

PUBLIC MATTER

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FILED

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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case No. 09-O-19328, 09-O-16405
JOSEPH GIOVANAZZI,) NOTICE OF DISCIPLINARY CHARGES
No. 42827,)
A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

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

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

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Joseph Giovanazzi ("Respondent") was admitted to the practice of law in the State
4 of California on January 9, 1969, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 09-O-19328
8 Business and Professions Code, section 6103
[Failure to Obey a Court Order]

9 2. Respondent willfully violated Business and Professions Code, section 6103, by
10 wilfully disobeying or violating an order of the court requiring him to do or forbear an act
11 connected with or in the course of Respondent's profession which he ought in good faith to do
12 or forbear, as follows:

13 3. On or about November 2, 2000, Anna May Webb ("Webb") filed a personal injury
14 complaint against Kevin Barkal, M.D. ("Barkal"), her employer, and the medical corporation
15 that he owned, titled *Anna May Webb v. San Diego Pain Management Clinic; Kevin Barkal,*
16 *M.D.*, San Diego County Superior Court case number GIC 757374 (the "Webb civil matter").

17 4. On or about February 13, 2003, the court entered a judgment against San Diego
18 Management Clinic and Barkal in the amount of \$149,348.21 in the Webb civil matter. Webb
19 was also awarded fees and costs in the amount of \$2,587.

20 5. On or about January 13, 2005, Barkal's license to practice medicine in the state of
21 California was suspended.

22 6. On or about December 21, 2005, upon Webb's ex parte application to appoint a
23 post judgment receiver for Barkal, the court ordered the preliminary appointment of Martin
24 Goldberg ("Goldberg" or "Receiver") as a post judgment limited receiver of Barkal in the
25 Webb civil matter. Pursuant to the December 21, 2005 Order, Goldberg was authorized and
26 empowered to, *inter alia*, seize control of the records and accounts receivable for Barkal's
27 businesses; collect monies on behalf of Barkal's businesses; and locate and seize any and all
28 monies due to Barkal or his business entities from any and all worker's compensation

1 administrative hearings. The December 21, 2005 Order also required Barkal and any of his
2 agents, including attorneys, to, *inter alia*, turn over possession to the Receiver all accounts and
3 certificates of Barkal's businesses, as well as all books, records, accounts, and other
4 information relating to numerous business entities, including but not limited to West Coast
5 Interventional Pain Medicine, Inc. ("West Coast"), Surgical Leasing Company, Inc. ("Surgical
6 Leasing"), and San Diego Pain Management, Inc. ("San Diego Pain Management"). The
7 December 21, 2005 Order also prohibited Barkal and any of his agents, including his
8 attorneys, from, *inter alia*, wasting, removing, transferring, encumbering or disposing of assets
9 subject to the receivership orders; demanding, collecting, receiving, discounting, or diverting
10 any income of the assets under the Receiver's control; interfering with the discharge of the
11 Receiver's duties; and transferring, assigning, concealing, dealing in, or disposing of the assets
12 under the Receiver's control, including the income from such assets.

13 7. On or about January 24, 2006, the court in the Webb civil matter incorporated the
14 December 21, 2005 Receiver Order by reference, and amended it by, *inter alia*, ordering that
15 Goldberg be authorized and empowered with additional receiver powers, including that he
16 seize all of Barkal's direct and indirect business interests, including but not limited to bank
17 accounts, books, records, papers, and accounts for numerous business in which Barkal held an
18 interest, including West Coast, Surgical Leasing, and San Diego Pain Management; collect
19 monies and liquidate contracts on behalf of the enumerated entities, including West Coast,
20 Surgical Leasing, and San Diego Pain Management Center; and negotiate payments and
21 settlements with third parties doing business with Barkal or his business entities.

22 8. On or about January 30, 2006, the court in the Webb civil matter ordered that
23 Webb's motion to confirm the December 21, 2005 Order Appointing a Limited Post-Judgment
24 Receiver and the January 24, 2006 Order to Amend The Receiver Order be granted.

25 9. On or about March 3, 2006, the court in the Webb civil matter filed an Amended
26 Second Order Amending Receiving Order. Pursuant to the March 3, 2006 Order, the existing
27 Receiver Orders were amended to provide the Receiver with additional receiver powers,
28 including that he seize all of Barkal's direct and indirect business interests, including but not

1 limited to bank accounts, books, records, papers, and accounts for numerous additional
2 business entities in which Barkal held an interest, and collect monies and liquidate contracts on
3 behalf of the enumerated entities.

4 10. At some point in or about 2006, Barkal, acting on behalf of the various judgment
5 debtor entities controlled by him, employed Respondent to represent several of those debtor
6 entities. At all times relevant to the charges herein, Respondent had actual notice of the court's
7 December 21, 2005, January 24, 2006, January 30, 2006, and March 3, 2006 Orders.

8 11. On or about December 26, 2006, Barkal filed an application for temporary
9 restraining order in the Webb civil matter. On or about January 12, 2007, the application was
10 denied. At all relevant times to the charges herein, Respondent knew that the application for
11 temporary restraining order was denied on or about January 12, 2007.

12 12. On or about April 23, 2007, Respondent, acting as counsel for Barkal, sent a
13 facsimile to Daniel Mazzella ("Mazzella"), an attorney who represents various insurance
14 companies before the Worker's Compensation Appeals Board ("WCAB"), claiming that there
15 was a legal challenge to the authority of the Receiver pending in court. Respondent's
16 assertions in the facsimile served to interfere with the discharge of the duties of the Trustee.

