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FILED

OCT 05 2015

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

9 STATE BAR COURT

10 HEARING DEPARTMENT-LOS ANGELES

12 In the Matter of:) Case No. 11-0-18428- and 12-0-11552 YDR
 13 WILLIAM S. TOMASI,)
 14 SBN 139518) RESPONSE OF WILLIAM S. TOMASI
 15) TO NOTICE OF DISCIPLINARY
 16 A Member of the State Bar) CHARGES
) [Rule 5.4 (47)]

18 TO THE PARTIES AND THEIR ATTORNEYS:

19 COMES NOW respondent William S. Tomasi to answer and to respond to the notice of
 20 disciplinary charges in the above referenced case numbers to admit, deny and allege as follows.
 21 The response in each paragraph corresponds to the charging paragraph in the notice of disciplinary
 22 charges:

23 1. In response to paragraph one concerning the jurisdiction of this matter the plaintiff
 24 admits that he was licensed to practice law in the state on December 27, 1988, was a member at all
 25 times pertinent, and is currently a member of the State Bar of California.

26 COUNT ONE

27 2. Respondent denies that he violated Business & Professions Code section 6106 by
 28 committing any act involving moral turpitude, dishonesty or corruption.

1 3. Respondent denies that in or about 1999 Douglas DeNoce lawfully created an irrevocable
2 trust for the benefit of his daughter, Savannah DeNoce, and admits that the daughter was at all
3 times relevant a minor and the sole beneficiary of the trust. Respondent alleges that DeNoce, at the
4 time of his attempt to create a trust for the benefit of his daughter, was subject to federal and state
5 income tax liens for failing to pay federal and state income taxes in previous years, therefore, he
6 was ineligible to create a trust, and did so solely as a means to continue to avoid federal and state
7 income taxes in violation of law.

8 4. Respondent denies that between 2003 and October 2007 he and DeNoce had a personal
9 or business relationship. DeNoce was a criminal law client represented by respondent in several
10 criminal matters in various jurisdictions in Southern California.

11 5. Respondent admits that DeNoce in 2004 asked respondent to serve as trustee for his
12 daughter's trust and that he agreed to do so. Defendant alleges that it is unknown whether or not the
13 described real estate was within a lawful trust and/or free of any encumbrances or mortgages.

14 6. Respondent states that DeNoce, the grantor of the trust and possessor of the subject real
15 estate (his home and a rental property which respondent has never seen), directed him to apply for a
16 loan against the Simi Valley property. The title of the property which DeNoce obtained in a
17 sheriff's sale for \$5000 was placed in respondent's name, but the state and local taxes remained in
18 the name of the trust at DeNoce's Westlake Village address, and the loan proceeds went directly for
19 the purchase of an automobile by DeNoce, placed in his name or that of another trust at his address,
20 while excess funds went to pay roughly \$10,000 in back real estate taxes for DeNoce, while the rest
21 were taken by DeNoce to remodel the kitchen of his home in Westlake Village.

22 7. Respondent states that DeNoce, the grantor of the trust and possessor of the subject real
23 estate (his home and a rental property which respondent has never seen), directed him to apply for a
24 loan against the Simi Valley property. DeNoce handled the appraisal for himself. The title of the
25 property which DeNoce obtained in a sheriff's sale for \$5000 was placed in respondent's name, but
26 the state and local taxes remained in the name of the trust at DeNoce's Westlake Village address,
27 and the loan proceeds went directly for the purchase of an automobile by DeNoce, placed in his
28 name or that of another trust at his address, while excess funds went to pay roughly \$10,000 in

1 back real estate taxes for DeNoce, and the rest were taken by DeNoce to remodel the kitchen of his
2 home in Westlake Village.

3 8. Respondent admits that he was replaced as trustee on or about October 31, 2007.
4 Respondent denies that Mr. Hilton sent a letter to him on or about October 31, 2007, but rather the
5 letter was authored by Mr. DeNoce, because he had stopped making payments on the automobile
6 that he purchased with the funds that he borrowed on his daughter's trust property. In this way Mr.
7 DeNoce attempted to force the respondent to make all of the payments for the automobile while
8 Mr. DeNoce kept the automobile for his own use and enjoyment. Mr. Hilton was invited to a
9 meeting with respondent's counsel, but he demurred, refusing to speak to counsel for respondent in
10 an attempt to clarify the accounting, have DeNoce pay for or return the automobile, and release the
11 encumbrance on the daughter's property created by the grantor, DeNoce.

