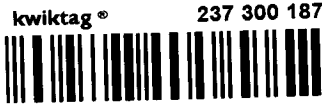


**PUBLIC MATTER  
FILED**

**JAN 31 2018**



**STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO**

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

In the Matter of	)	Case No. 17-N-02390-LMA
	)	
CHARLES LEROY DUPREE IV,	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 156840.	)	ENROLLMENT
_____	)	

Respondent Charles Leroy Dupree IV (Respondent) was charged with willfully violating California Rules of Court, rule 9.20, by failing to file a declaration of compliance as required by that rule and 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.<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 rule(s) 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**

Respondent was admitted to practice law in California on December 27, 1991, and has been a member since then.

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

On June 20, 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.) On July 24, 2017, the State Bar received the return receipt card, but the signature on the card was not legible.

Thereafter, additional steps were taken to notify Respondent about these proceedings: (1) the State Bar tried to contact Respondent at his membership records telephone number, but the number was disconnected; (2) the State Bar tried to contact Respondent at an alternate phone number, but it too was disconnected; and (3) the State Bar sent Respondent an email at his membership records email address, but Respondent did not respond to the email.

Respondent failed to file a response to the NDC. On August 1, 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 August 17, 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 December 12, 2017, the State Bar properly filed and served the petition for disbarment on Respondent at his 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 no other investigative matters pending against Respondent; (3) Respondent has two records of prior 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 January 9, 2018.

### **Prior Record of Discipline**

Respondent has two prior records of discipline. Pursuant to an order of the Supreme Court filed on September 30, 2015, 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 60 days. Respondent stipulated that on September 18, 2013, he pleaded nolo contendere to Penal Code sections 459 (second degree commercial burglary); 484, subdivision (a) and 490.5 (theft of property from a retail store); and 466 (possession of burglary tools). Respondent received a suspended sentence and an 18-month period of probation. The court ordered Respondent to serve three days in jail, gave him three days credit for time served, and ordered him to stay away from Macy's in San Francisco.

Respondent's conviction involved his theft of \$368.52 in merchandise from Macy's and possession of wire cutters, which were used to remove sensors.

In his second prior, pursuant to an order of the Supreme Court filed on January 5, 2017, the Court revoked Respondent's probation and suspended him for one year. Respondent failed to participate in the probation revocation proceedings. This court found that he violated two conditions of his disciplinary probation by failing to submit three quarterly reports to the Office of Probation and failing to submit three criminal compliance declarations stating that he was in compliance with his criminal probation conditions.

**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 17-N-02390 (The Rule 9.20 Matter)**

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys) by not filing, with the clerk of the State Bar Court, by March 16, 2017, a declaration of compliance as required by California Rules of Court, rule 9.20 and in conformity with the requirements of rule 9.20(c), as required by Supreme Court order number S226728.

**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 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.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that Respondent Charles Leroy Dupree IV, State Bar number 156840, 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 Charles Leroy Dupree IV, State Bar number 156840, 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 31, 2018

  
\_\_\_\_\_  
LUCY ARMENDARIZ  
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 January 31, 2018, 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:

CHARLES L. DUPREE IV  
33 8TH ST  
APT 1311  
SAN FRANCISCO, CA 94103 - 1698

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

ERICA L. M. DENNINGS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 31, 2018.



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Bernadette Molina  
Case Administrator  
State Bar Court