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PUBLIC MATTER

FILED

DEC 02 2016

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

13 In the Matter of:) Case Nos. 15-O-12951; 15-O-13789; 15-O-
14 DANIEL EVERETT,) 14462
No. 268967,) NOTICE OF DISCIPLINARY CHARGES
15)
16 A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

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

- 20 (1) **YOUR DEFAULT WILL BE ENTERED;**
21 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
WILL NOT BE PERMITTED TO PRACTICE LAW;
22 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
23 **AND THE DEFAULT IS SET ASIDE, AND;**
24 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
25 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
26 **FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,**
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

27 The State Bar of California alleges:

28 JURISDICTION



1 1. DANIEL EVERETT ("respondent") was admitted to the practice of law in the State
2 of California on February 5, 2010, was a member at all times pertinent to these charges, and is
3 currently a member of the State Bar of California.

4 COUNT ONE

5 Case No. 12-O-12951
6 Rules of Professional Conduct, rule 3-110(A)
7 [Failure to Perform with Competence]

8 2. In or about December 2014, Mark Anthony Collins employed respondent to perform
9 legal services, namely to represent him in *People v. Collins*, Santa Clara County Superior Court
10 case no. C1363363, which respondent intentionally, recklessly, or repeatedly failed to perform
11 with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by the
12 following:

- 13 • failing to properly prepare, file and serve motions, despite admonitions by the
14 court on January 7, 2015 and April 7, 2015, that he do so; and
15 • failing to timely retrieve his client's sentencing report.

16 COUNT TWO

17 Case No. 15-O-12951
18 Business and Professions Code, section 6103
19 [Failure to Obey a Court Order]

20 3. Respondent disobeyed or violated an order of the court requiring respondent to do or
21 forbear an act connected with or in the course of respondent's profession which respondent ought
22 in good faith to do or forbear by failing to comply with the court's January 13, 2015 and January
23 14, 2015 orders to remain within 20 minutes of the courthouse and be on telephone standby, in
24 *People v. Collins*, Santa Clara County Superior Court case no. C1363363, in willful violation of
25 Business and Professions Code, section 6103.

26 COUNT THREE

27 Case No. 15-O-12951
28 Business and Professions Code, section 6103
 [Failure to Obey a Court Order]

 4. Respondent disobeyed or violated an order of the court requiring respondent to do or
forbear an act connected with or in the course of respondent's profession which respondent ought

1 in good faith to do or forbear by failing to comply with the court's January 29, 2015 order to pay
2 sanctions in the amount of \$500 and provide proof of payment to the court by May 8, 2015, in
3 *People v. Collins*, Santa Clara County Superior Court case no. C1363363, in willful violation of
4 Business and Professions Code, section 6103.

5 COUNT FOUR

6 Case No. 15-O-12951
7 Business and Professions Code, section 6103
8 [Failure to Obey a Court Order]

9 5. Respondent disobeyed or violated an order of the court requiring respondent to do or
10 forbear an act connected with or in the course of respondent's profession which respondent ought
11 in good faith to do or forbear by failing to comply with the court's March 11, 2015 order to
12 appear for the sentencing hearing on April 3, 2015, in *People v. Collins*, Santa Clara County
13 Superior Court case no. C1363363, in willful violation of Business and Professions Code, section
14 6103.

15 COUNT FIVE

16 Case No. 15-O-12951
17 Business and Professions Code, section 6103
18 [Failure to Obey a Court Order]

19 6. Respondent disobeyed or violated an order of the court requiring respondent to do or
20 forbear an act connected with or in the course of respondent's profession which respondent ought
21 in good faith to do or forbear by failing to comply with the court's April 7, 2015 order to obtain
22 the probation report within 48 hours, in *People v. Collins*, Santa Clara County Superior Court
23 case no. C1363363, in willful violation of Business and Professions Code, section 6103.

