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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case Nos. 18-O-15323
)	(18-O-15432)-MC
GREGORY ANDREW BROILES,)	
)	AMENDED DECISION AND ORDER
State Bar No. 229384.)	OF INVOLUNTARY INACTIVE
_____)	ENROLLMENT

In this matter, respondent Gregory Andrew Broiles (Respondent) was charged with seven counts of misconduct involving two 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 December 10, 2003, and has been a licensed attorney of the State Bar since then.

Procedural Requirements Have Been Satisfied

On November 7, 2018, OCTC properly filed and served an NDC on Respondent by certified mail, return receipt requested, at his official State Bar attorney 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 returned to OCTC by the U.S. Postal Service as undeliverable.

In addition, reasonable diligence was used to notify Respondent of this proceeding. OCTC attempted to communicate with Respondent through a telephone number and email address contained in Respondent's official State Bar records. Moreover, OCTC searched for alternative contact information for Respondent through Google and LexisNexis. These searches revealed possible alternative emails and telephone numbers for Respondent, but OCTC's subsequent efforts to communicate with Respondent at those emails and telephone numbers were unsuccessful.

Respondent did not appear at the initial status conference and failed to file a response to the NDC. On December 17, 2018, OCTC filed and properly served a motion for entry of Respondent's default. The motion included a supporting declaration of reasonable diligence by an OCTC senior 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 January 3, 2019. The order entering default was served on Respondent at his official State Bar attorney records address by certified mail, return receipt requested. The court also ordered Respondent's involuntary inactive enrollment as a licensed attorney 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.

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 April 17, 2019, OCTC filed the petition for disbarment. OCTC reported in the petition that: (1) it has had no contact with Respondent since the default was entered; (2) Respondent has no other disciplinary charges pending; (3) Respondent has a 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 May 14, 2019.

Respondent has one prior record of discipline. Pursuant to a Supreme Court order filed on February 5, 2018, in case No. S245634 (State Bar Court case Nos. 16-O-11170; 16-O-17276; 17-O-03077 Consolidated), Respondent was suspended for one year, the execution of which was stayed, and he was placed on probation for two years, including a sixty-day period of actual suspension. In this matter, Respondent stipulated that he failed to perform legal services with competence, failed to promptly refund unearned fees, failed to account, failed to respond to client inquiries, failed to update his State Bar attorney records address, failed to cooperate in a

disciplinary investigation (two counts), and held himself out as entitled to practice law when he was not an active attorney of the State Bar.

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).)

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Count One – Respondent willfully violated Business and Professions Code section 6068, subdivision (a) (failure to comply with all laws – unauthorized practice) by holding himself out as entitled to practice law and actually practicing law when he was not an active attorney of the State Bar, in willful violation of Business and Professions Code sections 6125 and 6126.

Count Two – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude) by holding himself out as entitled to practice law and actually practicing law when he was not an active attorney of the State Bar.

Count Three – Respondent willfully violated former rule 4-200(A) of the Rules of Professional Conduct³ (illegal fee) by charging and collecting \$350 for legal work while he was not entitled to practice law in this state.

Count Four – Respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to respond to client inquiries) by failing to promptly respond to multiple reasonable client status inquiries.

³ The State Bar Rules of Professional Conduct were revised on November 1, 2018.

Count Five – Respondent willfully violated former rule 3-700(D)(1) of the Rules of Professional Conduct (failing to release file) by failing to promptly turn over his client’s papers and property upon his client’s request following termination of employment.

Count Six – Respondent willfully violated section 6068, subdivision (j) (failure to update official State Bar attorney address) by failing to update his State Bar official attorney records address within 30 days after ceasing to use that address.

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Count Seven – Respondent willfully violated Business and Professions Code section 6068, subdivision (k) (failure to comply with conditions of probation), by failing to comply with eight conditions attached to his disciplinary probation in case No. 16-O-11170, et al.

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.

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RECOMMENDATIONS

Disbarment

The court recommends that respondent Gregory Andrew Broiles, State Bar Number 229384, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

Restitution

The court also recommends that Respondent be ordered to make restitution to Sean Kelly in the amount of \$350 plus 10 percent interest per year from June 13, 2017. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

California Rules of Court, Rule 9.20

It is further recommended that Respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, 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

It is 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.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule

5.111(D)(2) of the State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: June 3, 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 June 3, 2019, I deposited a true copy of the following document(s):

AMENDED 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:

GREGORY A. BROILES
LEGACY PLANNING LAW GROUP
900 E HAMILTON AVE STE 100
CAMPBELL, CA 95008-0668

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:


by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Duncan Carling, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 3, 2019.


George Hue
Court Specialist
State Bar Court