17 13. On or about April 25, 2007, Respondent, acting as counsel for Barkal, sent a
18 facsimile to Joseph Patrico ("Patrico"), another attorney who represents various insurance
19 companies before the WCAB, claiming that there was a legal challenge to the authority of the
20 Receiver pending in court. Respondent's assertions in the facsimile served to interfere with the
21 discharge of the duties of the Trustee.

22 14. On or about May 25, 2007, the court in the Webb civil matter ruled that all prior
23 receivership orders remained in place. On about June 12, 2007, this oral ruling was
24 memorialized as part of a written minute order, which provided that "the Receivership remains
25 alive until the Receiver can make a motion or the parties stipulate pursuant to CRC 3.1184 to a
26 final accounting and report, a discharge of the Receiver, and a request for exoneration of the
27 Receiver's surety." At all times relevant to the charges contained herein, the conditions set
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1 forth by the court for termination of the receivership were never satisfied. At all times relevant
2 to the charges herein, Respondent had actual notice of the June 12, 2007, written minute order.

3 15. On or about June 26, 2007, Respondent sent a letter via facsimile to Robin Leviton,
4 an attorney for Broadspire Insurance Services ("Broadspire"). In the letter, Respondent
5 purported to represent West Coast, Surgical Leasing, and San Diego Pain Management, despite
6 the fact the court in the Webb civil matter had expressly ruled that all prior receivership orders
7 remained in place, and thus West Coast, Surgical Leasing, and San Diego Pain Management
8 remained under the Receiver's control.

9 16. On or about September 7, 2007, the court in the Webb civil matter filed its Sixth
10 Amended Receiver Order, which again restrained Barkal from attempting to collect accounts
11 receivable or otherwise realize value from the assets of the Barkal business entities, and further
12 confirmed that the Receiver was the sole authorized representative for the purpose of collecting
13 accounts or otherwise realizing value from the assets of the business entities.

14 17. On or about March 10, 2008, Barkal filed a Chapter 13 bankruptcy in the United
15 States Bankruptcy Court for the Northern District of Indiana titled *In re Paul Kevin Barcal*,
16 case number 08-20663 ("Barkal Chapter 13 Bankruptcy I"). A contested issue in that
17 bankruptcy was its affect on the receivership, *i.e.*, whether it ousted the receiver, and whether
18 the assets of the Barkal business entities were property of Barkal's bankruptcy estate or
19 remained under the Receiver's control. On or about July 15, 2008, after a full evidentiary
20 hearing and argument, the bankruptcy court issued its Memorandum of Decision, holding that
21 Barkal business entities' accounts receivable were not property of the debtor's bankruptcy
22 estate and remained subject to the Receiver's control. On or about July 21, 2008, Barkal filed
23 a motion to dismiss the Barkal Chapter 13 Bankruptcy I, and or about July 21, 2008, the court
24 granted the motion.

25 18. On or about August 14, 2008, Barkal filed a second Chapter 13 bankruptcy in the
26 United States Bankruptcy Court for the Northern District of Indiana titled *In re Paul Kevin*
27 *Barcal*, case number 08-20667 (Barkal Chapter 13 Bankruptcy II). On or about December 18,
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1 2008, the court dismissed the Barkal Chapter 13 Bankruptcy II, and enjoined Barkal from
2 filing another Petition for 180 days.

3 19. On or about September 12, 2008, the court in the Webb civil matter filed an order
4 incorporating and consolidating all previous court orders in the Webb civil matter. The court
5 in the Webb civil matter ordered, *inter alia*, that Goldberg remained the sole authorized
6 representative for the purpose of collecting accounts, liquidating assets, negotiating with
7 insurance companies, and collecting monies from worker's compensation insurance payments
8 through the WCAB for several of Barkal's business entities, including but not limited to West
9 Coast, Surgical Leasing, and San Diego Pain Management. The September 12, 2008 Order
10 also, *inter alia*, prohibited Barkal's business entities, including West Coast, Surgical Leasing,
11 and San Diego Pain Management, and/or any person by, for, or through them as their agents,
12 directors, partners, officers, managers, representatives, attorneys, and employees from
13 demanding, collecting, receiving, discounting, negotiating, pretending to act under authority of
14 the court, or in any other way diverting, taking, requesting, using, or interfering with any of the
15 income of Barkal's business entities. In capital and bold letters, the September 12, 2008 Order
16 stated that, **"NOTICE IS HEREBY GIVEN THAT FAILURE BY THIRD PARTIES,**
17 **JUDGMENT DEBTORS, AND/OR THEIR PRINCIPALS, EMPLOYEES, AGENTS,**
18 **ASSOCIATES, ATTORNEYS, OR REPRESENTATIVES TO COMPLY WITH THIS**
19 **ORDER MAY SUBJECT THE JUDGMENT DEBTORS AND/OR THEIR THIRD**
20 **PARTIES TO BEING HELD IN CONTEMPT OF COURT.**

21 20. On or about November 4, 2008, Respondent sent via facsimile a letter to Lynn
22 Devine ("Devine"), counsel for the California Insurance Guarantee Association ("CIGA").
23 The facsimile cover sheet of the letter used West Coast letterhead.

24 21. On or about October 16, 2008, and on or about November 7, 2008, Respondent sent
25 a facsimile to Marker Barber ("Barber"), an attorney representing Barker Management,
26 Explorer Insurance Company, and Preferred Employers Insurance Company. Respondent used
27 a facsimile cover sheet which contained West Coast's letterhead each time that he sent Barber
28 the facsimiles.

