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PUBLIC MATTER

FILED
AUG 02 2011
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

8
9 STATE BAR COURT
10 HEARING DEPARTMENT - LOS ANGELES

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12 In the Matter of:) Case No. 10-O-09967
13 WILLIAM PETER TERHUNE, II,) NOTICE OF DISCIPLINARY CHARGES
14 No. 129210,)
15 A Member of the State Bar)

16
17 **NOTICE - FAILURE TO RESPOND!**

18 **IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE**
19 **WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT**
20 **THE STATE BAR COURT TRIAL:**

- 21 (1) **YOUR DEFAULT WILL BE ENTERED;**
22 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
23 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
24 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
25 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**
26 **AND THE DEFAULT IS SET ASIDE, AND;**
27 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
28 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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The State Bar of California alleges:

JURISDICTION

1. William Peter Terhune, II ("Respondent") was admitted to the practice of law in the State of California on June 17, 1987, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE

Case No. 10-O-09967
Business and Professions Code, section 6106
[Moral Turpitude-Misappropriation]

2. Respondent wilfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

3. In or about June 2008, Respondent was appointed Administrator of the Estate of Junko S. Hensling (hereinafter, "Estate of Hensling" or "Hensling Estate"). Since that date, Respondent has acted In Pro Per in his capacity as the Administrator of the Estate of Hensling. Momoko Sasaki ("Sasaki"), a resident of Japan, is the only surviving beneficiary of the Hensling Estate.

4. In or about 2009, Respondent, in his capacity as the Administrator of the Hensling Estate, sold the primary asset of the Estate, a parcel of real property located at 1655 7th Street, Los Osos, California 93402. The net proceeds from the sale of the property were in the amount of \$257,839.52.

5. On or about April 28, 2009, the net proceeds of the sale of the property, *i.e.*, \$257,839.52, were deposited in the Hensling Estate bank account at Founders Community Bank, account no. 1113xxx¹ (the "Hensling Estate bank account). The balance in the Hensling Estate bank account after the deposit of the net proceeds from the sale of property was \$276,210.68.

6. At no time relevant to the charges herein did Respondent have the authority to disburse any of the funds maintained in the Hensling Estate bank account.

¹ The complete account number has been omitted due to privacy concerns.

1 7. Between on or about May 5, 2009, and on or about March 5, 2010, Respondent made
2 the following nineteen (19) transfers from the Hensling Estate Bank Account to his law office's
3 business account at Founders Community Bank, account no. 1005xxx² ("Respondent's business
4 account"):

5	<u>DATE</u>	<u>AMOUNT</u>
6	05-05-09	\$ 5,000
7	05-08-09	\$ 5,000
8	05-22-09	\$20,000
9	06-01-09	\$20,000
10	06-10-09	\$20,000
11	06-16-09	\$20,000
12	06-19-09	\$20,000
13	07-17-09	\$10,000
14	08-05-09	\$10,000
15	08-11-09	\$10,000
16	08-18-09	\$10,000
17	09-15-09	\$20,000
18	10-05-09	\$30,000
19	10 -16-09	\$20,000
20	12-16-09	\$25,000
21	01-26-10	\$10,000
22	02-05-10	\$ 6,000
23	02-26-10	\$10,000
24	03-05-10	\$ 4,000

25 8. On March 5, 2010, the balance in the Hensling Estate bank account was \$1,278.60.

26 9. After Respondent transferred the funds from the Hensling Estate bank account to

27 _____
28 ² The complete account number has been omitted due to privacy concerns.

1 Respondent's business account, he used the funds for his own personal use. In total, Respondent
2 intentionally misappropriated \$275,000 from the Hensling Estate bank account.

3 10. To date, Respondent has not returned any of the funds that he misappropriated to the
4 Hensling Estate bank account.

5 11. A final accounting of the Hensling Estate is due on September 13, 2011.

