



**PUBLIC MATTER  
FILED**

**OCT 26 2015**

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

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES**

In the Matter of	)	Case Nos.: <b>13-O-12753-LMA</b>
	)	(13-O-13310; 13-O-13514;
<b>SWAZI ELKANZI TAYLOR,</b>	)	13-O-13727; 13-O-13963;
	)	13-O-14115; 13-O-14145;
<b>Member No. 237093,</b>	)	13-O-14446) 13-O-14847
	)	(13-O-15298; 13-O-16534) Cons.
A Member of the State Bar.	)	
	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
	)	<b>ENROLLMENT</b>

In this matter, respondent Swazi Elkanzi Taylor was charged with 28 counts of misconduct stemming from 11 client matters. He failed to appear at the trial of this case and his default was entered. The Office of the 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 appear at trial after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to appear at trial and the attorney fails to have the default set aside or vacated within 45 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>

<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**

Respondent was admitted to practice law in this state on June 1, 2005, and has been a member since then.

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

On March 12, 2014, the State Bar filed and properly served a notice of disciplinary charges (NDC), in case nos. 13-O-12753, et al., on Respondent at his membership records address by certified mail, return receipt requested. The NDC notified Respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. (Rule 5.41.) On April 25, 2014, Respondent filed his response to the NDC.

On May 1, 2014, the State Bar filed and properly served a second NDC, in case nos. 13-O-14847, et al., on Respondent at his membership records address by certified mail, return receipt requested. The second NDC again notified Respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. (Rule 5.41.) On June 20, 2014, Respondent filed his response to the second NDC. The two NDCs were later consolidated.

Respondent participated in multiple status conferences in this matter and filed several motions. Following a period of abatement, trial dates were set on March 16, 2015. A copy of the order setting trial dates was properly served on Respondent at his membership records address. (Rule 5.81(A).)

On April 29, 2015, Respondent filed a motion requesting, among other things, to again abate the present proceedings. That motion was denied by order filed on May 11, 2015. A copy of this order was properly served on Respondent at his membership records address.

On May 26, 2015, the State Bar appeared for trial but Respondent did not. Finding that all of the requirements of rule 5.81(A) were satisfied, the court issued and properly served an order entering Respondent's default that same day. The order notified Respondent that if he did not timely move to set aside or vacate his default, the court would recommend his disbarment. The order also placed Respondent on involuntary inactive status under Business and Professions Code section 6007, subdivision (e), and he has remained inactive since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(2) [attorney has 45 days after order entering default is served to file motion to set aside default].) On July 31, 2015, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has not had any contact with Respondent since his default was entered; (2) Respondent has no other disciplinary matters pending in investigation; (3) Respondent has two prior records of discipline; and (4) the Client Security Fund has made payments resulting from Respondent's misconduct. Respondent has not responded to the petition for disbarment or moved to set aside or vacate the default. The case was submitted for decision on October 19, 2015.

Respondent has been disciplined on one prior occasion.<sup>3</sup> Pursuant to a Supreme Court order filed on February 27, 2013, in case no. S207915 (State Bar Court case nos. 10-O-05171, et al.), Respondent was suspended for two years, the execution of which was stayed, and he was placed on probation for two years, including a minimum period of actual suspension of six months and until payment of restitution. In this matter, Respondent was found culpable on eight counts of collecting illegal fees relating to his loan modification practice.

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<sup>3</sup> Respondent also has a non-final matter pending in the disciplinary system.

## **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 13-O-12753 (The Salvo Matter)**

Count One – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Two – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Three – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to deposit client funds in trust) by failing to deposit \$4,000 in client funds in a trust account.

Count Four – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by misappropriating for Respondent's own purposes \$3,200 in entrusted client funds.

### **Case Number 13-O-13310 (The Babaiyans Matter)**

Count Five – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Six – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Seven – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to competently perform legal services) by failing to timely file bankruptcy schedules on his client’s behalf.

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

**Case Number 13-O-13514 (The Devore Matter)**

Count Nine – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

**Case Number 13-O-13727 (The Kellman Matter)**

Count Ten – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Eleven – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to competently perform legal services) by failing to timely file bankruptcy schedules on his client’s behalf.

Count Twelve – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal) by terminating his employment without adequate notice.

**Case Number 13-O-13963 (The Hill Matter)**

Count Thirteen – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Fourteen – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to competently perform legal services) by failing to timely file amended bankruptcy schedules and failing to appear at the meeting of creditors on his client's behalf.

Count Fifteen – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failing to refund unearned fees) by failing to promptly refund unearned advanced fees.

Count Sixteen – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failing to account) by failing to provide his client with an accounting.

Count Seventeen – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal) by terminating his employment without adequate notice.

**Case Number 13-O-14115 (The Magallanes Matter)**

Count Eighteen – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

**Case Number 13-O-14145 (The Campbell Matter)**

Count Nineteen – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

**Case Number 13-O-14446 (The Nelson Matter)**

Count Twenty – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

**Case Number 13-O-14847 (The McGlothan Matter)**

Count One – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to competently perform legal services) by not advising his client to complete a course in financial management and not filing a statement in completion of the course in financial management on his client's behalf.

Count Two<sup>4</sup> – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failing to refund unearned fees) by failing to promptly refund unearned advanced fees.

Count Three – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failing to account) by failing to provide his client with an accounting.

**Case Number 13-O-15298 (The Hill Matter)**

Count Four – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

**Case Number 13-O-16534 (The Zuniga Matter)**

Count Five – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

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<sup>4</sup> The second NDC contains a typographical error identifying Counts Two and Three as case no. 13-O-13847.

Count Six – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to deposit client funds in trust) by failing to deposit \$6,500 in client funds in a trust account.

Count Seven – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by misappropriating for Respondent’s own purposes \$4,200 in entrusted client funds.

Count Eight – Respondent willfully violated rule 4-100(B)(1) of the Rules of Professional Conduct (failure to notify of receipt of client funds) by failing to notify his client of Respondent’s receipt of funds on the client’s behalf.

**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) Respondent had actual notice of the proceedings prior to the entry of his default, as he filed a response to both NDCs, appeared for several hearings, filed numerous motions with the court, and was properly served with notice of the trial date;
- (3) the default was properly entered under rule 5.81; and
- (4) the factual allegations in the NDC deemed admitted by the entry of default support a finding that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite actual notice and opportunity, Respondent failed to appear for the trial 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 Swazi Elkanzi Taylor 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 the following payees:

- (1) Edwin Salvo in the amount of \$3,200 plus 10 percent interest per year from March 27, 2013;
- (2) William Hill in the amount of \$2,000 plus 10 percent interest per year from March 29, 2013;
- (3) Brenda McGlothan in the amount of \$1,300 plus 10 percent interest per year from May 1, 2012; and
- (4) Jose Zuniga in the amount of \$4,200 plus 10 percent interest per year from May 11, 2012.

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**

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.

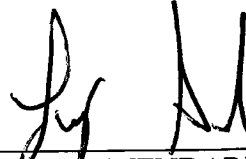
### **Costs**

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 Swazi Elkanzi Taylor, State Bar number 237093, 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: October 26, 2015

  
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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 October 26, 2015, 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:

SWAZI E. TAYLOR  
TAYLOR MORTGAGE LAWYERS  
468 N CAMDEN DR STE 215-B  
BEVERLY HILLS, CA 90210

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

ASHOD MOORADIAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 26, 2015.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court