22. On or about April 2, 2009, Respondent prepared and signed a memorandum titled "Confidential Attorney-Client Privileged Document-Memorandum" addressed to West Coast's Board of Directors. In the memo, Respondent described the efforts that he had made to quantify West Coast's accounts receivable for the period of January 1, 2009, through March 31, 2009, projected the percentage collection rate, collection time, and projected a range of the gross amount of the accounts receivable. In the memo, Respondent wrote, "Upon your approval, I will proceed with the collection of the attached listed amounts, totaling \$485,776.45."

23. By sending letters to Mazella, Patrico, Leviton, Devine, and Barber seeking to negotiate as Barkal's counsel to settle matters relating to the business entities subject to the Receiver's authority and requesting authority from West Coast's Board of Directors to collect amounts on its behalf when he knew that the court's orders prohibited such action, Respondent wilfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear.

COUNT TWO

Case No. 09-O-19328
Business and Professions Code, section 6106
[Moral Turpitude – Misrepresentations to Third Parties]

24. Respondent willfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

25. The allegations of Count One are incorporated by reference.

26. To his April 23, 2007, facsimile to Mazzella, Respondent attached a copy of the application for a temporary restraining order filed by Barkal on or about December 26, 2006. Respondent described the application in the facsimile as “the current challenge to the receiver.” Respondent knew, or was grossly negligent in not knowing, that the application was denied by the court in the Webb civil matter on or about January 12, 2007. Respondent intentionally misrepresented the status of the application in order to give Mazzella the false impression that the Receiver was not entitled to negotiate settlements on behalf of Barkal’s entities.

1 27. In his April 25, 2007, facsimile to Patrico, Respondent again attached a copy of the
2 application for a temporary restraining order filed by Barkal on or about December 26, 2006.
3 Respondent again described the application in the facsimile as "the current challenge to the
4 receiver." Respondent knew, or was grossly negligent in not knowing, that the application was
5 denied by the court in the Webb civil matter on or about January 12, 2007. Respondent
6 intentionally misrepresented the status of the application in order to give Patrico the false
7 impression that the Receiver was not entitled to negotiate settlements on behalf of Barkal's
8 entities.

9 28. Respondent's June 26, 2007 letter to Leviton began with the misleading
10 representation that Barkal's "motion to terminate the receivership has been granted," without
11 addressing the conditions the court imposed on any such termination, *i.e.*, court approval of a
12 final report and account, discharge of the Receiver, and exoneration of the Receiver's surety.
13 Respondent also stated, "Mr. Goldberg's ongoing duties under the Minute Order do not include
14 any mention of ongoing settlement negotiations of any liens whatsoever during this windup
15 period . . . ¶ You may contact Dr. Barkal for lien negotiations involving West Coast
16 Interventional Pain Medicine, Inc. lien . . ." Respondent knew, or was grossly negligent in not
17 knowing, that the receivership had not terminated, and that Barkal was not authorized to collect
18 on behalf of West Coast.

19 29. In the June 26, 2007 letter to Leviton, Respondent represented that "Judgment
20 Creditor Webb has been paid." In fact, Webb's attorney fees had not been paid. Respondent
21 knew, or was grossly negligent in not knowing, that Webb's attorney fees had not been paid.

22 30. In the November 4, 2008 letter to Devine, Respondent stated, "I am the sole
23 attorney authorized by West Coast Interventional Pain Medicine, Inc. (WEST COAST) to
24 collect it's [sic] outstanding billing claims pursuant to it's [sic] Indiana bankruptcy proceeding
25 [sic]." In fact, West Coast never filed for bankruptcy, and no court has ever authorized
26 Respondent to collect accounts on behalf of West Coast. Respondent knew, or was grossly
27 negligent in not knowing, that the statements were false.

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1 31. In the November 4, 2008 facsimile to Devine, Respondent further stated that,
2 "Should you not contact me within 48 hours about your outstanding WCAB bills, I will view
3 your inaction as a 'failure to cooperate.' That will trigger an immediate adversary action in the
4 bankruptcy proceeding which names both your law firm and your clients as defendants, a copy
5 of which will go to both the State of California Dept. of Insurance and Workers Compensation
6 Division." Respondent knew, or was grossly negligent in not knowing, that CIGA was not
7 under any duty to make payments to him.

8 32. In each of his facsimile communications to Barber, Respondent provided Barber
9 with a letter dated October 2, 2008, signed by William G. Crabtree II ("Crabtree") addressed to
10 "To Whom It May Concern." Crabtree was Markal's attorney in the Barkal Chapter 13
11 bankruptcies. Crabtree's October 2, 2008 letter stated, in part, that Barkal had the "authority
12 and power under the applicable provisions of the U.S. Bankruptcy Code to communicate,
13 provide information, received [sic] information and negotiate a settlement of any claim(s)
14 relating to any receivable owed to him. This authority extends to Joseph Giovanazzi, an
15 attorney for West Coast Interventional Pain Medicine, Inc., and Dr. Barkal." Respondent knew
16 or was grossly negligent in not knowing that neither he nor Barkal possessed the authority to
17 perform the acts described in Crabtree's October 2, 2008 letter. In fact, the contrary was true.
18 In its July 15, 2008, Memorandum of Decision, the court in the Barkal Chapter 13 Bankruptcy
19 I held that Barkal's business entities' accounts receivable were not property of the debtor's
20 bankruptcy estate and remained subject to the Receiver's control.

21 33. By describing the application for temporary restraining order as the "current
22 challenge to the receiver" in his April 23, 2007, and April 25, 2007 facsimiles to Mazzella and
23 Patrico, respectively, by making the various misrepresentations in his June 26, 2007, letter to
24 Leviton, and his November 4, 2008, letter to Devine, and by forwarding Crabtree's October 2,
25 2008 letter to Barber on or about October 16, 2008, and on or about November 7, 2008, when
26 he knew, or was grossly negligent in not knowing, that Crabtree's letter contained false
27 statements, Respondent committed acts involving moral turpitude, dishonesty or corruption.