12 9. Respondent denies that Mr. Hilton sent a letter to him on or about December 27, 2007,
13 but rather the letter was authored by Mr. DeNoce, because he had stopped making payments on the
14 automobile that he purchased with the funds that he borrowed on his daughter's trust property. In
15 this way Mr. DeNoce attempted to force the respondent to make all of the payments for the
16 automobile while Mr. DeNoce kept the automobile for his own use and enjoyment. Mr. Hilton was
17 invited to a meeting with respondent's counsel, but he demurred, refusing to speak to counsel for
18 respondent in an attempt to clarify the accounting, have DeNoce pay for or return the automobile,
19 and release the the encumbrance on the daughter's property created by the grantor, DeNoce.

20 10. Respondent denies that he promised to provide Denoce with an accounting in January
21 2008, or that he failed to provide an accounting, since at all times relevant DeNoce knew exactly
22 where the proceeds went, i.e., the automobile, back taxes, and the remodel of his own kitchen.
23 There were no other funds available to account for, as DeNoce took all of the rent money for the
24 Simi Valley property for himself to live upon, as he was intermittently employed.

25 11. Respondent admits that a lawsuit was filed, however it was prepared by DeNoce, with
26 Mr. Hilton signing the complaint. Respondent and his counsel interacted with DeNoce and Hilton
27 during the period in question, and DeNoce refused to pay for or return the automobile, and made
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1 other employment law claims among those in his complaint with 25 or 30 causes of action, 165 or
2 so pages long.

3 12. Respondent admits that Ms. Berkus appeared as separate counsel. Respondent does not
4 have enough information or belief to admit that she sent Mr. Park a letter on January 13, 2009,
5 although during that time respondent made weekly attempts to get Mr. DeNoce to settle his claims,
6 pay back taxes, return the automobile, or pay for it to remove the mortgage from the trust property
7 which was created at his direction.

8 13. Respondent admits that the court granted summary judgment. The specific findings of
9 the trial court on summary judgment are not admissible to prove the facts within the motion for
10 summary judgment or for any other purpose, save the State Bar reporting rules. Respondent denies
11 that he breached any fiduciary duty, and, in particular denies that he failed to act in the best interest
12 of the trust, because all of his conduct was at the direction of the grantor, Douglas DeNoce; denies
13 that he used the trust for his own benefit, because respondent received no benefit whatsoever;
14 defendant denies he failed to administer the trust with care, as his actions were at the direction of
15 the grantor and father of the sole beneficiary; respondent denies that he improperly transferred trust
16 property, as the transfer was only on the mortgage benefiting the grantor, and thus also the
17 beneficiary daughter, who benefited from having her back taxes paid, her kitchen remodeled, and
18 her father with a new car; defendant denies that he improperly failed to obtain an independent
19 review as it was not called for under the circumstances, or otherwise; defendant denies that he
20 wrongfully took any trust property whatsoever, as he never took possession of the condominium or
21 in fact ever visited the subject condominium which remained the sole possession of DeNoce at all
22 times relevant until he sold it; defendant denies that he wrongfully took the property under Probate
23 Code section 859 or otherwise; and defendant denies that he failed to provide an accounting in
24 violation of the Probate Code.

25 14. Respondent admits that the title of the property was changed pursuant to the court order
26 issued by the trial court on or about September 30, 2009.

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1 15. Defendant denies that he has failed to provide a full and complete accounting for the
2 loan proceeds, DeNoce has at all times known where every penny of the \$60,000 was directed after
3 he told the respondent to mortgage his trust property.

4 16. Respondent admits he owed fiduciary duties to the beneficiary of the trust. Respondent
5 denies that he had a fiduciary duty to return the Simi Valley property to the trust since he never
6 took possession of the property nor its proceeds pending the resolution of the automobile loan of
7 the grantor, and since the trust benefited from the automobile because it was in the name of the
8 trust in exchange for the loan proceeds. The entire scheme was developed by Mr. DeNoce, i.e.,
9 which benefited the minor who was the child of the grantor, because DeNoce failed to pay federal
10 and state income tax, purchased two properties from a former client for \$5000 at sheriff sales,
11 created the trust himself with outstanding federal and state income tax liens, rented the Simi Valley
12 property, kept the rent proceeds to live upon, wrote all of Mr. Hilton's correspondence, drafted all
13 of the pleadings, threatened respondent's opposing counsel and members of his law firm, and
14 refused to pay the real estate taxes and automobile payments which benefited the trust and the
15 beneficiary.

