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FILED

MAY 11 2012

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

filed per Judge's order

STATE BAR COURT

HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of:

WENDELL PETERS,
No. 150132

A Member of the State

Case No(s): 11-0-10839; ET. Al.

AMENDED RESPONSE:
NOTICE OF DISCIPLINARY CHARGES

NOW COMES RESPONDENT, WENDELL D. PETERS, through his attorney of record, Robert Young, in answering the complaint of Petitioner on file herein as follows:

INTRODUCTION/JURISDICTION ISSUE

These matters were previously abated due to the medical status of the respondent and his inability to affectively assist counsel with his defense. While being found originally unable to assist his counsel, he was deemed competent, to enter into a stipulation, so that new

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charges could be filed and proceeded upon. The State Bar did so and while incompetent in the original matters, it was inferred that he was competent to move forward on his own as to the new charges. The matters ultimately merged and were abated.

At the last scheduled telephonic conference, the issue of the competency of the respondent was determined without hearing and without input from any treating physician, and the abatement was lifted and responses, discovery and trial dates were set.

Therefore, Counsel continues to be handicapped by the inability of respondent to assist him in a matter that spans nine years and is now set for trial prior to respondent being given medical clearance to do so and competently assist counsel.

RESPONSE

1. Respondent denies Count One.

The California State Bar, hereinafter referred to as "the Bar", changed the terms and conditions of probation in this matter. In original settlement with the hearing officer Supervising Trial Counsel, Steedman told the court that not only would he not accept any resolution short of all restitution and costs being paid before suspension would be lifted, but the he would not prepare any order to the contrary. At all times "the Bar" knew of the financial condition of the respondent.

The hearing officer then asserting a position based in reality, that being how does one make restitution if unemployed, stated that she would prepare a modified order. It was the understanding of the respondent, for in consideration of pleading to allegations that were not true, along with those he had made admission to from the beginning, that he would be placed on five year probation, ninety days actual suspension with other terms and conditions.

Upon receipt of the amended agreement the respondent immediately filed a motion to modify or set aside as it did not reflect the understanding of the respondent nor his counsel's. Trial Counsel, Ms. Chan immediately made assertions that resulted in the motion being withdrawn and the conditions that are now subject of violation are in violation specifically based upon the fears, realities and practicalities expressed by the respondent. In essence from the very beginning, respondent was not given the benefit of the bargain, and it was not probable for him to comply with the amended terms and conditions due to his ever increasing medical and economic conditions. At all times "the Bar" and its agents, where aware of this. Rather than focus on how to overcome and support recovery from both, the focus was how to best insure failure and disbarment.

The State Bar's records are replete with information that confirms this. At one point "the Bar" investigator showing some humanity and concern, contacted Mr. Wilson of the Placer County District Attorney's office, who in turn contacted the Placer County Sheriff's office to conduct a welfare check on the respondent.

Nothing describes the focus of "the Bar" intent to disbar the respondent that in statement of mitigation. After nearly begging for some consideration a cursory community service acknowledgement was given. Clearly, in the list of numerous factors in mitigation, where many that were relevant to the respondent.

Even the very root of this nine year prosecution has never been acknowledged. Since, "the Bar" files are voluminous on the issue of the Atwood Law Center, time will be spared here. But unlike the Placer County District Attorney's office and the Placer County Sheriff's department, who acknowledge that the assistance of the respondent

County Sheriff's department, who acknowledge that the assistance of the respondent was invaluable in the prosecution of one Ron Scott who practiced law without a license for twenty five years, and the disbarment of one attorney, "the Bar" continued to hang the matter over the respondent's head for close to five years! This brought about a complete emotional break, resulting of the loss of everything of the respondent, including family, home, law practice and social standing in the community. This with the respondent becoming totally despondent, that in spite of bringing this information to light two years before anything was done, that all agencies, including "the Bar" had been advised about a long list of attorney's who had allowed Ron Scott to use their "ticket", had the same information even years before, thru the matter of Randal Scott, that the focus was instead on the respondent. As Detective Hudson of the Placer County Sheriff's department stated in frustration, "all the California State Bar wants is a head." Even though the respondent was told that if cleared by the Sherriff's investigation, which he was, the matter would be closed, it wasn't. In fact in hung around the respondent for years furthering his frustration and despair. Then upon giving up he made bad choices by abandoning several clients and basically gave up. This always being clearly understood by "the Bar". Not one of the respondents witnesses were interviewed, no follow up on the information he had, no acknowledgement, just judgment.

Just like felony probation, the situation of the respondent and finally its resolution, going straight to formal probation, rather than some type of informal with focus on how to help the respondent, violation is inevitable.

