



PUBLIC MATTER

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**STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No. 16-O-16295-DFM
ALEXANDER WARREN TUCKER,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 202794.)	ENROLLMENT
_____)	

Respondent Alexander Warren Tucker (Respondent) is charged, in a single count, with violating Business and Professions Code¹ section 6068, subdivision (k) [failure to comply with conditions of probation]. He failed to participate, either in person or through counsel in this proceeding, and his default was entered. The Office of Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.²

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

¹ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

² Unless otherwise indicated, all references to rules are to this source.

(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.³

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 California on November 23, 1999, and has been a member since then.

Procedural Requirements Have Been Satisfied

On July 21, 2017, the State Bar properly filed and 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 participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) Thereafter, the NDC was returned as undeliverable.

On August 16, 2017, the State Bar mailed a letter to each of three different addresses that the State Bar obtained for Respondent when it conducted a LexisNexis search for Respondent. In those three letters, the State Bar asked Respondent to provide it with Respondent's accurate contact information and to contact the State Bar as soon as possible in order to discuss an important matter.

On August 16 and September 6, 2017, the State Bar attempted to reach Respondent by telephone at his membership records telephone number, but the State Bar received an automated recording stating that the telephone number was not in service. On August 17, 2017, the State

³ 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).)

Bar attempted to reach Respondent by telephone at his private membership records telephone number and left a message on Respondent's voicemail asking Respondent to return its call. The State Bar did not receive a response from that voicemail message. Nor did the State Bar receive a response to any of the three letters that it mailed to Respondent on August 16, 2017.

Respondent failed to file a response to the NDC. On September 6, 2017, the State Bar properly filed and served a motion for entry of default on Respondent at his membership records address by certified mail, return receipt requested. Thereafter, the motion was returned as undeliverable. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the assigned State Bar 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 September 25, 2017. 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 section 6007, subdivision (e), effective three days after service of the order. He has remained inactively enrolled since that time.

Respondent 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 January 26, 2018, the State Bar properly filed and served the petition for disbarment on Respondent at his membership records address by certified mail, return receipt requested. That same day, the State Bar also sent a courtesy copy of the petition for disbarment to Respondent at his email address. As required by rule 5.85(A), the State Bar reported in the

petition that: (1) there has been no contact with Respondent since his default was entered; (2) there are no other disciplinary matters or investigations pending against Respondent; (3) Respondent has a prior record of discipline; and (4) the Client Security Fund has made no payments as a result of Respondent's conduct.

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 February 21, 2018.

Prior Records of Discipline

Respondent has been disciplined on two prior occasions.

State Bar Court case No. 11-O-14258

Pursuant to a Supreme Court order filed on April 22, 2013, Respondent was placed on one year's stayed suspension and one year's probation on conditions, including his suspension from the practice of law for the first four months of probation. The Supreme Court imposed that discipline on Respondent in accordance with a decision of this court finding Respondent culpable of failing to account for client funds. In aggravation, this court found that Respondent was culpable of additional uncharged misconduct for entering into an agreement to accept payment of his fees from one other than his client without obtaining his clients informed written consent. In mitigation, Respondent had practiced law for nine years before the commencement of his misconduct.

State Bar Court case Nos. 13-O-14482 and 14-O-03065

Pursuant to Supreme Court order No. S222118, filed on December 8, 2014, Respondent was placed on three years' stayed suspension and three years' probation with conditions including actual suspension for a minimum of the first two years of probation and continuing until Respondent establishes his rehabilitation, fitness to practice, and learning and ability in the general law in accordance with standard 1.2(c)(1) of the Standards for Attorney Sanctions for

Professional Misconduct. In that matter, Respondent stipulated to violating his duty to obey court orders and committing six separate violations of the conditions of the disciplinary probation imposed on him in the Supreme Court's April 22, 2013 order.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a 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-16295 (Probation Violations Matter)

Count 1 – Respondent willfully violated section 6068, subdivision (k) (duty to comply with probation conditions), by failing to comply with all of the conditions of his probation, to wit, failing to schedule a meeting with his probation deputy and failing to file seven quarterly reports).

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
- (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 his disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent **Alexander Warren Tucker**, State Bar number 202794, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

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 and that the costs be 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 Alexander Warren Tucker, State Bar number 202794, 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 by mail (rule 5.111(D)).

Dated: March 19, 2018.


DONALD F. MILES
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 March 19, 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:

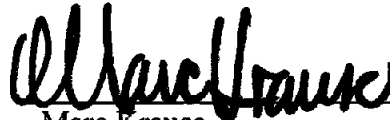
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ALEXANDER W. TUCKER
LAW OFFICE OF ALEXANDER TUCKER
181 REA AVE SUITE F
EL CAJON, CA 92020

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

ABRAHIM M. BAGHERI, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 19, 2018.



Marc Krause
Court Specialist
State Bar Court