

FILED

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STATE BAR COURT
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LOS ANGELES

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No. 16-O-15855-CV
)	
GEORGE MASON TURNER,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 44669.)	ENROLLMENT
)	
_____)	

In this matter, respondent George Mason Turner (Respondent) was charged with six counts of misconduct involving one client matter. Respondent failed to participate either in person or through counsel, and his default was entered. The Office of Chief Trial Counsel of the State Bar of California (OCTC) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.¹

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, OCTC will file a petition requesting the court to recommend the attorney's disbarment.²



¹ Unless otherwise indicated, all references to rules are to this source.

² 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 27, 1969, and has been a member since then.

Procedural Requirements Have Been Satisfied

On November 17, 2017, OCTC 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 not returned to OCTC by the U.S. Postal Service as undeliverable.

In addition, Respondent had actual notice of this proceeding. On December 12, 2017, Senior Trial Counsel Kristin Ritsema called Respondent on his mobile phone number and spoke with him. Ms. Ritsema explained to Respondent that this matter would proceed by default if he did not file a response to the NDC. Respondent stated that he had not received the NDC and no longer lived at his membership records address. Respondent provided Ms. Ritsema with his current address but also advised her that he was 83 years old and in poor health.

Shortly thereafter, Ms. Ritsema sent a letter and a copy of the NDC to Respondent at the address he identified in their December 12, 2017 conversation. In the letter, Ms. Ritsema notified Respondent of the date and time of the initial status conference.

Respondent did not appear at the initial status conference on January 8, 2018. The court received a message from a purported friend of Respondent's stating that Respondent had been hospitalized. The court's case specialist attempted to contact Respondent at his mobile phone

number but received no answer. The case specialist also called the hospital phone number that had been provided by Respondent's friend. The hospital operator said there was no patient by the name of George Turner at the hospital.

Respondent did not file a response to the NDC. On January 19, 2018, OCTC filed and properly served a motion for entry of Respondent's default. The motion included a supporting declaration of reasonable diligence by Ms. Ritsema 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 February 20, 2018. The order entering default was served on Respondent at his membership records address by certified mail, return receipt requested.³ 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 June 11, 2018, OCTC filed the petition for disbarment. OCTC reported in the petition that: (1) it has had no contact with Respondent since the default was entered;⁴ (2) Respondent has another disciplinary matter pending; (3) Respondent has a 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

³ Courtesy copies of this order, as well as OCTC's default motion, were also sent to Respondent at the address he provided OCTC on December 12, 2017.

⁴ After Respondent's default was entered, Ms. Ritsema continued to attempt to locate Respondent. Despite her commendable efforts, Ms. Ritsema was unable to again locate or otherwise communicate with Respondent.

petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on July 18, 2018.

Respondent has been disciplined on one prior occasion. Effective August 5, 2000, he was privately reproved with conditions in State Bar Court case No. 99-O-12689. In that matter, Respondent stipulated to a single count of failing to maintain client funds in trust.

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 No. 16-O-15855 – The Meiswinkel Matter

Count One – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failing to maintain client funds in trust) by failing to maintain funds received for the benefit of a client in a trust account.

Count Two – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by misappropriating client funds in the amount of \$18,760.49.

Count Three – respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(4) (failing to pay client funds promptly) by failing to promptly pay \$18,760.49 in client funds upon his client's request.

Count Four – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failing to account) by failing to provide his client with an accounting.

Count Five – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failing to perform legal services with competence) by failing to perform the services for which he was employed, i.e., preparing a special needs trust or performing any other legal services with respect to the special needs trust.

Count Six – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (commingling) by: (1) depositing personal funds into his client trust account on twelve occasions; and (2) issuing checks for personal expenses from his client trust account on three occasions.

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;
- (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 actual 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

Discipline - Disbarment

It is recommended that George Mason Turner, State Bar Number 44669, be disbarred from the practice of law in 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 Jan Meiswinkel in the amount of \$16,760.49⁵ plus 10 percent interest per year from May 14, 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

It is further recommended 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 imposing discipline in this matter.⁶

Costs

It is also recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.


⁵ Respondent misappropriated \$18,760.49; however, he returned \$2,000 to Ms. Meiswinkel prior to the filing of the NDC.

⁶ For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney’s failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that George Mason Turner, State Bar number 44669, 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 13, 2018



CYNTHIA VALENZUELA
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 Court Specialist 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 Los Angeles, on August 13, 2018, 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:

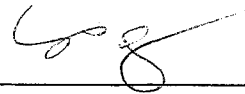
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

GEORGE MASON TURNER
3579 E FOOTHILL BLVD # 296
PASADENA, CA 91107 - 3119

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

KRISTIN L. RITSEMA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 13, 2018.



Paul Songco
Court Specialist
State Bar Court