16 COUNT TWO

17 17. Respondent denies all of the allegations in paragraph 17, as explained in detail above
18 Mr. DeNoce directed the encumbrance of the subject property and used the loan proceeds for
19 himself.

20 18. Respondent denies that he violated section 6068(a) by failing to support the Constitution
21 in any respect.

22 19. No response necessary to this paragraph, incorporation by reference only.

23 20. Respondent denies that he violated Probate Code 16002, and incorporates his responses
24 above describing the conduct of DeNoce and where the proceeds of the encumbrance actually went,
25 i.e., to DeNoce and the trust.

26 21. Respondent denies that he violated probate code section 16002, and respondent denies
27 that he failed to support the Constitution and the laws of the United States.

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COUNT THREE

22. Respondent denies that he violated section 6068 as outlined above.

23. No response necessary to this paragraph, incorporation by reference only

24. Respondent denies that he violated section 16004, he received no profit whatsoever.

25. Respondent denies that he violated section 16004 as he did not profit from the loan as described above.

COUNT FOUR

26. Respondent denies that he violated section 6068 by failing to support the Constitution and laws of the United States and California.

27. No response necessary to this paragraph, incorporation by reference only.

28. Respondent denies that he violated section 16040 as he did administer the trust with reasonable care and due diligence.

29. Respondent denies that he violated section 16040 because he administered the trust with reasonable care and diligence.

COUNT FIVE

30. Respondent denies that the violated section 6068.

31. No response necessary to this paragraph, incorporation by reference only.

32. Respondent denies any violated sections 21350 and 859, because he did not improperly transfer the property to himself or benefit from the loan directed to be taken by the grantor.

33. Respondent denies that he failed to support the Constitution and laws of the United States and of the state.

COUNT SIX

34. Respondent denies that he violated section 6068.

35. No response necessary, incorporation by reference only.

36. Respondent denies that he violated section 16062 or that he failed to account to Mr. Hilton.

1 37. Respondent denies that he failed to comply with section 16062 by failing to provide Mr.
2 Hilton with an accounting. Respondent denies that he failed to support the Constitution and laws of
3 the United States and of the state.

4 COUNT SEVEN

5 38. Respondent denies that he violated section 6068 by failing to support the Constitution
6 and the laws of the United States and of the state.

7 39. No response necessary, incorporation by reference only.

8 40. Respondent denies that an independent review was required in this instance by section
9 21351, or otherwise.

10 41. Respondent denies that he violated section 21351 or that he failed to support the
11 Constitution and laws of the United States and California.

12 COUNT EIGHT

13 42. Respondent denies that he violated section 6106 by committing any act involving moral
14 turpitude, dishonesty or corruption.

15 43. No response necessary, incorporation by reference only.

16 44. Respondent denies that he transferred property in Thousand Oaks or Newbury Park with
17 a fraudulent intent.

18 45. Respondent admits that the trial court entered a summary judgment against him and that
19 he received notice of it.

20 46. Respondent denies that he transferred property interests with a fraudulent purpose and
21 further denies that he committed any act involving moral turpitude, dishonesty or corruption.

22 47. Respondent admits that he negligently violated section 6068 (o) (2) by failing to notify
23 the agency charged with attorney discipline of the entry of the summary judgment because he was
24 unaware of the requirement and the summary judgment was immediately appealed.

25 COUNT NINE

26 48. No response necessary, incorporation by reference only.

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1 49. Respondent admits that he negligently violated section 6068 (o) (2) by failing to notify
2 the agency charged with attorney discipline of the entry of the summary judgment because he was
3 unaware of the requirement and the summary judgment was immediately appealed.

4 50. Respondent admits that he negligently violated section 6068 (o) (2) by failing to notify
5 the agency charged with attorney discipline of the entry of the summary judgment because he was
6 unaware of the requirement and the summary judgment was immediately appealed.

7 COUNT 10

8 51. Respondent denies that he violated rules of professional conduct, rule 1-320 (A) by
9 sharing legal fees with a person who is a nonlawyer.

10 52. Respondent denies that he had a personal or business relationship with Mr. DeNoce
11 during the times alleged.

12 53. Respondent admits that he knew that at all times relevant Mr. DeNoce was a disbarred
13 attorney.