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1 transfer, dispose of, conceal, divert, or otherwise deal with funds arising from such accounts;
2 and/or (iii) interfere with the discharge of the duties held by Goldberg under the court's orders.

3 40. On or about November 2 and 3, 2009, the court in the Webb civil matter held an
4 evidentiary hearing as to the contempt charged by the Receiver against Respondent.
5 Respondent appeared at the hearing and testified.

6 41. On or about November 5, 2009, Respondent failed to appear at the hearing for the
7 OSC. The court ordered a warrant against Respondent with bail set at \$10,000, which was held
8 until November 6, 2009, at 3:00 p.m. The court issued a tentative decision finding Respondent
9 in contempt.

10 42. On or about November 6, 2009, Respondent appeared in court at the hearing for the
11 OSC. The court recalled the warrant which it had ordered held on November 5, 2009.
12 Respondent's counsel submitted a declaration in mitigation regarding the OSC Re Contempt.
13 Respondent waived time for sentencing and the court ordered the parties to appear on or about
14 December 4, 2009. On or about December 4, 2009, the court took the OSC Re Contempt
15 under submission.

16 43. On or about December 7, 2009, the court filed its Statement of Decision Following
17 Evidentiary Hearing on Contempt; Order and Judgment on Contempt ("Decision Re:
18 Contempt"). The court found beyond a reasonable doubt that by corresponding with Leviton
19 by letter on or about June 26, 2007, and by corresponding with Devine by letter on or about
20 November 4, 2008, Respondent intended to, and did, interrupt, impair and disrupt Goldberg's
21 lawful efforts to comply with the orders appointing him and setting forth his duties. The court
22 also found that the evidence established beyond a reasonable doubt that Respondent's actions
23 were "insolent insults to the authority of the court." The court placed Respondent on informal
24 court probation for thirty-six (36) months, with conditions including that he perform 120 hours
25 of pro bono legal services for the Legal Aid Society of San Diego or the San Diego Volunteer
26 Lawyer Program. The court also imposed a fine upon Respondent, but ordered the fine stayed
27 pending Respondent's successful completion of probation. Finally, Respondent was ordered
28 to pay the Receiver's attorneys' fees in the amount of \$24,933, payable directly to the Receiver

1 at the rate of \$693 per month commencing December 15, 2009, and thereafter on the 15th day
2 of each month until paid in full.

3 44. On or about December 22, 2009, Respondent filed a pleading titled, "Notice of
4 Motion and Motion to Reconsider Contempt Order." On or about January 8, 2010, the court
5 denied the motion.

6 45. On or about February 8, 2010, Respondent filed a notice of appeal of the Decision
7 Re: Contempt. On or about March 24, 2010, the Court of Appeal dismissed the appeal for
8 Respondent's failure to have paid the filing fee. Thereafter, Respondent filed a motion to set
9 aside the dismissal of the appeal. On or about April 20, 2010, the Court of Appeal denied the
10 motion on the grounds that, "No appeal may be taken from a judgment of contempt."

11 46. To date, Respondent has not made any payments towards the Receiver's attorney's
12 fees as he was ordered to do so by the court in the Decision Re: Contempt. To date,
13 Respondent has not taken any action to modify or vacate this monetary sanction.

14 47. By failing to make any payments towards the Receiver's attorney's fees,
15 Respondent willfully disobeyed or violated orders of the court requiring him to do or forbear
16 an act connected with or in the course of Respondent's profession which he ought in good faith
17 to do or forbear.

18 COUNT FOUR

19 Case No. 09-O-16405
20 Business and Professions Code, section 6068(c)
[Maintaining an Unjust Action]

21 48. Respondent willfully violated Business and Professions Code, section 6068(c), by
22 failing to counsel or maintain such action, proceedings, or defenses only as appear to him legal
23 or just, as follows:

24 49. On or about July 18, 1975, Betsey Warren Lebbos ("Lebbos") was admitted to the
25 State Bar of California. On or May 16, 1991, Lebbos was disbarred by order of the Supreme
26 Court. Thereafter, Lebbos was not entitled to practice law in the state of California.

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1 50. On or about November 2, 2001, a deed was recorded with the Los Angeles County
2 Recorder granting title to Lebbos to property located at 212 E. 1st St., Unit 202, Long Beach,
3 California 90803 ("Condo").

4 51. On or about August 19, 2004, Lebbos transferred title to the Condo to Betsey
5 Warren Lebbos, Trustee, Aida Madeleine Lebbos No. 2 Trust ("Trust #2), by recording a deed
6 with the Los Angeles County Recorder.

7 52. On or about May 25, 2005, Lebbos, as Trustee of the Aida Madeline Lebbos Trust
8 II ("Trust II") transferred title to the Condo to Jason P. Gold ("Gold") and Thomas Carter
9 ("Carter"), as Trustees of Trust II, by recording a deed with the Los Angeles County Recorder.

10 53. On or about June 26, 2006, Lebbos filed a Chapter 7 bankruptcy in the United
11 States Bankruptcy Court for the Eastern District of California titled *In re Betsey Warran*
12 *Lebbos*, case number 06-22225-D-7 (the "Lebbos Bankruptcy proceeding"). Linda Schuette
13 ("Trustee or Schuette") was appointed the trustee in the Lebbos Bankruptcy proceeding.