2. As to violations of probation, they are obvious and while respondent asserts that

his probation was not as agreed to, he is in violation of the, "the Bar" terms and conditions.

Notice of Disciplinary Charges filed September 15, 2011

1. Respondent incorporates the above and responds to Count One as a denial.
2. That on December 13, 2010 with no knowledge to the contrary he made an appearance on behalf of his friend, Caroline Young.
3. The same denial applies to the allegation pertaining to Michael Dudley Hughes on December 22, 2010 as a denial.
4. The above paragraphs are hereby incorporated by reference as to Count Two and the respondent enters a response to the charge as denied.
5. The above paragraphs are hereby incorporated by reference as to Count Three and denied. Denied in that the terms were not the ones agreed to and that all knew or should have known that respondent was unable to comply until given enough time to generate an income, due to his medical and resulting economic conditions at the time and ongoing.
6. The respondent denies the allegations as to failing to notify clients, opposing counsel and the court as to his suspension.
7. There was no money's to be returned and in fact in the matter of Martin Schwab, monies were owed to the respondent.
8. Martin Schwab was repeatedly advised of the suspension and efforts were made to get him counsel, to help him.
9. The Court was very clear on the suspension and were advised so.
10. . Martin Schwab received his numerous files.

11. As to Count Four the same denial as stated above applies along with an ongoing assertion of the bad faith and unclean hands of "the Bar".

12. Respondent incorporates all the above paragraphs as to Count Five and enters a denial. It was the bad faith of "the Bar" in holding the respondent to terms and conditions not agreed to that brought about such alleged violations. The respondent acting upon the true agreement set about making funds to make restitution and was totally unaware that "the Bar" was acting upon their own wishes and desires to disbar the respondent.

13. The above paragraphs are incorporated herein as to the denial of Count Five.

14. The above paragraphs are incorporated herein as to the denial of Count Six.

15. The above paragraphs are incorporated herein as to the denial of Count Seven.

16. The above paragraphs are incorporated herein as to the denial of Count Eight.

17. As to Count Eight, the respondent asserts that no funds were returnable and if fact funds were owed, Kaiser picked up her entire file, was clearly made aware of the suspension and in fact respondent attempted to help her on her own, not as a lawyer but in a paralegal fashion and attempted to get her counsel.

18. Clearly demonstrating the levels that "the Bar" will go to disbar the respondent are the allegations of the respondent using his letterhead. Respondent never held himself out as a practicing lawyer by the use of letterhead.

19. The above paragraphs are incorporated herein as to the denial of Count Nine.

20. The above paragraphs are incorporated herein as to the denial of Count Ten.

21. The above paragraphs are incorporated herein as to the denial of Count Eleven.

22. The above paragraphs are incorporated herein as to an admission to Count

Twelve. After learning that "the Bar" would not honor the agreement that the respondent gave his rights up for, the respondent had a total emotional break and acted in the fashion constituting this admission.

23. Respondent is uncertain as to Count Thirteen in that he thought the funds had been returned.

24. The above paragraphs are incorporated herein as to an admission to Count Fourteen. After learning that "the Bar" would not honor the agreement that the respondent gave his rights up for, the respondent had a total emotional break and acted in the fashion constituting this admission.

25. The above paragraphs are incorporated herein as to an admission to Count Twelve. After learning that "the Bar" would not honor the agreement that the respondent gave his rights up for, the respondent had a total emotional break and acted in the fashion constituting this admission.

CONCLUSION

Counsel submits the above on behalf of the respondent again uncertain as to the standing of these proceedings given the abatement just lifted.

AFFIRMATIVE DEFENSES

1. Respondent asserts the affirmative defense of Unclean Hands and others to be specified later by amendment.

2. Respondent asserts that the actions of the California State Bar are outside the protections of immunity. As such the actions of the California State Bar, now over a nine year period are the cause for the condition and circumstances contained within the charging document. These actions and their results will be clearly set forth at a

later date.

RESPECTFULLY SUBMITTED,

May 11, 2012

ROBERT A. YOUNG
Attorney for Respondent

PROOF OF SERVICE

I am a citizen of the United States and employed in the State of California, County of Placer. I am over the age of eighteen years and not a party to the within action. My business address is 130 Maple Street, Suite 102, Auburn, California 95603.

On, May 11, 2012, I served the within :

Matter of: Wendell Peters ***State Bar Case No. 11-0-11361***
Letter from Robert A. Young
Amended Response: Notice of Disciplinary Charges

On the parties below named in this action by: ***Via fax and e-mail***

Via fax to: 415-538-2284 ***E-mail to: Robin.Brune@calbar.ca.gov***

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct.

Dated: 5/11/12

Lynette Santaella

Lynette Santaella