

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
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FILED

APR 30 2014
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

9 STATE BAR COURT

10 HEARING DEPARTMENT - LOS ANGELES

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12 In the Matter of:) Case Nos. 11-N-17424, 13-O-15772,
13 MARK SCOTT ROBERTS,) 13-O-16768
No. 92880,) NOTICE OF DISCIPLINARY CHARGES
14)
15 A Member of the State Bar.)

16 **NOTICE - FAILURE TO RESPOND!**

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

- 19 (1) **YOUR DEFAULT WILL BE ENTERED;**
20 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
WILL NOT BE PERMITTED TO PRACTICE LAW;
21 (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;
22 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
23 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
24 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**
25 **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. Mark Scott Roberts ("Respondent") was admitted to the practice of law in the State of
4 California on May 30, 1980, 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. 11-N-17424
8 California Rules of Court, rule 9.20, subdivision (c)
9 [Failure to Obey Rule 9.20]

10 2. Respondent failed to file a declaration of compliance with California Rules of Court,
11 rule 9.20 in conformity with the requirements of rule 9.20, subdivision (c) with the clerk of the
12 State Bar Court by September 30, 2011, as required by Supreme Court order number S193064,
13 in willful violation of California Rules of Court, rule 9.20. (A true and correct copy of the rule
14 9.20 order is attached hereto as Exhibit 1 and is incorporated by reference.)

15 COUNT TWO

16 Case No. 13-O-15772
17 Business and Professions Code section 6068, subdivision (a)
18 [Failure to Comply With Laws – Unauthorized Practice of Law]

19 3. Between on or about August 21, 2011 and on or about November 21, 2011,
20 Respondent held himself out as entitled to practice law and actually practiced law when he was
21 not an active member of the State Bar by providing legal services to clients Kathy Baziuk and
22 Angela Howard, including corresponding with Prudential on behalf of clients to collect life
23 insurance proceeds for the clients, corresponding with the clients on email which held him out as
24 entitled to practice and failing to inform the clients or Prudential that he was not entitled to
25 practice law, in violation of Business and Professions Code sections 6125 and 6126, and thereby
26 willfully violated Business and Professions Code section 6068(a).

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COUNT THREE

Case No. 13-O-15772
Business and Professions Code section 6106
[Moral Turpitude]

4. Between on or about August 21, 2011 and on or about November 21, 2011, Respondent himself out as entitled to practice law and actually practiced law when Respondent knew, or was grossly negligent in not knowing, Respondent was not an active member of the State Bar by providing legal services to clients Kathy Baziuk and Angela Howard, including corresponding with Prudential on behalf of clients to collect life insurance proceeds for the clients, corresponding with the clients on email which held him out as entitled to practice and failing to inform the clients or Prudential that he was not entitled to practice law, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

COUNT FOUR

Case No. 13-O-15772
Business and Professions Code section 6103
[Failure to Obey a Court Order]

5. Respondent disobeyed or violated an order of the court requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession which Respondent ought in good faith to do or forbear by failing to comply with the Supreme Court order number S193064 in State Bar case numbers 08-O-10426, et al., in willful violation of Business and Professions Code section 6103 by failing to comply with the requirements of rule 9.20, subdivision (a) by on or about September 20, 2011, including by failing to perform the following actions:

- A. Notify all clients, including clients Kathy Baziuk and Angela Howard, being represented by Respondent in pending matters of his disciplinary suspension and to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney or attorneys;

1 B. Delivering to all clients, including clients Kathy Baziuk and Angela Howard, being
2 represented by Respondent, their papers or other property, including approximately
3 six to eight Israeli War bonds that Respondent received from the clients on or about
4 May 11, 2011, to which the clients were entitled; and

5 C. Refunding any part of fees paid to Respondent that he had not earned, including any
6 unearned portion of the \$15,000 advanced fees paid to him by clients Kathy Baziuk
7 and Angela Howard between on or about May 10 and July 5, 2011.

8 COUNT FIVE

9 Case No. 13-O-15772
10 Business and Professions Code section 6106
[Moral Turpitude - Misrepresentation]

11 6. On or about October 27, 2011, Respondent submitted a declaration of compliance
12 with California Rules of Court, rule 9.20 in conformity with the requirements of rule 9.20,
13 subdivision (c) to the Office of Probation of the State Bar of California in which he stated under
14 penalty of perjury that as of the date upon which the order to comply with rule 9.20 was filed, on
15 or about July 22, 2011, that 1) he had no clients, 2) he had no papers or other property to which
16 clients were entitled, 3) he earned all fees paid to him, and 4) that he did not represent any clients
17 in pending matters, when in fact on that date, he was representing clients Kathy Baziuk and
18 Angela Howard in the administration of their aunt's estate and trust, had not returned to the
19 clients their papers or other property, including approximately six to eight Israeli War bonds that
20 Respondent received from the clients on or about May 11, 2011, and failed to earn all of the
21 \$15,000 advanced fees paid to him by the clients. Respondent knew or was grossly negligent in
22 not knowing that the statements in his declaration were false, and thereby committed an act
23 involving moral turpitude, dishonesty or corruption in willful violation of Business and
24 Professions Code section 6106.