14 54. On or about January 3, 2007, attorney Michael Dacquisto ("Dacquisto"), on behalf
15 of the Trustee, filed an adversary complaint against Lebbos, Carter, and Gold in the Lebbos
16 Bankruptcy proceeding, Adversary case number 07-2006, seeking: (i) avoidance of the
17 transfers by Lebbos of the Condo to Trust #2 and Trust II on the grounds that they were
18 fraudulent; (ii) recovery of the Condo and/or monetary damages; (3) turnover of the property;
19 and (4) declaratory relief.

20 55. On or about April 14, 2008, Gold and Carter, as co-trustees of Trust II, transferred
21 title to the Condo to Respondent, as a co-trustee of Trust II, by recording a deed with the Los
22 Angeles County Recorder.

23 56. On or about April 17, 2008, the Honorable Robert S. Bardwil, United States
24 Bankruptcy Judge ("Judge Bardwil"), filed a judgment in the adversary proceeding in the
25 Lebbos Bankruptcy proceeding. The judgment was served on Lebbos, Gold, and Carter. At all
26 relevant times to the charges herein, Respondent also had actual knowledge of the judgment. In
27 the judgment, the court ordered that the transfer of the Condo to Trust #2 on or about August
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1 19, 2004 (“Transfer 1”), and the transfer of the Condo to Trust II on or about May 25, 2005
2 (“Transfer 2) were set aside, avoided, and of no force or effect.

3 57. Paragraph 3 of the judgment stated: “Recovery of all right, title, and interest in and
4 to the CONDO held by defendants [Lebbos, Gold, and Carter], and each of them, in any
5 capacity whatsoever, is awarded to plaintiff [Schuette] as the Chapter 7 trustee of the
6 bankruptcy estate of Lebbos, and the interest of SCHUETTE in the CONDO is superior to any
7 interest of LEBBOS, GOLD, and CARTER, and each of them, in the CONDO; . . .”

8 58. Paragraph 5 of the judgment stated: “SCHUETTE is hereby granted immediate
9 access to, control over, and possession of the CONDO; . . .”

10 59. Paragraph 6 of the judgment stated: “LEBBOS, GOLD, and CARTER, and each of
11 them, are hereby permanently enjoined, prevented, and restrained from any further actions or
12 efforts to convey, transfer, encumber, or otherwise affect the title to or the encumbrances on
13 the CONDO.”

14 60. Pursuant to 28 U.S.C. § 158(a), Lebbos, Gold, and Carter elected to appeal the
15 bankruptcy court’s April 17, 2008 judgment to the United States District Court for the Eastern
16 District of California, case number S-08-912 FCD. There was no stay of the April 17, 2008
17 judgment pending the appeal. On or about January 26, 2009, the United States District Court
18 for the Eastern District of California affirmed the bankruptcy court’s April 17, 2008 judgment.
19 On or about February 2, 2009, Lebbos, Gold, and Carter filed an appeal of the United States
20 District Court for the Eastern District of California’s order affirming the bankruptcy court’s
21 April 17, 2008 judgment with the Ninth Circuit, case number 09-15271. Once again, the
22 appeal did not stay the judgment. On or about January 22, 2010, the Ninth Circuit affirmed the
23 district court’s order affirming the bankruptcy court’s judgment. Thereafter, Lebbos, Gold,
24 and Carter filed petitions for writ of certiorari with the United States Supreme Court. On or
25 about October 4, 2010, the United States Supreme Court denied Gold and Carter’s petitions,
26 and on or about November 15, 2010, the United States Supreme Court denied Lebbos’ petition.

27 61. On or about November 13, 2008, Dacquisto, on behalf of the Trustee and in order
28 to register and enforce the April 17, 2008 judgment against the Condo, filed a Notice of

1 Hearing on Application for Issuance of Writ of Possession of Real Property ("Application for
2 Writ of Possession") in a miscellaneous proceeding in the United States Bankruptcy Court for
3 the Central District of California titled *Linda Schuette v. Betsey Warren Lebbos, et. al.*, case
4 number MI 2:08-00010SB ("miscellaneous proceeding"). The Writ of Possession was served
5 on Lebbos, Gold, and Carter. The Honorable Samuel L. Bufford ("Judge Bufford"), United
6 States Bankruptcy Judge, presided over the miscellaneous proceeding.

7 62. On or about January 12, 2009, Respondent prepared and filed a complaint to quiet
8 title against Schuette, Dacquisto, Judge Bardwil, and Judge Bufford titled *Joseph Giovanazzi v.*
9 *Linda Schuette, et. al.*, Los Angeles County Superior Court case number NC052358 (the
10 "Giovanazzi civil matter"). Respondent failed to obtain leave of the United States Bankruptcy
11 Court before he filed the complaint in the Giovanazzi civil matter, which is required under case
12 law. In the complaint, Respondent alleged, *inter alia*, that he was the owner of the Condo, and
13 that Judge Bardwil entered an order of possession of the Condo because Lebbos complained
14 about Judge Bardwil's discrimination against the disabled. On or about the same date,
15 Respondent filed a Notice of Pendency of Action (Lis Pendens) in connection with the
16 Giovanazzi civil matter, in which he also claimed that he was the owner of the Condo.

17 63. Respondent knew that there were no just legal grounds for the filing of the
18 complaint in the Giovanazzi civil matter.

19 64. On or about January 22, 2009, the United States Attorney, on behalf of Judge
20 Bardwil and Judge Bufford, removed the Giovanazzi civil matter to the United States District
21 Court, Central District of California, case number 2:090-cv-09-0496 AHM.

