

ORIGINAL

PUBLIC MATTER

STATE BAR OF CALIFORNIA
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FILED

SEP 10 2012

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:)	Case No. 12-O-11241
MICHAEL ELLIOTT PLOTKIN,)	NOTICE OF DISCIPLINARY CHARGES
No. 77781,)	
)	
<u>A Member of the State Bar</u>)	

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.**

The State Bar of California alleges:



1 contingent beneficiaries; (c) there was no 30-day notice of the November 12, 2009 hearing to the
2 trust beneficiaries and contingent beneficiaries; (d) there was no authority cited for the attorney
3 fees and costs requested in the petition; and (e) the petition did not reflect whether De Renzis
4 acted as a co-trustee, although De Renzis was named as co-trustee in the trust. The court
5 concluded that a verified supplement to the petition was required to address the deficiencies with
6 the petition. The court continued the hearing to January 14, 2010.

7 6. On January 14, 2010, the court held a hearing on the petition. Respondent appeared
8 at the hearing on behalf of De Renzis. Sielski also appeared at the hearing, but had not filed a
9 response to the petition or an accounting. Respondent had not corrected the deficiencies with the
10 petition since the hearing on November 12, 2009. The court noted the same deficiencies with the
11 petition. The court continued the hearing to April 22, 2010.

12 7. On February 22, 2010, Respondent conveyed an offer from Sielski to De Renzis to
13 settle the matter for the transfer of real property located in Lancaster, California to De Renzis.
14 De Renzis rejected the offer because there was an outstanding mortgage on the property that
15 exceeded the value of the property and the property was in foreclosure.

16 8. In March 2010, Sielski sold one of the trust assets, a vacant lot. Respondent had not
17 filed any request with the court to enjoin Sielski from borrowing against or selling the trust
18 assets.

19 9. On April 22, 2010, the court held a hearing on the petition. Respondent appeared at
20 the hearing on behalf of De Renzis. Sielski also appeared at the hearing and provided copies of
21 bank records to Respondent, but had not filed a response to the petition or an accounting.
22 Respondent had not corrected the deficiencies with the petition since the hearing on January 14,
23 2010. The court continued the hearing to June 24, 2010.

24 10. On April 23, 2010, Respondent sent e-mail to De Renzis. In the e-mail, Respondent
25 informed De Renzis that the court advised Sielski to file a response to the petition and that the
26 hearing had been continued to June 27, 2010. In the e-mail, Respondent also told De Renzis that
27 he would be propounding interrogatories to Sielski to explain expenses she paid from the trust

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1 assets and to obtain information regarding Sielski's financial accounts, their mother's accounts,
2 their mother's Social Security checks, and withdrawals from the trust account.

3 11. On June 23, 2010, Respondent faxed a letter to De Renzis. In the letter, Respondent
4 requested the names and addresses of all of his siblings and the grandchildren of his mother and
5 stated that he would be asking the court to set the case for trial at the June 24, 2010 hearing.

6 12. On June 24, 2010, the court held a hearing on the petition. Respondent appeared at
7 the hearing on behalf of De Renzis. Sielski also appeared at the hearing, but had not filed a
8 response to the petition or an accounting. Respondent had not corrected the deficiencies with the
9 petition since the hearing on April 22, 2010. The court continued the hearing to September 16,
10 2010.

11 13. On June 25, 2010, De Renzis faxed the information to Respondent as he requested
12 on June 23, 2010.

13 14. On September 16, 2010, Respondent did not appear at the hearing on behalf of De
14 Renzis. Sielski appeared at the hearing, but had not filed a response to the petition or an
15 accounting. Respondent had not corrected the deficiencies with the petition since the hearing on
16 June 24, 2010. The court dismissed the petition, without prejudice. Before the petition was
17 dismissed, Respondent had not filed any request with the court to enjoin Sielski from borrowing
18 against or selling the trust assets. Respondent took no further action to refile the petition or
19 otherwise pursue the matter.

20 15. By not correcting the deficiencies with the petition; by not filing any request with
21 the court to enjoin Sielski from borrowing against or selling the trust assets; by not appearing at
22 the September 16, 2010 hearing on behalf of De Renzis; by allowing the court to dismiss the
23 petition; and by not taking further action to refile the petition or otherwise pursue the matter,
24 Respondent intentionally, recklessly, or repeatedly failed to perform legal services with
25 competence.

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COUNT TWO

Case No. 12-O-11241
Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

16. Respondent wilfully violated Business and Professions Code, section 6068(m), by failing to keep a client reasonably informed of a significant development in a matter in which the attorney has agreed to provide legal services.

