

1 GEORGE S. KELLNER #111670
2 In Pro Per
3 171 Douglas Road
4 Oakley, CA 94561
5 (925) 876 9653

FILED

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6 RESPONDENT IN PRO PER



STATE BAR COURT OF CALIFORNIA

9 In the Matter of)
10 GEORGE S. KELLNER)
11 A Member of the State Bar, No. 111670)
12

No. 02-C-13863-PEM

RESPONSE TO NOTICE OF
HEARING ON CONVICTION

13 Respondent, George Stuart Kellner, responds to "Notice of Hearing on Conviction" filed
14 herein as follows:

15 1. The address to which all further notices to respondent in relation to these proceedings
16 may be sent is as follows:

17 George S. Kellner
18 171 Douglas Road
19 Oakley, CA 94561

20 Respondent's telephone number is (925) 876-9653.

21 2. Respondent George S. Kellner has not received a document entitled "Notice of
22 Disciplinary Charges" and is uncertain whether one has been filed. In an abundance of
23 caution and in the event a "Notice of Disciplinary Charges" has been filed, Respondent
24 denies each of the allegations and charges contained therein, reserving leave to amend
25 such response specifically upon receipt of said Notice, and adopts the affirmative defenses
26 and extenuating and mitigating circumstances set forth below.

27 3. Respondent George S. Kellner responds to the Notice of Hearing on Conviction filed
28 herein as follows:

1 Respondent admits he was convicted of Penal Code Section § 129. Respondent
2 admits he was convicted of Revenue and Taxation Code § 19706.

3
4 FIRST AFFIRMATIVE DEFENSE

5 The offenses of which respondent is convicted may or may not be crimes of moral
6 turpitude, pursuant to the law of the case.

7 EXTENUATING AN MITIGATING CIRCUMSTANCES

8 1. Respondent has been licensed to practice law in the State of California since 1983
9 without any prior charge of misconduct or prior disciplinary record. His professional
10 career as an attorney began in earnest in 1993. As a civil trial attorney respondent
11 maintained a high level of respect and an excellent reputation among his fellow attorneys
12 and the courts for honesty, integrity and professional competence in diligently and
13 vigorously representing his clients. Respondent served as a board member of the Contra
14 Costa County Bar Association. Respondent resolved hundreds of civil cases, many
15 through trial always treating his clients with prompt professionalism and courtesy.

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18 2. HISTORICAL BACKGROUND

19 Respondent's father purchased a circus in 1959 which became the family business.
20 Advance circus ticket sales on behalf of community sponsors (such as Police
21 Associations) were conducted over the phone. Respondent and his brother were taught
22 from childhood to conduct ticket sales campaigns over the telephone. By the 1960's and
23 early 1970's the George Matthews Great London Circus was one of the largest tented
24 traveling shows in the United States or Canada, employing hundreds. During the 1970's
25 respondent's parents entered a bitter divorce and by the late 1970s' the circus folded. To
26 survive respondent transitioned skills he learned in show business into his own company.
27

28 When assets of the Circus were sold respondents brother Matthew came to work for
respondent and together they formed Stuart Bradley Productions, Inc., formally

1 incorporated in 1979. Stuart Bradley Productions contracted with police association
2 sponsors and commenced publishing crime prevention manuals and putting on live
3 music events on their behalf promoted by telephone. Matthew Kellner was a dynamic
4 salesperson with a phenomenally powerful personality. Without a high school education
5 and dyslexic he had natural intelligence, resourcefulness and integrity. The small
6 business grew to 35 branch office representing over 100 law enforcement unions across
7 the United States. Lovie Marie Kellner (Nicoletti), respondent's mother, managed the
8 publishing efforts. During its lifetime Stuart Bradley Productions published millions of
9 journals, newspapers, crime prevention manuals and produced dozens of live shows for
10 their sponsors. Respondent was politically active on behalf of Stuart Bradley's law
11 enforcement sponsors, campaigning for political candidates and ballot initiatives, often as
12 a courtesy to its sponsors and often without payment. During the early 1990's the United
13 States economy retracted, expensive technology purchased for political campaigning and
14 fundraising efforts failed and Stuart Bradley was unable to manage within that economic
15 environment. Respondent borrowed against real estate holdings, investment accounts,
16 retirement accounts and poured his money into Stuart Bradley Productions. Properties
17 were foreclosed. The company failed. Respondent went bankrupt.