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COUNT SIX

Case No. 13-O-15772
Business and Professions Code section 6106
[Moral Turpitude]

7. On or about November 9, 2011, and on or about January 30, 2012, as required by his disciplinary probation in State Bar case numbers 08-O-10426, et al., Respondent submitted written quarterly reports to the Office of Probation of the State Bar of California in which he stated under penalty of perjury that: 1) he had complied with the State Bar Act, the Rules of Professional Conduct and all conditions of probation during August 21, 2011 through September 30, 2011 and October 1, 2011 through December 31, 2011; and 2) he did not practice law at any time during the period of his actual suspension, between on or about August 21, 2011 through September 30, 2011 and October 1, 2011 through December 31, 2011, when Respondent knew or was grossly negligent in not knowing the statements were false, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

COUNT SEVEN

Case No. 13-O-15772
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

8. On or about May 10, 2011, clients Kathy Baziuk and Angela Howard employed Respondent to perform legal services, namely to administer the trust of their aunt's estate, the Estate of Barbara J. Bank, which Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by failing to do the following;

- A) prepare a 60-day notification to the heirs and beneficiaries of the estate;
- B) determine the assets of the estate and their value;
- C) secure any life insurance proceeds from insurance companies for the beneficiaries;
and
- D) prepare deeds to transfer real property pursuant to the terms of a trust.

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COUNT EIGHT

Case No. 13-O-15772
Rules of Professional Conduct, rule 3-700(D)(1)
[Failure to Release File]

9. Respondent failed to release promptly, after termination of Respondent's employment on or about February 13, 2013 to Respondent's clients, Kathy Baziuk and Angela Howard, all of the clients' papers and property following the clients' request for the clients' file on February 13, 2013, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

COUNT NINE

Case No. 13-O-15772
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

10. On or about May 10 and July 5, 2011, Respondent received advanced fees totaling \$15,000 from clients, Kathy Baziuk and Angela Howard, to administer the trust of their aunt's estate, the Estate of Barbara J. Bank. Respondent failed to earn all of the advanced fees paid. Respondent failed to refund promptly, upon Respondent's termination of employment on or about February 13, 2013, any unearned part of the \$15,000 fee, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

COUNT TEN

Case No. 13-O-15772
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

11. On or about May 10 and July 5, 2011, Respondent received advanced fees totaling \$15,000 from clients, Kathy Baziuk and Angela Howard, to administer the trust of their aunt's estate, the Estate of Barbara J. Bank. Respondent thereafter failed to render an appropriate accounting to the client regarding those funds following the termination of Respondent's employment and upon the clients' request for such accounting on or about February 13, 2013, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

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COUNT ELEVEN

Case No. 13-O-16768
Business and Professions Code section 6068, subdivision (k)
[Failure to Comply with Conditions of Probation]

12. Respondent failed to comply with conditions attached to Respondent's disciplinary probation in State Bar case numbers 08-O-10426, et al., in willful violation of Business and Professions Code section 6068(k) by:

- A) Failing to comply with all provisions of the State Bar Act between on or about August 21, 2011 through September 30, 2011 and October 1, 2011 through December 31, 2011, including engaging in the unauthorized practice of law by continuing to administer the Estate of Barbara J. Bank and performing legal services on behalf of clients Kathy Baziuk and Angela Howard and by holding himself out as entitled to practice in willful violation of Business and Professions Code section 6068, subdivision (a), sections 6125 and 6126; committing acts of moral turpitude by knowingly or intentionally engaging in the unauthorized practice of law while he was not entitled to practice law in violation of Business and Professions Code section 6106; failing to comply with a Supreme Court order in case number S193064 in violation of Business and Professions Code section 6103; making misrepresentations to the Office of Probation in a declaration signed under penalty of perjury stating his compliance with rule 9.20, subdivision (a), in violation of Business and Professions Code section 6106;
- B) Failing to comply with all provisions of the Rules of Professional Conduct between on or about August 21, 2011 through September 30, 2011 and October 1, 2011 through December 31, 2011, including failing to perform legal services competently on behalf of clients Kathy Baziuk and Angela Howard in violation of rule 3-110(A); failing to return client papers and property, promptly refund unearned fees or render an appropriate accounting upon termination to Baziuk and Howard in violation of rules 3-700(D)(1), 3-700(D)(2) and 4-100(B)(3) respectively;
- C) Failing to timely contact his assigned probation deputy to schedule his initial required meeting;
- D) Failing to timely submit multiple quarterly reports to the Office of Probation;
- E) Failing to submit a quarterly report due by July 10, 2013;
- F) Failing to provide proof of restitution to the Office of Probation by August 21, 2013; and
- G) Failing to timely attend and submit proof of passage of both Ethics School to the Office of 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: April 30, 2014

By: 
Anand Kumar
Deputy Trial Counsel



(State Bar Court Nos. 08-O-10426 (08-O-13243; 09-O-10190))

SUPREME COURT
FILED

JUL 22 2011

Frederick K. Chirch Clerk

Deputy

S193064

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re MARK SCOTT ROBERTS on Discipline

The court orders that Mark Scott Roberts, State Bar Number 92880, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. Mark Scott Roberts is suspended from the practice of law for the first six months of probation;
2. Mark Scott Roberts must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on April 4, 2011; and
3. At the expiration of the period of probation, if Mark Scott Roberts has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

Mark Scott Roberts must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Mark Scott Roberts must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

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. One-half of the costs must be paid with his membership fees for each of the years 2012 and 2013. If Mark Scott Roberts fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

CANTIL-SAKAUYE

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

22 day of JULY 2011
Clerk

By: [Signature]
Deputy

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 11-N-17424, 13-O-15772, 13-O-16768

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)
(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7196 9008 9111 6410 9310 at Los Angeles, addressed to: (see below)
(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: addressed to: (see below)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, Courtesy Copy to:
PAUL JEAN VIRGO, 9909 TOPANGA BLVD., #282 CHATSWORTH, CA 91311, Electronic Address

- via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

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, and overnight delivery by the United Parcel Service ('UPS').

I am aware that on motion of the 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.

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: April 30, 2014

SIGNED: [Signature] SANDRA REYNOLDS Declarant