

PUBLIC MATTER

FILED

MAY 19 2011

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of:) Case No. 10-N-10075, 11-O-12207
 14 RICHARD DAVID COMESS,)
 15 No. 198665,) NOTICE OF DISCIPLINARY CHARGES
 16 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.



1 The State Bar of California alleges:

2 JURISDICTION

3 1. Richard David Comess ("Respondent") was admitted to the practice of law in the State
4 of California on December 9, 1998, 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. 10-N-10075
8 California Rules of Court
[Failure to Obey Rule 9.20]

9 2. Respondent willfully violated rule 9.20, California Rules of Court by willfully
10 disobeying or violating an order of the court as follows:

11 3. On or about May 14, 2010, the California Supreme Court filed Order No. S180856
12 ("Disciplinary Order"). The Disciplinary Order included a requirement that Respondent comply
13 with rule 9.20, California Rules of Court, by performing the acts specified in subdivisions (a) and
14 (c) within 120 and 130 days, respectively, after the effective date of the Disciplinary Order. (A
15 true and correct copy of the Disciplinary Order is attached hereto as Exhibit 1 and is incorporated
16 by reference.)

17 4. On or about May 14, 2010, the Clerk of the Supreme Court of the State of California
18 properly served upon Respondent a copy of the Disciplinary Order. Respondent received the
19 Disciplinary Order.

20 5. The Supreme Court Order became effective on June 13, 2010, thirty days after the
21 Disciplinary Order was filed. Thus Respondent was ordered to comply with subdivision (a)
22 and/or (b) of rule 9.20 of the California Rules of Court no later than on or about October 11,
23 2010, and was ordered to comply with subdivision (c) of rule 9.20 no later than on or about
24 October 21, 2010.

25 6. Respondent has failed to file with the clerk of the State Bar Court a declaration of
26 compliance with rule 9.20 (a) and (b), California Rules of Court, as required by rule 9.20(c).

27 7. By not filing a declaration of compliance with rule 9.20 in conformity with the
28 requirements of rule 9.20(c), Respondent failed to timely comply with the provisions of Supreme

1 Court Order No. S180856 requiring compliance with rule 9.20, California Rules of Court. By
2 the foregoing conduct, Respondent willfully violated rule 9.20, California Rules of Court.

3 COUNT TWO

4 Case No. 11-O-12207
5 Business and Professions Code, section 6068(k)
[Failure to Comply with Conditions of Probation]

6 8. Respondent willfully violated Business and Professions Code, section 6068(k), by
7 failing to comply with all conditions attached to any disciplinary probation, as follows:

8 9. The allegations of Count One are incorporated by reference.

9 10. The Disciplinary Order placed Respondent on a 60 day actual suspension and a three
10 year probation, subject to certain conditions of probation. On or about June 3, 2010 a probation
11 deputy of the Office of Probation mailed a letter to Respondent at his member records address
12 reminding him of the conditions of probation. Respondent received the letter from the probation
13 deputy.

14 11. As a condition of probation, Respondent was required to submit written quarterly
15 reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the
16 period of probation, stating under penalty of perjury his compliance with the State Bar Act, the
17 Rules of Professional Conduct, and all conditions of probation during the preceding calendar
18 quarter. Respondent has not submitted to the Office of Probation written quarterly reports due
19 by October 10, 2010, January 10, 2011, and April 10, 2011.

20 12. As a condition of probation, Respondent was required to comply with all provisions
21 and conditions of his Participation Agreement/Plan with the Lawyer Assistance Program (LAP)
22 and provide written LAP reports to the Office of Probation on each January 10, April 10, July 10,
23 and October 10 of the period of probation. Respondent has not provided to the Office of
24 Probation LAP reports due by October 10, 2010, January 10, 2011, and April 10, 2011.

25 13. By the foregoing, Respondent failed to comply with all conditions attached to any
26 disciplinary probation.

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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

DATED: May 19, 2011

By: Monique T. Miller

Monique T. Miller
Deputy Trial Counsel

IN THE SUPREME COURT OF CALIFORNIA

Deputy

En Banc

In re RICHARD DAVID COMESS on Discipline

The court orders that Richard David Comess, State Bar Number 198665, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for three years subject to the following conditions:

1. Richard David Comess is suspended from the practice of law for a minimum of the first 60 days of probation (with credit given for the period of inactive enrollment pursuant to Business and Professions Code section 6233 which commenced on October 3, 2008 and ended on January 28, 2009), and he will remain suspended until the following requirements are satisfied:
 - i. He makes restitution to Terry Rusheen in the amount of \$4,000 plus 10 percent interest per annum from October 1, 2001 (or reimburses the Client Security Fund to the extent of any payment from the fund to Terry Rusheen, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles;
 - ii. If Richard David Comess remains suspended for two years or more as a result of not satisfying the preceding requirement, he must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii)); and
 - iii. If Richard David Comess remains suspended for 90 days or more, he must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively,

after the effective date of this order. Failure to do so may result in disbarment or suspension.

2. Richard David Comess must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on January 12, 2010.
3. At the expiration of the period of probation, if Richard David Comess has complied with all conditions of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

Richard David Comess must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order, or during the period of his suspension, whichever is longer and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are 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.

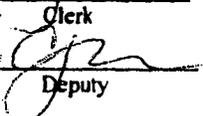
GEORGE

Chief Justice

I, Frederick K. Ohlrich, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

14th day of May 2010

Clerk
By: 
Deputy

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DECLARATION OF SERVICE BY CERTIFIED MAIL

CASE NUMBER: 10-N-10075; 11-O-12207

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.: 7196 9008 9111 0444 0442, at Los Angeles, on the date shown below, addressed to:

**RICHARD D. COMESS
1121 TERESITA CIR
MONROVIA, CA 91016**

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

STATE BAR COURT-LOS ANGELES-HEARING DEPARTMENT

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: May 19, 2011

Signed: Camelia I. Escobar
Camelia I. Escobar
Declarant