22 65. On or about February 3, 2009, Respondent filed an Ex Parte Application For
23 Emergency Temporary Restraining Order ("Emergency TRO"). In the Emergency TRO,
24 Respondent maintained that he was the owner of the Condo and that the Lebbos Bankruptcy
25 proceeding was commenced by a forged petition.

26 66. On or about February 3, 2009, Respondent also filed a motion to remand the
27 Giovanazzi civil matter back to the Los Angeles County Superior Court.
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1 67. On or about February 5, 2009, the United States District Court denied
2 Respondent's ex parte application. On or about February 17, 2009, Respondent filed an ex
3 parte motion to reconsider the denial of the Emergency TRO.

4 68. On or about March 10, 2009, the United States District Court denied
5 Respondent's motions for reconsideration and to remand the Giovanazzi civil matter to Los
6 Angeles County Superior Court.

7 69. On or about March 18, 2009, the United States District Court dismissed the
8 Giovanazzi civil matter without leave to amend.

9 70. On or about March 31, 2009, Judge Bufford filed an Order for issuance of writ of
10 possession for the Condo as requested by the Trustee; on or about April 9, 2009, Judge Bufford
11 filed an Order granting Schuette's Application for Issuance of Writ of Possession of the Condo.
12 Both Orders were properly served on Lebbos, Gold, and Carter.

13 71. On or about April 6, 2009, attorney John R. Read ("Read") substituted into the
14 Giovanazzi civil matter as Respondent's attorney. On or about April 7, 2009, Read filed an
15 appeal of the United States District's Court's dismissal of the Giovanazzi civil matter on behalf
16 of Respondent.

17 72. On or about July 17, 2009, the United States Marshal for the Central District of
18 California posted a notice to Lebbos, Gold, and Carter, and all occupants of the Condo
19 directing them to vacate the Condo by no later than on or about July 28, 2009, at 12:00 noon.

20 73. On or about July 28, 2009, the Marshal returned to the Condo and forcibly evicted
21 the occupants. On or about July 28, 2009, possession of the Condo was turned over to the
22 Trustee.

23 74. On or about August 19, 2009, the Ninth Circuit Court of Appeal (the "Ninth
24 Circuit"), in case number 09-55551, affirmed the dismissal of the Giovanazzi civil matter.

25 75. On or about September 9, 2009, Respondent filed a Notice of Pendency of Action
26 (Lis Pendens) with the Ninth Circuit in connection with the appeal of the Giovanazzi civil
27 matter, case number 09-55551. In the Lis Pendens, Respondent claimed that he was the title
28 owner of the Condo. Respondent knew, or was grossly negligent in not knowing, that he did

1 not own the Condo. Respondent's preparation and filing of the Lis Pendens interfered with the
2 Trustee's lawful administration of the Estate of Lebbos.

3 76. On or about November 9, 2009, the Ninth Circuit denied a motion for
4 reconsideration. On or about November 17, 2009, the Ninth Circuit filed a Mandate ordering
5 that the August 19, 2009 judgment in the Giovanazzi civil matter took effect on that date.

6 77. By filing and continuing to prosecute the complaint in the Giovanazzi civil
7 matter, Respondent failed to counsel or maintain such action, proceedings, or defenses only as
8 appear to him legal or just.

9 COUNT FIVE

10 Case No. 09-O-16405
11 Business and Professions Code, section 6068(c)
[Maintaining an Unjust Action]

12 78. Respondent willfully violated Business and Professions Code, section 6068(c), by
13 failing to counsel or maintain such action, proceedings, or defenses only as appear to him legal
14 or just, as follows:

15 79. The allegations of Count Four are incorporated by reference.

16 80. On or about August 4, 2009, Dacquist sent Respondent an e-mail stating, *inter*
17 *alia*, that the deed to the Condo from Gold and Carter to Respondent had no effect on the title
18 to the Condo; that Respondent had no rights or claims against the Condo; and that
19 Respondent's actions with respect to the Condo were interfering with the Trustee's rights under
20 the April 17, 2008 judgment. Respondent received the e-mail. Respondent did not respond to
21 it.

22 81. On or about August 26, 2009, Respondent mailed a letter to the chairman of the
23 Ocean Park Imperial Association, the Homeowner's Association for the building where the
24 Condo is located, and asserted that the Trustee had no right, title, or interest in the Condo,
25 asked that the chairman "recognize my [Respondent's] ownership and stop interfering and
26 trying to undermine and deprive me of my ownership," and accused the chairman of
27 committing perjury, which "is going to be revealed." Respondent knew, or was grossly
28

1 negligent, in not knowing, that he did not own the Condo. Respondent's actions interfered
2 with the Trustee's lawful administration of the Estate of Lebbos.

3 82. On or about August 27, 2009, Respondent mailed a letter to Bingham, Jenkins,
4 and William Friedman ("Friedman"), agents for CB, advising them that the Trustee had no
5 right, title, or interest in the Condo, that they should protect themselves from being named
6 accessories and facing being sent to prison with the Trustee and Dacquisto, asking that they
7 "warn other realtors," and stating that the Trustee "stole" the key to the Condo and that the
8 Trustee "will soon be evicted from my unit." Respondent's preparation and delivery of the
9 letter interfered with the Trustee's lawful administration of the Estate of Lebbos.

10 83. On or about September 26, 2009, Respondent mailed and sent via facsimile a
11 letter written on his letterhead to Scott Hamilton ("Hamilton") and Beatrix Mack ("Mack") of
12 Doma Properties in Long Beach, California. In the letter, Respondent enclosed a copy of his
13 deed, claimed to be the owner of the Condo, and instructed them not to enter the Condo again
14 or attempt to sell or lease it. Respondent also stated that that they were the victims of an
15 "Ambush Owners Scam" by "People in Redding who are associated with a Bankruptcy Court"
16 who he anticipated would be arrested. When Respondent sent the letter to Hamilton and Mack,
17 Respondent knew, or was grossly negligent, in not knowing, that he did not own the condo.
18 Respondent's preparation and deliver of the letter interfered with the Trustee's lawful
19 administration of the Estate of Lebbos.

