

**PUBLIC MATTER**



**FILED**

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**OCT 20 2015**

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO**

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

In the Matter of )  
REGINALD von TERRELL, )  
Member No. 127874, )  
A Member of the State Bar. )  
\_\_\_\_\_ )

Case No.: **14-O-04098-LMA**  
**DECISION AND ORDER OF  
INVOLUNTARY INACTIVE  
ENROLLMENT**

In this matter, respondent Reginald von Terrell was charged with eight counts of misconduct stemming from a single client matter. 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 17, 1987, and has been a member since then.

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

On February 18, 2015, the State Bar filed and properly served a notice of disciplinary charges (NDC) 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 March 16, 2015, Respondent appeared in court for the initial status conference. On March 27, 2015, Respondent filed his response to the NDC.

On June 15, 2015, Respondent appeared in court for the pre-trial conference. By order filed that same day, the first two days of trial were vacated and trial was set to begin on June 25, 2015. Respondent was present in court when this order was issued and a copy was properly served on him at his membership records address. (Rule 5.81(A).)

On June 25, 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 August 17, 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 direct contact with Respondent since his default was entered; (2) Respondent has other disciplinary matters pending in investigation; (3) Respondent has a prior record of discipline; and (4) the Client Security Fund has not made any 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 September 14, 2015.

Respondent has been disciplined on two prior occasions. Effective March 26, 1995, Respondent was publicly reprovved with conditions in State Bar Court case No. 92-O-16424. In this matter, Respondent stipulated to failing to deposit client funds in trust and failing to promptly pay out client funds.

Effective March 16, 1997, Respondent was again publicly reprovved with conditions in State Bar Court case No. 96-H-01785. In this matter, Respondent stipulated to a single count of failing to comply with the conditions of his previous public reprovval.

**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-04098 (The Keener Matter)**

Count One – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to maintain client funds in trust) by failing to maintain \$900 in advanced costs in a trust account.

Count Two – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to maintain client funds in trust) by failing to maintain \$80,000 in entrusted client funds in a trust account.

Count Three – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to maintain client funds in trust) by failing to maintain \$30,000 in entrusted 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 \$899.03 in advanced costs paid by his client.

Count Five – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by misappropriating for Respondent’s own purposes \$78,420.03 in entrusted client funds.

Count Six – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by misappropriating for Respondent’s own purposes \$9,995.03 in entrusted client funds.

Count Seven – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by telling his client that \$80,000 in entrusted client funds were still in Respondent’s CTA when he knew or was grossly negligent in not knowing that the statement was false.

Count Eight – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a State Bar investigation), by receiving and failing to substantively respond to a State Bar investigator’s letters seeking a response regarding allegations of misconduct.

**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 the NDC, appeared for several hearings, 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 Reginald von Terrell 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) Mark Keener in the amount of \$899.03 plus 10 percent interest per year from March 5, 2014;
- (2) Robert Pollak, Esq., obo Alan and Gweneth Brown, in the amount of \$78,420.03 plus 10 percent interest per year from May 8, 2014; and
- (3) Gloria Williams in the amount of \$9,995.03 plus 10 percent interest per year from May 16, 2014.

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 Reginald von Terrell, State Bar number 127874, be involuntarily enrolled as an

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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 20, 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 20, 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:

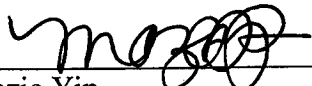
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

REGINALD V. TERRELL  
THE TERRELL LAW GROUP  
PO BOX 13315  
OAKLAND, CA 94661

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

SHERRIE B. McLETCHE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 20, 2015.

  
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Mazie Yip  
Case Administrator  
State Bar Court