21 In an effort to start over respondents mother Lovie loaned her good name and credit
22 to the formation of Family Entertainment Group in or near 1992. Respondent and his
23 brother worked together for a few months at Family Entertainment Group, but were bitter
24 towards each other over the failure of Stuart Bradley Productions. Around 1994 George
25 and Matthew separated financially, each brother conducting his own fundraising
26 campaign(s) under Family Entertainment Group's authority. Matthew remained in Santa
27 Clara County fundraising for the Deputy Sheriffs Association and a newly formed Athletic
28 League of which Sheriffs Lt. Armand Tiano was founder. Respondent developed

1 fundraising campaigns in San Joaquin County for local law enforcement organizations
2 and opened his first law office in Stockton in about 1993.

3 By 1994 respondent was practicing law in Brentwood, Contra Costa County,
4 California. Respondent had a few remaining fundraising obligations and he placed
5 trusted employee's in charge devoting himself to the practice of law as the campaigns
6 wound down. Practicing law was a perfect fit.

7
8 3. In 1997 respondent's wife fell in love with another man and wanted to leave the
9 marriage. Their three children were ages 10, 8 and 7. Respondent was working diligently
10 as an attorney and struggling to maintain a marriage. He did not want his children to
11 suffer a divorce, having that experience as a young man, watching the circus destroyed
12 and family divided.

13
14 4. In 1997 respondent had a meeting with his mother Lovie Marie Kellner (Nicoletti) and
15 his brother Matthew. Respondent wanted to dissolve Family Entertainment Group as he
16 was now practicing law full time and fighting to stay married and could not devote any
17 time to it. Matthew made a very forceful and successful argument that he "was not an
18 attorney" and "had to feed his family" and therefore the company should remain open.
19 Respondent's mother wanted to support both of her sons, and she had moral authority in
20 that regard as she had kindly lent her good name to Family Entertainment Group.
21 Thereafter Family Entertainment Group continued under Matthews leadership.
22 Respondent's role, if any, was extremely limited.

23
24
25 5. Respondent was building a successful career as a trial attorney and trying to stay
26 married to an unhappy woman. Respondent was not in charge of Matthew who was
27 independently campaigning in Santa Clara County.

28 6. Following 1993 respondent received zero personal financial reward from any of
Matthews fundraising activities.

1 7. California required Family Entertainment Group provide annual written reports of its
2 fundraising activities on forms called "CF-2's." The reports were difficult to complete and
3 always within a shortage of time. Because multiple fundraising campaigns were
4 conducted from several offices and most campaigns carried over year to year until the
5 event or publication the only reasonable means to calculate expenses on the CF-2 form
6 would be to use estimates. Matthew would prepare reports for Santa Clara County
7 campaigns, respondent would prepare reports for San Joaquin valley campaigns.
8 Occasionally respondent assisted Matthew in reasonably estimating expenses for his
9 campaigns. Matthew provided the information regarding the amounts raised and
10 disbursed to his sponsoring organizations and respondent did similarly for his campaigns.