24 COUNT SIX

25 Case No. 15-O-12951
26 Business and Professions Code, section 6103
27 [Failure to Obey a Court Order]

28 7. Respondent disobeyed or violated an order of the court requiring respondent to do or
forbear an act connected with or in the course of respondent's profession which respondent ought
in good faith to do or forbear by failing to comply with the court's June 5, 2015 order to pay a
\$1,000 fine or otherwise timely appeal the order, in *People v. Collins*, Santa Clara County

1 Superior Court case no. C1363363, in willful violation of Business and Professions Code, section
2 6103.

3 COUNT SEVEN

4 Case No. 15-O-12951
5 Business and Professions Code, section 6068(o)(3)
6 [Failure to Report Judicial Sanctions]

7 8. Respondent failed to report to the agency charged with attorney discipline, in writing,
8 within 30 days of the time respondent had knowledge of the imposition of any judicial sanctions
9 against respondent by failing to report, to date, to the State Bar the \$1,000 fine the court imposed
10 on respondent on or about June 5, 2015 in connection with *People v. Collins*, Santa Clara County
11 Superior Court case no. C1363363, in willful violation of Business and Professions Code, section
12 6068(o)(3).

13 COUNT EIGHT

14 Case No. 15-O-13789
15 Business and Professions Code, section 6068(a)
16 [Failure to Comply With Laws-Unauthorized Practice of Law]

17 9. On or about July 14, 2015, respondent held himself out as entitled to practice law and
18 actually practiced law when respondent was not an active member of the State Bar by appearing
19 on behalf of and representing Vo Bunn in a motion hearing in the matter entitled *People v. Bunn*,
20 San Mateo County Superior Court case no. SC081859, in violation of Business and Professions
21 Code, sections 6125 and 6126, and thereby willfully violated Business and Professions Code
22 section 6068(a).

23 COUNT NINE

24 Case No. 15-O-13789
25 Business and Professions Code, section 6106
26 [Moral Turpitude]

27 10. On or about July 14, 2015, respondent held himself out as entitled to practice law and
28 actually practiced law when respondent knew, or was grossly negligent in not knowing,
respondent was not an active member of the State Bar by appearing on behalf of and representing
Vo Bunn in a motion hearing in the matter entitled *People v. Bunn*, San Mateo County Superior

1 Court case no. SC081859, and thereby committed an act involving moral turpitude, dishonesty or
2 corruption in willful violation of Business and Professions Code, section 6106.

3 COUNT TEN

4 Case No. 15-O-14462
5 Rules of Professional Conduct, rule 3-700(D)(1)
6 [Failure to Release File]

7 11. Respondent failed to release promptly, after termination of respondent's employment
8 on or about April 23, 2015, to respondent's prospective client, James Veal, all of the client's
9 papers and property following the client's request for the client's file on April 23, 2015, in
10 willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

11 NOTICE - INACTIVE ENROLLMENT!

12 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
13 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
14 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
15 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
16 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
17 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
18 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
19 RECOMMENDED BY THE COURT.**

20 NOTICE - COST ASSESSMENT!

21 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
22 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
23 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
24 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
25 PROFESSIONS CODE SECTION 6086.10.**

26 Respectfully submitted,

27 THE STATE BAR OF CALIFORNIA
28 OFFICE OF CHIEF TRIAL COUNSEL

29 DATED: December 2, 2016

By: 

TREVA R. STEWART
Deputy Trial Counsel

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 15-O-12951; 15-O-13789; 15-O-14462

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)
(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 9414 7266 9904 2042 4874 86 at San Francisco, addressed to: (see below)
(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: addressed to: (see below)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, Courtesy Copy to. Row 1: Daniel Everett, Respondent; Daniel Everett, Law Offices of Daniel Everett, 15 Boardman Pl Ste 2, San Francisco, CA 94103-4724; Electronic Address.

- via Inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

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, and overnight delivery by the United Parcel Service (UPS).

I am aware that on motion of the 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.

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: December 2, 2016

SIGNED: [Signature] Meagan McGowan Declarant