

PUBLIC MATTER

FILED

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AUG 31 2015

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

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

In the Matter of)	Case Nos.: 14-O-01718-LMA (14-O-01720)
)	
DERRICK RABURN STURM,)	
)	DECISION AND ORDER OF
Member No. 189083,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
<u>A Member of the State Bar.</u>)	

Respondent **Derrick Raburn Sturm** (respondent) was charged with seven counts of violations of the Rules of Professional Conduct and the Business and Professions Code.¹ He failed to participate, either in person or through counsel, and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.²

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

¹ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

² Unless otherwise indicated, all references to rules are to this source.

(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.³

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 June 9, 1997, and has been a member since then.

Procedural Requirements Have Been Satisfied

On December 4, 2014, the State Bar properly filed and served the NDC on respondent by certified mail, return receipt requested, to his membership records address. The return card was signed by Karen Merzell and returned to the State Bar. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) On December 4, 2014, the State Bar sent respondent a copy of the NDC by email. On December 15, 2014, the State Bar sent respondent a copy of the NDC by email and by standard first-class mail to respondent's official membership records address. The mailings were not returned as undeliverable.

On December 15 and 29, 2014, the State Bar telephoned respondent at his official membership records telephone number. But his voicemail indicated that it was not taking any messages. On December 29, 2014, the State Bar sent respondent another email with a copy of the NDC attached, informing him that his response to the NDC was past due and that a motion seeking entry of his default would be filed. To date, respondent has not contacted the State Bar.

³ 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).)

Respondent failed to file a response to the NDC. On January 15, 2015, 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 deputy 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 30, 2015. 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 May 19, 2015, the State Bar properly filed and served the petition for disbarment on respondent at his official 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 disciplinary matters pending against respondent; (3) respondent has no record of prior discipline; and (4) the Client Security Fund has not paid any claims as a result of 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 June 10, 2015.

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 14-O-01718 (Pitts Matter)

Count 1 – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) by failing to appear at a case management conference, failing to respond to written discovery, and failing to perform any substantive legal services on behalf of Jeffrey Pitts in a civil action in Orange County Superior Court, case No. 30-2013-00632533-CU-BC-CJC.

Count 2 – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) by failing to inform his client that he was withdrawing from employment and by failing to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client when he constructively terminated his employment on August 2, 2013.

Count 3 – Respondent willfully violated section 6068, subdivision (i) (failure to cooperate with the State Bar in a disciplinary investigation), by failing to provide a substantive response to the State Bar's May 7 and 27, 2014 letters.

Case Number 14-O-01720 (Twineham Matter)

Count 4 – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct by failing to appear at a case management conference, failing to respond to written

discovery, and failing to perform any substantive legal services on behalf of Nancy Twineham in a civil action in Orange County Superior Court, case No. 30-2013-00632533-CU-BC-CJC.

Count 5 – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct by failing to inform his client that he was withdrawing from employment and by failing to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client when he constructively terminated his employment on August 2, 2013.

Count 6 – Respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to return client papers/property) by failing to promptly release to his client, upon the client's request on January 8 and 23, 2014, the client's property and papers.

Count 7 – Respondent willfully violated section 6068, subdivision (i) (failure to cooperate with the State Bar in a disciplinary investigation), by failing to provide a substantive response to the State Bar's May 7 and 27, 2014 letters.

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 his disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent **Derrick Raburn Sturm**, State Bar number 189083, 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 **Derrick Raburn Sturm**, State Bar number 189083, 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: August 31, 2015



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 August 31, 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:

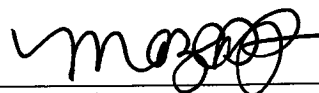
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DERRICK R. STURM
DERRICK R. STURM, P.C.
30021 TOMAS STE 300
RANCHO SANTA MARGARITA, CA 92688

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

SHANE C. MORRISON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 31, 2015.



Mazie Yip
Case Administrator
State Bar Court