20 84. On or about October 1, 2009, Respondent mailed and sent via facsimile a letter to
21 Friedman, Bingham, and Jenkins, agents for CB. In the letter, Respondent claimed to have all
22 rights to the property, stated that the Trustee had could not acquire title from him since he was
23 not a party to the Lebbos Bankruptcy proceeding, and asserted that that they were liable for
24 punitive damages for fraud and malice for being involved in an "Ambush Owner Scam."
25 When Respondent sent the letter, Respondent knew, or was grossly negligent, in not knowing,
26 that he did not own the Condo. Respondent's preparation and deliver of the letter interfered
27 with the Trustee's lawful administration of the Estate of Lebbos.

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1 85. On or about October 2, 2009, Dacquistto mailed Respondent a letter. In the letter,
2 Dacquistto demanded that Respondent, *inter alia*, cease to interfere with the Trustee's efforts,
3 or the efforts of her agents, to list, market, or sell the Condo, instruct every person acting on his
4 behalf to cease to interfere with the Trutee's efforts, or the efforts of her agents, to list, market,
5 or sell the Condo, cease all efforts to evict the Trustee, to pursue any claimed action for
6 unlawful detainer or any other relief against her, and to further cloud the title to the Condo.

7 86. On or about October 9, 2009, Respondent wrote a letter to the chairman of the
8 Homeowner's Association of the Condo. In the letter, Respondent threatened to sue the
9 chairman and the other board members for fraud. Respondent wrote, *inter alia*, that: "You and
10 they face consequences, which may include losing your jobs and licenses, loss of monies, and
11 possible fraud criminal, civil, and administrative penalties. A judgment for fraud usually
12 disqualifies a person from employment."

13 87. On or about October 15, 2009, Respondent filed a complaint In Pro Per against
14 the board members of the Homeowner's Association of the Condo in a matter titled, *Joseph*
15 *Giovanazzi v. Amir Zolghadr, Genovese Sandoval, Stella Ungar, David Barrios, Sandra Slater,*
16 *Los Angeles County Superior Court case number NC053663* (the "Giovanazzi civil matter
17 #2"). Respondent accused the defendants of locking him out of the Condo which he claimed to
18 own. Respondent requested damages of \$5,000 per day and punitive damages.

19 88. Respondent knew that there were no just legal grounds for the filing of the
20 complaint in the Giovanazzi civil matter #2.

21 89. On or about November 17, 2009, the defendants in the Giovanazzi civil matter #2
22 filed a demurrer to the complaint. Rather than filing an opposition to the demurrer, on or about
23 November 24, 2009, Respondent filed a First Amended Complaint For Damages, Declaratory
24 Judgment, and Injuntive Relief ("FAC") in the Giovanazzi civil matter #2. In the FAC,
25 Respondent again requested damages of \$5,000 per day and \$15 million in punitive damages.

26 90. Respondent knew that there were no just legal grounds for the filing of the FAC.

27 91. On or about December 22, 2010, the defendants in the Giovanazzi civil matter #2
28 filed a demurrer to the FAC.

1 92. On or about December 31, 2009, Respondent sent an e-mail to the attorneys for
2 the defendants in the Giovanazzi civil matter. The e-mail stated in part that, "Since you appear
3 to be encouraging these violations of my homeowner's rights as a member there, I am having
4 researched the need to add you and your law firm for violating my homeowners rights as a
5 deliberate campaign of harassment instigated by you against your party opponent when you
6 know you have no law and this is a strict liability case."

7 93. On or about January 21, 2010, the court held the hearing on the demurrer to the
8 FAC in the Giovanazzi civil matter. Respondent appeared in pro per at the hearing. At the
9 hearing, Respondent continued to maintain that he was the owner of the Condo. On or about
10 January 21, 2010, the court sustained the demurrer in its entirety without leave to amend.

11 94. On or about January 22, 2010, Respondent sent an e-mail to the attorney
12 representing the defendants in the Giovanazzi civil matter #2. In the e-mail, Respondent stated
13 that: "Relative to the grant of the demurrer to my lawsuit, an investigation reveals the
14 possibility that the judge had an undisclosed interest in the outcome which voids his decision
15 and requires assignment of a different judge." Respondent further stated that the "Maryland
16 owners of the Maryland Aida Madeline Lebbos Trust II" may file a civil action in federal
17 court, asserting that there "is no order on me or on them and yet your clients propose stealing
18 over \$400,000 of their cash and their property by a judge who is refusing to follow the law due
19 to his possible self-interest and involvement."

20 95. On or about February 2, 2010, Dacquist, the attorney for the Trustee, sent an e-
21 mail to Respondent informing Respondent, *inter alia*, that his continued claim of ownership of
22 the Condo was wrong. Respondent received the e-mail. Respondent did not respond to it.

23 96. On or about February 8, 2010, Respondent filed a motion to reconsider the order
24 granting the defendants' demurrer to the FAC in the Giovanazzi civil matter #2. In the motion
25 for reconsideration, Respondent, *inter alia*, accused the defendants of committing fraud on the
26 court by arguing that Respondent did not have an ownership interest in the Condo as a result of
27 the April 17, 2008 judgment in the Lebbos Bankruptcy proceeding. The only reference to
28 court's conflict of interest in the motion for reconsideration is Respondent's statement in his

1 declaration that, "He [the court in the Giovanazzi civil matter #2] took a phone call in the
2 middle of argument, came back, and said with no law or evidence, I had no standing. His
3 conduct was surprising."

