

FILED

SEP 28 2017

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

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No. 16-N-17576-YDR
)	
McKINLEY DIRK EASTMOND,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 89470.)	INVOLUNTARY INACTIVE
)	ENROLLMENT

McKinley Dirk Eastmond (Respondent) was charged with willfully violating California Rules of Court, rule 9.20, by failing to file a declaration of compliance with that rule in conformity with the requirements of rule 9.20(c), as required by an order of the Supreme Court. He failed to participate, either in person or through counsel, and his default was entered. 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

¹ Unless otherwise indicated, all references to rules are to this source.



(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

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 California on November 29, 1979, and has been a member since then.

Procedural Requirements Have Been Satisfied

On, January 26, 2017, the State Bar properly filed and served the NDC on Respondent by certified mail, return receipt requested, to 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 mailing by certified mail was not returned as undeliverable.

On March 7, 2017, courtesy copies of the NDC were also sent to Respondent by regular first class mail to his membership records address and to an alternative address in Sandy, Utah. The mailings were not returned as undeliverable.

Because Respondent was on disciplinary probation, the State Bar contacted his assigned probation deputy for any other alternate address and was advised of none.

Furthermore, on March 7, the State Bar attempted to contact Respondent by telephone at an alternate number which belonged to his law partner. The person who answered the call told the State Bar that Respondent was on the phone and provided a number for Respondent which

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).)

was Respondent's membership records telephone number. When the State Bar telephoned Respondent at that number and there was no answer, the State Bar left him a voicemail.

To date, Respondent has not contacted the State Bar.

Respondent failed to file a response to the NDC. On March 10, 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 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 April 5, 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 July 17, 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 is no disciplinary matter pending against Respondent; (3) Respondent has one record of prior discipline; and (4) the Client Security Fund has not paid any claims as a result of Respondent's misconduct.

Respondent has not responded to the petition for disbarment or moved to set aside or vacate the default. The case was submitted for decision on August 30, 2017.

Prior Record of Discipline

Respondent has one prior record of discipline.³ Pursuant to a Supreme Court order filed on July 29, 2016, respondent was suspended for two years, stayed, placed on probation for two years, and actually suspended for 90 days. Respondent stipulated to misconduct in two matters, involving misdemeanor convictions for attempted stalking - domestic violence and disorderly conduct. The facts and circumstances surrounding respondent's violations constituted moral turpitude in willful violation of section 6106.

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 Number 16-N-17576 (Rule 9.20 Matter)

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys), by failing to file proof of compliance as required by rule 9.20(c), as ordered by the Supreme Court in its July 29, 2016 order.

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:

³ The court admits into evidence the certified copy of respondent's prior record of discipline attached to the July 17, 2017 petition for disbarment.

- (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 his disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent McKinley Dirk Eastmond, State Bar number 89470, 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.

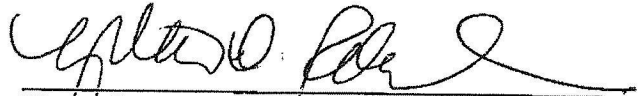
Costs

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 McKinley Dirk Eastmond, State Bar number 89470, 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 28, 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 28, 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:

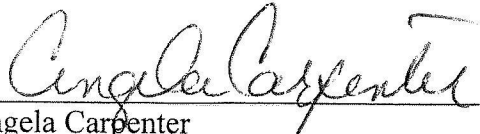
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MCKINLEY DIRK EASTMOND
140 W 9000 S #8
SANDY, UT 84070

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

Scott D. Karpf, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 28, 2017.



Angela Carpenter
Case Administrator
State Bar Court