14 54. Respondent denies that during the times alleged Mr. DeNoce was employed in his office
15 to perform all of the legal work on civil cases. Respondent asserts that Mr. DeNoce was employed
16 as a law clerk with full knowledge of all of the clients whose files he may have touched to do
17 specific tasks.

18 55. Respondent denies that there was an oral agreement with Mr. DeNoce to split
19 contingent fees or any fees.

20 56. Respondent denies that there was an oral agreement with Mr. DeNoce to split
21 contingent fees or any fees.

22 57. Respondent denies that there was an oral agreement with Mr. DeNoce to split
23 contingent fees or any fees.

24 58. Respondent denies that there was an oral agreement with Mr. DeNoce to split
25 contingent fees or any fees. Respondent denies that he shared fees with a person who is not a
26 lawyer.

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1 COUNT ELEVEN

2 59. Respondent denies that he violated rule 1-311 (D) in that DeNoce only performed tasks
3 which are permitted to be performed by law clerks, respondent admits that he negligently failed to
4 inform the state bar with written notice that DeNoce was to be employed as a law clerk.

5 60. No response necessary, incorporation by reference only.

6 61. Respondent denies that he violated rule 1-311 (D) in that DeNoce only performed tasks
7 which are permitted to be performed by law clerks, respondent admits that he negligently failed to
8 inform the state bar with written notice that DeNoce was to be employed as a law clerk.

9 62. Respondent denies that he violated rule 1-311 (D) in that DeNoce only performed tasks
10 which are permitted to be performed by law clerks, respondent admits that he negligently failed to
11 inform the state bar with written notice that DeNoce was to be employed as a law clerk.

12 COUNT TWELVE

13 63. Respondent denies he violated rule 3-700 (D) (1) by failing to release Mr. DeNoce's
14 criminal files, respondent provided all files in his possession to the client at the conclusion of the
15 services on each criminal matter.

16 64. Respondent denies he violated rule 3-700 (D) (1) by failing to release Mr. DeNoce's
17 criminal files, respondent provided all files in his possession to the client at the conclusion of the
18 services on each criminal matter.

19 65. Respondent denies that attorney Hilton sent respondent a letter, all correspondence was
20 drafted by Mr. DeNoce. Respondent denies any violated rule 3-700 (D) (1) by failing to release Mr.
21 DeNoce's criminal files, respondent provided all files in his possession to the client at the
22 conclusion of the services on each criminal matter.

23 66. Respondent denies he violated rule 3-700 (D) (1) by failing to release Mr. DeNoce's
24 criminal files, respondent provided all files in his possession to the client at the conclusion of the
25 services on each criminal matter.

26 67. Respondent denies he violated rule 3-700 (D) (1) by failing to release Mr. DeNoce's
27 criminal files, respondent provided all files in his possession to the client at the conclusion of the
28 services on each criminal matter.

1 October 1, 2015

BREMER WHYTE BROWN & O'MEARA LLP

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3 By: Kevin H. Park
4 John O'Meara
5 Kevin H. Park
6 Attorneys for Respondent
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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 21271 Burbank Boulevard, Suite 110, Woodland Hills, California 91367.

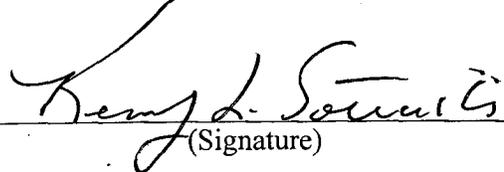
On October ^S 1, 2015, I served the within document(s) described as: RESPONSE TO DISCIPLINARY CHARGES CASE NUMBER 18428 and 11552 on the interested parties in this action as stated on the attached mailing list.

(BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth on the attached mailing list. I placed each such envelope for collection and mailing following ordinary business practices. I am readily familiar with this Firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Woodland Hills, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on October ^S 1, 2015, at Woodland Hills, California.

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

Kemberly L. Sotirakis
(Type or print name)


(Signature)

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In Re: The Matter of William S. Tomasi

Case No. 11-0-18428-YDR

BWB&O CLIENT: William S. Tomasi
BWB&O FILE NO.: 6167.001

SERVICE LIST

Melanie J. Lawrence OFFICE OF THE CHIEF TRIAL COUNSEL 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1000	William Tomasi 1136 Del Verde Court Thousand Oaks, CA 91320	
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