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13 Mother was the president of the company and as she lacked personal knowledge of
14 those facts, on each such report provided to California respondent for his mother would
15 attach a statement that the reports were provided "upon information and belief" and that
16 because multiple offices conducted more than one campaign, expenses were
17 "estimated." The business practice of adding an explanatory statement to CF-2 forms
18 began with Stuart Bradley Productions. Respondent admitted at trial that he signed his
19 mothers name to a CF-2 form, with her permission.
20

21 8. Because respondent had essentially removed himself from Family Entertainment
22 Group and was practicing law full time, it was while reviewing discovery in the case of
23 People vs. Tiano, et. al, Santa Clara County Superior Court #210710 that he learned
24 Matthew was actually not in charge of fundraising in Santa Clara County; that Matthew
25 had essentially become an errand runner for now disgraced Sheriff's Lt. Armand Tiano's
26 various Athletic Leagues; that Tiano' had not properly distributed funds for charitable
27 purposes; that some of the reports for Santa Clara County campaigns were inaccurate.
28

9. Respondent was convicted of PC § 129 for the filing of a Family Entertainment

1 Group CF-2 form during the period February 4, 1994 to January 11, 2000 a period during
2 which dozens of such annual reports were filed. There is no way to know for certain
3 which particular form or form(s) were deemed by the Jury in Santa Clara County to
4 violate PC § 129.
5

6 10. In review of respondents case the sixth appellate court of appeals foot noted that
7 PC § 129 does not require "materiality" as an element. PC § 129 does differ in that
8 respect from perjury PC § 118.

9 11. Because of their estrangement from each other over the failure of Stuart Bradley
10 Productions and other personal issues respondent and his brother did not get along and
11 did not spend time together. No tax returns were filed for the corporation Family
12 Entertainment Group. Neither considered that a major problem as there were no profits
13 of the corporate entity to tax. California asserts an \$800.00 per year minimum income tax
14 on corporations. Respondent and his brother were convicted of Revenue and Taxation
15 Code § 19706 for calendar years 1996-2000 for failing to file the corporation income tax
16 returns.
17
18

19 12. The criminal convictions did not arise in the context of an attorney client relationship.

20 13. The criminal convictions did not injure any client of respondent.

21 14. Respondent has suffered the ignominy of incarceration, sentenced to six years and
22 four months, for this conduct.

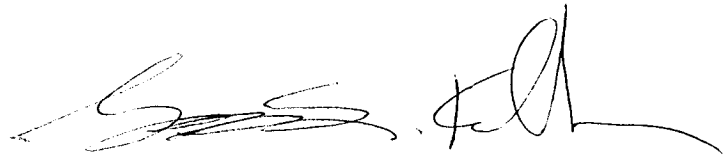
23 15. The acts which led to the conviction of respondent were at least over eleven years
24 ago.
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26 16. Respondent will produce character evidence, other relevant evidence, all in
27 mitigation.

28 WHEREFORE, respondent prays that the Hearing Panel finds that the acts charged do
not warrant disbarment and for a level of discipline which is fair and just under the

1 circumstances.

2 Dated: 11/7/2011

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4 George S. Kellner
5 Member of the State Bar of California
6 In pro per

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PROOF OF SERVICE

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IN THE MATTER OF: **GEORGE S. KELLNER, NO: 111670**
Case No: 02-C-13863 - State Bar Court of California

I am a citizen of the United States, County of Contra Costa, State of California. I am over the age of 18 years and not a party to the above-entitled action. On the date below, I served the following documents in the manner indicated on the below-named parties and/or counsel of record:

RESPONSE TO NOTICE OF HEARING ON CONVICTION

 X **MAIL** by placing the document (s) listed above in a sealed envelope with first class postage thereon fully prepaid, in the United States mail at the Brentwood California main post office.

 FACSIMILE I served a true copy of the aforementioned documents on the parties in said action by transmitting by facsimile machine to the numbers as set forth below.

 PERSONAL SERVICE by _____ and causing personal delivery of the document(s) listed above to the person(s) at the address(es) set forth below.

STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
DEPUTY CHIEF TRIAL COUNSEL
ALLEN BLUMENTHAL, NO. 110243
180 Howard Street
San Francisco, CA 94105-1639

LAURETTA CRAMER, Case Administrator
180 Howard Street
San Francisco, CA 94105-1639

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: November 7, 2011, at Brentwood, California.

By: Nancy M. Branson
NANCY M. BRANSON