17. The factual allegations of Counts One are incorporated by reference

18. Between September 16 and November 9, 2010 approximately, De Renzis repeatedly called Respondent and left messages asking for the status of the petition. Respondent did not respond to De Renzis's calls.

19. Respondent did not inform De Renzis of the dismissal of the petition.

20. By not informing De Renzis of the dismissal of the petition, Respondent wilfully failed to keep a client reasonably informed of a significant development in a matter in which the attorney has agreed to provide legal services.

COUNT THREE

Case No. 12-O-11241
Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

21. Respondent wilfully violated Business and Professions Code, section 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which Respondent has agreed to provide legal services, as follows:

22. The factual allegations of Counts One and Two are incorporated by reference.

23. On November 9, 2010, De Renzis discovered that the petition had been dismissed. On November 9, 2010, De Renzis reviewed the court's website and discovered that the petition was denied on September 16, 2010. On November 9, 2010, De Renzis sent an e-mail to Respondent regarding his discovery about the denial of the petition. Respondent did not respond to De Renzis's e-mail.

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24. Between November 9 and 23, 2010, De Renzis repeatedly called and left messages for Respondent for an explanation for the denial of the petition. Respondent did not respond to De Renzis's calls.

25. On November 23, 2010, De Renzis called Respondent's office and pretended to be someone else and asked to speak to Respondent. Respondent accepted the call and told De Renzis that he was sick on September 16, 2010 to explain why he did not appear at the hearing. De Renzis requested that Respondent file the documents needed to reopen the case.

26. On November 29, 2010, De Renzis called Respondent for the status of the documents needed to reopen the case. On November 29, 2010, Respondent represented to De Renzis that he had prepared the documents to reopen the case. De Renzis requested that Respondent e-mail copies of the documents to De Renzis. Respondent did not forward copies of the documents to De Renzis.

27. On December 1 and 8, 2010, De Renzis sent e-mail to Respondent and requested that Respondent forward copies of the documents requesting that the case be reopened to De Renzis. Respondent did not forward copies of the documents or respond to De Renzis's e-mail.

28. By not responding to De Renzis's calls between September 16 and November 23, 2010, and e-mail on November 9, December 1 and December 8, 2010, Respondent wilfully failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent has agreed to provide legal services.

COUNT FOUR

Case No. 12-O-11241
Business and Professions Code, section 6106
[Moral Turpitude – Misrepresentation to Client]

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

30. The factual allegations of Counts One through Three are incorporated by reference.

31. Respondent intentionally misrepresented to De Renzis that he had prepared the documents needed to reopen the case.

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32. By intentionally misrepresenting to De Renzis that he had prepared the documents needed to reopen the case, Respondent wilfully committed an act involving moral turpitude, dishonesty or corruption.

COUNT FIVE

Case No. 12-O-11241
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

33. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

34. The factual allegations of Counts One through Four are incorporated by reference.

35. On May 21, 2012, De Renzis sent a request for a refund of the \$5,000 advanced fee.

36. Respondent did not refund any of the \$5,000 advanced fee, which was not fully earned, until Respondent sent \$5,000 to De Renzis on August 1, 2012.

37. By not refunding any of the \$5,000 advanced fee to De Renzis until August 1, 2012, Respondent wilfully failed to refund promptly any part of a fee paid in advance that has not been earned.

COUNT SIX

Case No. 12-O-11241
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

38. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds coming into Respondent's possession, as follows:

39. The factual allegations of Counts One through Five are incorporated by reference.

40. Respondent did not provide any accounting of the \$5,000 advanced fee to De Renzis.

41. By not providing any accounting of the \$5,000 advanced fee to De Renzis, Respondent wilfully failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession.

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DECLARATION OF SERVICE

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

CASE NUMBER(s): **12-O-11241**

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, 1149 South Hill Street, Los Angeles, California 90015, 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))**
- 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.
- ☐ **By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**
- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").
- ☐ **By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**
Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.
- ☐ **By Electronic Service: (CCP § 1010.6)**
Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ (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 0442 6354 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)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
MICHAEL ELLIOT PLOTKIN	80 South Lake Avenue, Suite 725 Pasadena, CA 91101	Electronic Address	

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

N/A

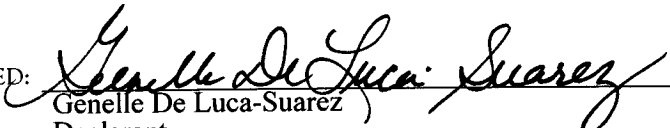
I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

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: September 10, 2012

SIGNED:


Genelle De Luca-Suarez
Declarant