

# PUBLIC MATTER

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JUN 28 2017 P.B.  
STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

## STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT - LOS ANGELES

In the Matter of ) Case Nos. 16-O-12139  
) )  
) ) (16-O-12892)-CV  
) )  
SHANT OHANIAN, ) DECISION AND ORDER OF  
) ) INVOLUNTARY INACTIVE  
) ) ENROLLMENT  
A Member of the State Bar, No. 281652. )

Respondent Shant Ohanian (Respondent) was charged with seven counts of moral turpitude and two counts of failing to perform with competence in connection with two client matters. He failed to participate in this matter, 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.<sup>1</sup>

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.<sup>2</sup>

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<sup>1</sup>Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup>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 January 3, 2012, and has been a member since then.

### **Procedural Requirements Have Been Satisfied**

On December 5, 2016, the State Bar filed and properly served the NDC on Respondent by certified mail, return receipt requested, and by U.S. first-class mail, at his then membership records address.<sup>3</sup> The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.)

Thereafter, on January 3, 2017, Senior Trial Counsel R. Kevin Bucher (STC Bucher) sent an email<sup>4</sup> to Respondent advising, in part, that his response to the NDC was past due.

Respondent replied to STC Bucher by email on January 4, 2017, that he intended to default.

Respondent did not file a response to the NDC. On January 9, 2017, the State Bar filed and properly served a motion for entry of Respondent's default.<sup>5</sup> The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the assigned senior trial counsel. (Rule 5.80.) The motion notified Respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent

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<sup>3</sup> The State Bar's disbarment petition filed on May 9, 2017, reflects that the return receipt for the NDC was returned unsigned to the State Bar.

<sup>4</sup> Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

<sup>5</sup> The motion was served on Respondent at his then membership records address by certified mail, return receipt requested, and by the U.S. first-class mail.

still did not file a response to the motion, and his default was entered on January 26, 2017. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar pursuant to Business and Professions Code section 6007, subdivision (e),<sup>6</sup> effective three days after service of the order, and he has remained inactively enrolled since that time. The order entering the default and enrolling Respondent inactive was served on Respondent at his then membership records address by certified mail, return receipt requested.<sup>7</sup>

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 May 9, 2017, the State Bar filed and properly served a petition for disbarment.<sup>8</sup> 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 the order entering his default was served;<sup>9</sup> (2) there are other investigations or disciplinary charges pending against Respondent; (3) Respondent does not have a prior record of discipline; and (4) as of May 4, 2017, the Client Security Fund has not paid out any claims against Respondent. 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 7, 2017.

### **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(2).) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that

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<sup>6</sup> Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

<sup>7</sup> The copy of the order served on Respondent at his membership records address was returned reflecting that it was not claimed and could not be forwarded.

<sup>8</sup> The disbarment petition was served on Respondent at his then membership records address by certified mail, return receipt requested, and by U.S. first-class mail.

<sup>9</sup> This is the same date that Respondent's default was entered.

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).)

**1. Case Number 16-O-12139 (Mata Matter)**

Count One – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) by repeatedly failing to perform any services for which he was retained on a client’s behalf.

Count Two – Respondent willfully violated section 6106 (moral turpitude, dishonesty or corruption) by committing an act involving moral turpitude by stating to his client that her claim had settled for \$25,000 when Respondent was grossly negligent in not knowing the statement was false.

Count Three – Respondent willfully violated section 6106 by committing an act of moral turpitude and dishonesty by providing a document to his client that he represented to be a settlement agreement with her former employer and which contained a purported signature by the employer’s attorney, when Respondent had fabricated the document and had forged the signature, and Respondent knew the document was fabricated and that the signature was forged.

Count Four - Respondent willfully violated section 6106 by committing an act of moral turpitude and dishonesty by providing to his client a document that he represented to be a Notice of Entry of Default which Respondent knew he had fabricated.

Count Five - Respondent willfully violated section 6106 by committing an act involving moral turpitude by advising his client that he had made a \$125,000 wire transfer into her personal account when Respondent was grossly negligent in not knowing that he had not made the wire transfer.

Count Six – Respondent willfully violated section 6106 by committing an act involving moral turpitude and dishonesty by providing to his client a document which Respondent

represented to be a copy of a \$137,025.58 check from her former employer, which Respondent had fabricated, when Respondent knew the check was fabricated and was at least grossly negligent in not knowing that the case had not settled.

**2. Case Number 16-O-12892 (Cates Matter)**

Count Seven - Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct by repeatedly failing to perform any services for which he was retained on a client's behalf.

Count Eight - Respondent willfully violated section 6106 by committing an act involving moral turpitude by stating to his client that her claim against her former employer had settled for \$77,000 when Respondent was grossly negligent in not knowing the statement was false.

Count Nine - Respondent willfully violated section 6106 by committing an act involving moral turpitude and dishonesty by providing to his client a document which Respondent represented to be a \$67,232.45 check from her former employer, which Respondent had fabricated, when Respondent knew the check was fabricated and was at least grossly negligent in not knowing that the case had not settled.

**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 this matter;
- (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.

### **RECOMMENDATIONS**

#### **Disbarment**

The court recommends that Respondent Shant Ohanian, State Bar number 281652, 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 Shant Ohanian, State Bar number 281652, 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: June 28, 2017

  
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CYNTHIA VALENZUELA  
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 June 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:

**SHANT OHANIAN  
600 S LAKE AVE  
STE 200  
PASADENA, CA 91106 - 3955**

**SHANT OHANIAN  
330 ARDEN AVE  
GLENDALE, CA 91203 - 1177**

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

**RONALD K. BUCHER, Enforcement, Los Angeles**

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



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Paul Barona  
Case Administrator  
State Bar Court