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STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCOSTATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case Nos.: <b>14-O-05773-LMA</b>
	)	(15-O-10520)
<b>PETER JOHN WHIPPLE,</b>	)	
	)	<b>DECISION AND ORDER OF</b>
<b>Member No. 107761,</b>	)	<b>INVOLUNTARY INACTIVE</b>
	)	<b>ENROLLMENT</b>
<u>A Member of the State Bar.</u>	)	

In this matter, respondent Peter John Whipple (Respondent) was charged with four counts of misconduct stemming from two client matters. Respondent failed to participate either in person or through counsel, 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 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 (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.<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 May 11, 1983, and has been a member since then.

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

On March 16, 2015, the State Bar properly filed and served an NDC on Respondent by certified mail, return receipt requested, at his membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The NDC was returned to the State Bar by the U.S. Postal Service as undeliverable.

In addition, reasonable diligence was also used to notify Respondent of this proceeding. Prior to filing the NDC, the State Bar determined that Respondent abandoned his law practice in approximately May 2014. The State Bar communicated with Respondent's former law partners, his ex-wife, and two San Joaquin County Superior Court judges in an effort to obtain Respondent's current contact information. The State Bar, however, was unable to locate anyone who has had any contact with Respondent in the last several months. On February 4, 2015, the State Bar assumed jurisdiction over Respondent's law practice. After filing the NDC, the State Bar also mailed a copy of it to Respondent at an alternative address contained in his case file.

Respondent failed to file a response to the NDC. On April 16, 2015, the State Bar filed and properly 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 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 May 4, 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, and he has remained inactively enrolled since that time.

Respondent also 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 September 16, 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 had no contact with Respondent since the default was entered; (2) Respondent has other disciplinary matters pending; (3) Respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on October 14, 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).)

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**Case No. 14-O-05773 – The Deg Matter**

Count One – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by misappropriating for Respondent’s own purposes \$9,367.47 in entrusted client funds.

Count Two – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failing to maintain client funds in trust) by failing to maintain \$10,000 in client funds in a trust account on his client’s behalf.

**Case No. 15-O-10520 – The Thompson Matter**

Count Three – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by misappropriating for Respondent’s own purposes \$9,501.30 in entrusted client funds.

Count Four – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failing to maintain client funds in trust) by failing to maintain \$10,000 in client funds in a trust account on his 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) 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

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(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 disbarment.

### **RECOMMENDATIONS**

#### **Disbarment**

The court recommends that respondent Peter John Whipple be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.<sup>3</sup>

#### **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**

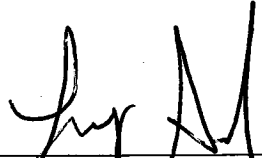
In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Peter John Whipple, State Bar number 107761, be involuntarily enrolled as an

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<sup>3</sup> The court does not recommend restitution because it is unclear whether the misappropriated funds were to be paid to Respondent's clients or their medical providers.

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: November 30, 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 November 30, 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:

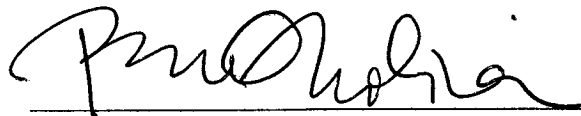
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

PETER JOHN WHIPPLE  
LAW OFC PETER J WHIPPLE  
3439 BROOKSIDE RD #210  
STOCKTON, CA 95219

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

ESTHER ROGERS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 30, 2015.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court