned by the State Bar to this matter by December 7, 2016. On that date, DTC Sarraf-Yazdi sent an email to Respondent at an email address listed as part of Respondent's official membership records. In that email, DTC Sarraf-Yazdi informed Respondent of her intent to file a motion for entry of his default. The DTC also included with her email a copy of the NDC.

On December 7, 2016, DTC Sarraf-Yazdi telephoned Respondent at his official membership telephone number to inform him of her intent to file a motion for entry of default in this matter. Respondent answered the phone and informed the DTC that he would be filing a response to the NDC. He also said that he had received previous phone calls from the State Bar, although he acknowledged that he had not returned those calls

Despite having represented to the DTC that he would be filing a response to the NDC and having actual knowledge of this matter, Respondent failed to file a response to the NDC. Consequently, on December 19, 2016, the State Bar filed and properly 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 assigned deputy trial counsel. (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 January 4, 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 April 26, 2017, the State Bar filed and properly served on Respondent its petition for disbarment after default.⁴ As required by rule 5.85(A), the State Bar reported in the petition that: (1) the State Bar had not received any contact from Respondent since his default was entered; (2) there are no other disciplinary matters or investigations pending against Respondent; (3) Respondent has two prior records of discipline; and (4) the Client Security Fund has not paid out 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 June 13, 2017.

⁴ On April 27, 2017, because the State Bar had failed to attach to the petition the required copy of Respondent's prior records of discipline, this court issued an "Order Directing the State Bar to Provide Authenticated Copies of [Respondent's] Prior Records of Discipline" within five days of the court's order.

On April 27, 2017, the State Bar filed a "Supplemental Petition for Disbarment after Default to Include Prior Record of Discipline." Although an attached declaration by the trial counsel, who had been assigned to this matter at that time, states that the supplemental petition included a true and correct copy of Respondent's prior records of discipline, a review of the filed materials revealed that the records were incomplete, and, thus, did not comply with the requirements of rule 5.106(A). Therefore, this court, on May 15, 2017, again ordered the State Bar to file within five days authenticated copies of Respondent's complete prior record of discipline. On May 16, 2017, the State Bar filed a "Second Supplemental Petition for Disbarment after Default to Include Prior Record of Discipline," which included all findings, orders, stipulations, and charges relating to the discipline which was imposed in Respondent's second prior record of discipline, i.e. case No. 15-H-12441. Thereafter, on May 18, 2017, the State Bar filed its "Third Petition for Disbarment after Default to Include Prior Record of Discipline," which consisted of all charges, stipulations and orders, imposing discipline in Respondent's first prior record of discipline, i.e., case No. 13-O-10190.

Prior Record Of Discipline

Respondent has two prior records of discipline.

Case No. 13-O-10190

On April 2, 2014, Respondent was privately reprovved with conditions attached to the reprovral for one year. Respondent stipulated in this first disciplinary matter that he: (1) failed to respond to numerous reasonable status inquiries from his client, in willful violation of Business and Professions Code⁵ section 6068, subdivision (m); and (2) failed to cooperate in a disciplinary investigation in willful violation of section 6068, subdivision (i), by not providing a written response to a State Bar investigator's letters regarding the investigation.

Case No. 15-H-12441

Pursuant to an order of the Supreme Court filed on April 29, 2016, Respondent was suspended for one year, the execution of which was stayed, and he was placed on probation for two years subject to conditions including that he be suspended from the practice of law for the first 90 days of probation. Respondent stipulated in that matter that he had failed to comply with certain specified conditions attached to his private reprovral in willful violation of rule 1-110 of the State Bar Rules of Professional Conduct and that he had committed an act involving moral turpitude, dishonesty or corruption in willful violation of section 6106, by making knowingly false representations under penalty of perjury in his final report to the Office of Probation regarding his compliance with his reprovral conditions.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a 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

⁵ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

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 Number 16-N-15572 (Rule 9.20 Compliance Matter)

Respondent wilfully violated rule 9.20 of the California Rules of Court by failing to file a declaration of compliance with rule 9.20, in conformity with the requirements of rule 9.20(c), with the clerk of the State Bar Court by July 8, 2016, as required by Supreme Court order number S232223.

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, and Respondent had actual notice of the proceeding;
- (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 and 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.

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RECOMMENDATIONS

Disbarment

The court recommends that respondent **Joseph Frieden Hanan**, State Bar number 229936, 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.

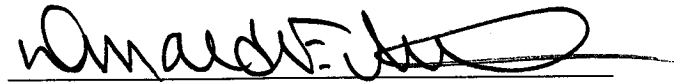
Costs

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 **Joseph Frieden Hanan**, State Bar number 229936, 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: July 19, 2017


DONALD F. MILES
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 July 19, 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:

JOSEPH F. HANAN
11901 SANTA MONICA BLVD. #396
LOS ANGELES, CA 90025

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

ERIC J. AUFDENGARTEN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 19, 2017.



Mazie Yip
Case Administrator
State Bar Court