6 12. By misappropriating \$275,000 from the Hensling Estate bank account. Respondent
7 committed an act involving moral turpitude, dishonesty or corruption.

8 COUNT TWO

9 Case No. 10-O-09967

10 Business and Professions Code, section 6106
[Moral Turpitude-Misrepresentation to the State Bar]

11 13. Respondent wilfully violated Business and Professions Code, section 6106, by
12 committing an act involving moral turpitude, dishonesty or corruption, as follows:

13 14. The allegations of Count One are incorporated by reference.

14 15. In or about September 2010, Aiko Martz, a paralegal who did contract work for
15 Respondent, filed a complaint on behalf of Sasaki with the State Bar of California.

16 16. On or about January 10, 2011, Respondent provided a written response to the
17 allegations of misconduct raised by Sasaki's complaint. In the response, Respondent denied
18 Sasaki's allegation that he had misappropriated funds from Hensling Estate banking account
19 "without equivocation." In the response, Respondent also wrote, among other things, that all
20 assets of the Hensling Estate "have been held and maintained for the benefit of the estate and
21 will ultimately be distributed to and for the sole benefit of Momoko Sasaki."

22 17. In fact, Respondent had not maintained the assets of the Hensling Estate. Respondent
23 intentionally misappropriated \$275,000 from the Hensling Estate and used the funds for his own
24 personal use. On or about January 10, 2011, Respondent knew, or was grossly negligent in not
25 knowing, that he had not "held and maintained" all of the assets of the Hensling Estate.

26 18. In the January 10, 2001, written response, Respondent also stated that the funds from
27 the Hensling Estate bank account "were invested over time in various loans as evidenced by
28 promissory notes that will produce a much greater rate of return on the estates funds." To

1 corroborate this claim, Respondent enclosed with the response nineteen (19) notes payable to
2 “The Administrator of the Estate of Junko S. Hensling aka Tsuyako Sasaki.” Respondent signed
3 each of the notes as the CFO of the debtor, “W.P.T., Esq. Inc.” Each of the notes corresponds to
4 the transfers that Respondent made from the Hensling Estate bank account to his business
5 account. However, Respondent did not disclose this fact in his January 10, 2001 response. Nor
6 did he disclose that he used the funds for his own personal use.

7 19. On or about January 10, 2011, Respondent knew, or was grossly negligent in not
8 knowing, that the Hensling Estate funds were not invested in high interest loans.

9 20. On or about February 25, 2011, State Bar investigator John Noonan met with
10 Respondent at Respondent’s office. Respondent stated that the funds from the Hensling Estate
11 were placed in high interest investments. On or about February 25, 2011, Respondent knew, or
12 was grossly negligent in not knowing, that the funds from the Hensling Estate had not been
13 placed in high interest investments.

14 21. By making misrepresentations to the State Bar, Respondent committed an act(s)
15 involving moral turpitude, dishonesty or corruption.

16 **NOTICE - INACTIVE ENROLLMENT!**

17 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**
18 **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**
19 **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**
20 **THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO**
21 **THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN**
INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
RECOMMENDED BY THE COURT.

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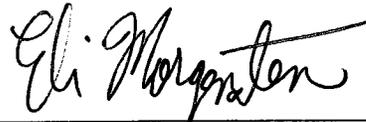
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NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL



DATED: August 2, 2011

By: _____
ELI D. MORGENSTERN
Deputy Trial Counsel

DECLARATION OF SERVICE BY CERTIFIED MAIL

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CASE NUMBER: 10-O-09967

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 71969008911104441432, at Los Angeles, on the date shown below, addressed to:

**Roy E. Ogden
656 Santa Rosa , Suite B
San Luis Obispo, CA 93401**

**Courtesy Copy Via First Class Mail:
Linden N. Mackaoui
992 Monterey Street Suite B
San Luis Obispo, CA 93401**

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: August 2, 2011

Signed: *Genelle De Luca-Suarez*
Genelle De Luca-Suarez
Declarant