4 97. On or about March 18, 2010, the court held the hearing on Respondent's motion
5 for reconsideration of the order granting the defendants' demurrer to the FAC in the
6 Giovanazzi civil matter. Respondent appeared at the hearing in pro per. On the same date, the
7 court filed its order sustaining without leave to amend the defendants' demurrer to the FAC.

8 98. On or about April 2, 2010, Respondent mailed and sent via facsimile a letter to
9 the management company hired by the Trustee. In the letter, Respondent asserted that he is the
10 owner of the Condo, that they had no right to manage the property, and that the Receiver had
11 "fabricated" a writ of possession. Respondent knew, or was grossly negligent, in not knowing,
12 that he did not own the Condo. Respondent's preparation and deliver of the letter interfered
13 with the Trustee's lawful administration of the Estate of Lebbos.

14 99. On or about April 2, 2010, Respondent filed a Notice of Appeal of the Giovanazzi
15 civil matter #2. Thereafter, the Court of Appeal dismissed the appeal on procedural grounds on
16 two occasions. On both occasions, Respondent filed motions to set aside the dismissals which
17 the Court of Appeal granted.

18 100. On or about December 22, 2010, the Court of Appeal dismissed the appeal for a
19 third time and denied Respondent's third motion to vacate the dismissal.

20 101. By filing the complaint and the FAC in the Giovanazzi civil matter #2, and by
21 continuing to prosecute the complaint, Respondent failed to counsel or maintain such action,
22 proceedings, or defenses only as appear to him legal or just.

23 COUNT SIX

24 Case No. 09-O-16405
25 Business and Professions Code, section 6068(c)
[Maintaining an Unjust Action]

26 102. Respondent willfully violated Business and Professions Code, section 6068(c), by
27 failing to counsel or maintain such action, proceedings, or defenses only as appear to him legal
28 or just, as follows:

1 103. The allegations of Counts Four and Five are incorporated by reference.

2 104. On or about April 21, 2010, Respondent sent another e-mail to the management
3 company hired by the Trustee asserting his ownership of the Condo and stating that he would
4 evict any tenant they placed in the property. Respondent knew, or was grossly negligent, in not
5 knowing, that he did not own the Condo. Respondent's preparation and delivery of the e-mail
6 interfered with the Trustee's lawful administration of the Estate of Lebbos.

7 105. In or about the summer of 2010, the Trustee leased the Condo.

8 106. On or about July 16, 2010, Respondent posted a 30 day notice to quit to the
9 tenants of the Condo ordering them to give up possession of the Condo. Respondent's
10 preparation and posting of the 30 day notice to quite interfered with the Trustee's lawful
11 administration of the Estate of Lebbos.

12 107. On or about July 16, 2010, Respondent also mailed a letter to the management
13 company of the Condo stating that they were guilty of fraud and that the tenants were "being
14 evicted and you owe me \$24,000, so please send me your certified check or cashiers check by
15 August 1, 2010." The preparation and delivery of the letter interfered with the Trustee's lawful
16 administration of the Estate of Lebbos.

17 108. On or about August 27, 2010, Respondent filed an unlawful detainer action
18 against the tenants living in the Condo titled *Joseph Giovanazzi, co-trustee of AML Trust II v.*
19 *Thomas Smith, Lauranda Smith*, Los Angeles County Superior Court case number 10U02658
20 (the "unlawful detainer action"). Respondent knew, or was grossly negligent in not knowing,
21 that he was not the owner of the Condo, the Condo was the exclusive property of the Estate of
22 Lebbos, and that it was subject to the exclusive jurisdiction of the bankruptcy court.

23 109. On or about September 15, 2010, the unlawful detainer action was stayed as a
24 result of the Lebbos Bankruptcy proceeding.

25 110. By filing the unlawful detainer action, Respondent failed to counsel or maintain
26 such action, proceedings, or defenses only as appear to him legal or just.

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COUNT SEVEN

Case No. 09-O-16405
Business and Professions Code, section 6106
[Moral Turpitude – Multiple Unjust Actions]

111. Respondent willfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

112. The allegations of Counts Four through Six are incorporated by reference.

113. Respondent filed the three civil actions asserting his ownership of the Condo when he knew that he had no right to the Condo for the purpose of assisting Lebbos in interfering with the Trustee's lawful administration of Lebbos's assets in the Lebbos Bankruptcy proceeding.

114. By filing and prosecuting three civil actions concerning the Condo which he knew to be without just cause and for the purpose of interfering with the Trustee's lawful administration of the assets in the Lebbos Bankruptcy proceeding, Respondent committed acts involving moral turpitude, dishonesty or corruption.

NOTICE - INACTIVE ENROLLMENT!

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

NOTICE - COST ASSESSMENT!

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

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

By: 

ELI D. MORGENSTERN
Deputy Trial Counsel

DATED: February 1, 2011

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DECLARATION OF SERVICE BY CERTIFIED MAIL

CASE NUMBER: 09-O-19328, 09-O-16405

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that 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; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of 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; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7160 3901 9845 4872 9337, at Los Angeles, on the date shown below, addressed to:

**JOSEPH GIOVANAZZI
LAW OFFICE OF JOSEPH GIOVANAZZI
1402 MARKET ST
VISTA, CA 92084**

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: February 1, 2011

Signed: _____

Camelia I. Escobar

Camelia I. Escobar
Declarant