

PUBLIC MATTER

FILED

SEP 11 2015

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

1 STATE BAR OF CALIFORNIA
2 OFFICE OF CHIEF TRIAL COUNSEL
3 JAYNE KIM, No. 174614
4 CHIEF TRIAL COUNSEL
5 JOSEPH R. CARLUCCI, No. 172309
6 DEPUTY CHIEF TRIAL COUNSEL
7 GREGORY P. DRESSER, No. 136532
8 ASSISTANT CHIEF TRIAL COUNSEL
9 ROBERT A. HENDERSON, No. 173205
10 SUPERVISING SENIOR TRIAL COUNSEL
11 180 Howard Street
12 San Francisco, California 94105-1639
13 Telephone: (415) 538-2385

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

12 In the Matter of:) Case No.: 15-O-10870
13 DAVID IRA KELVIN,)
14 No. 95190,) NOTICE OF DISCIPLINARY CHARGES
15 A Member of the State Bar.)

NOTICE - FAILURE TO RESPOND!

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

- 20 (1) **YOUR DEFAULT WILL BE ENTERED;**
- 21 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
22 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
- 23 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
24 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**
25 **AND THE DEFAULT IS SET ASIDE, AND;**
- 26 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
27 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
28 **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.

25 //
26 //
27 //

kwiktag ° 197 147 320



1 The State Bar of California alleges:

2 JURISDICTION

3 1. David Ira Kelvin ("respondent") was admitted to the practice of law in the State of
4 California on December 16, 1980, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 15-O-10870

8 Rules of Professional Conduct, rule 3-110(A)
9 [Failure to Perform with Competence]

10 2. In or about September 2013, Maurice Barrow employed respondent to perform legal
11 services, namely to represent him in *People v. Maurice Barrow*, Alameda County Superior Court
12 case no. 172072A, which respondent intentionally, recklessly, or repeatedly failed to perform
13 with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by:

- 14 (A) failing to review or examine the AT&T cell phone records of Alicia Vega, which
15 were part of the court file;
- 16 (B) failing to utilize the August 24, 2012, AT&T cell phone records of Alicia Vega at
17 trial;
- 18 (C) failing to obtain the August 24, 2012, Clipper Card records of Alicia Vega to utilize
19 at trial;
- 20 (D) failing to subpoena Eric McDaniel, the nephew of Maurice Barrow, to testify at trial
21 regarding the whereabouts of Maurice Barrow on the night of August 24, 2012;
- 22 (E) failing to follow a lead on a person who was with Maurice Barrow on August 24,
23 2012; and,
- 24 (F) failing to explain to Maurice Barrow that he had a right to testify on his own behalf
25 at trial.

26 NOTICE - INACTIVE ENROLLMENT!

27 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
28 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
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.**

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**

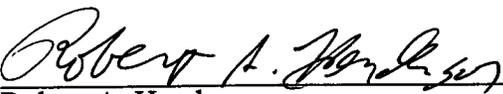
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

DATED: September 11, 2015

By: 
Robert A. Henderson
Supervising Senior Trial Counsel

DECLARATION OF SERVICE
BY CERTIFIED AND REGULAR MAIL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CASE NO.: 15-O-10870

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, 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 San Francisco, 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*, and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

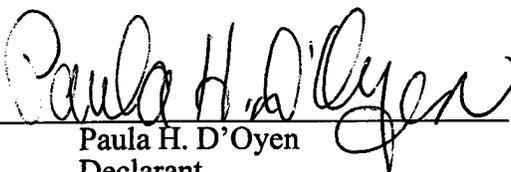
Article No.: 9414 7266 9904 2042 4850 93
David Ira Kelvin
2307 Buena Vista Ave.
Stockton, CA 95204

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 San Francisco, California, on the date shown below.

DATED: September 11, 2015

Signed: 
Paula H. D'Oyen
Declarant