

PUBLIC MATTER

FILED

JUN 14 2013

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

1 STATE BAR OF CALIFORNIA
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10 STATE BAR COURT

11 HEARING DEPARTMENT - SAN FRANCISCO

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13 In the Matter of:) Case No. 12-O-14751
14 BARRY L. VANSICKLE,)
No. 98645,) NOTICE OF DISCIPLINARY CHARGES
15)
16 A Member of the State Bar)

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18 **NOTICE - FAILURE TO RESPOND!**

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

- 21 (1) **YOUR DEFAULT WILL BE ENTERED;**
22 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
WILL NOT BE PERMITTED TO PRACTICE LAW;
23 (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;
24 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
25 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
26 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**
27 **ORDER RECOMMENDING YOUR DISBARMENT WITHOUT**
28 **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. Barry VanSickle ("Respondent") was admitted to the practice of law in the State of
4 California on July 10, 1981, 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. 12-O-14751
8 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

9 2. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by
10 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
11 follows:

12 3. On or about July 27, 2010, Tiziano Lugli ("Lugli") and Jamie Sorrentini
13 ("Sorrentini") hired respondent to file a lawsuit against the Church of Scientology and related
14 entities.

15 4. On or about September 7, 2010, respondent sent an e-mail message to Lugli that he
16 planned to serve the lawsuit the week of September 7, 2010 and that he had cleared his calendar
17 for the first two weeks of September to work on Lugli's and Sorrentini's case.

18 5. On or about September 29, 2010, Respondent sent Lugli an e-mail message and told
19 him that starting the following Saturday, he would put everything else on hold and work
20 exclusively on his case.

21 6. On or about October 4, 2010, respondent sent Lugli an e-mail message stating he
22 would have the complaint completed by that night.

23 7. Thereafter, respondent failed to file a lawsuit against the Church of Scientology on
24 Lugli and Sorrentini's behalf.

25 8. Respondent failed to provide any services of value to Lugli and Sorrentini.

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1 9. On or about October 11, 2010, Lugli, on behalf of Sorrentini as well, sent respondent
2 a letter via e-mail terminating respondent's employment and requesting a refund of the \$6,500.
3 Respondent received the e-mail shortly after it was sent.

4 10. By not filing a lawsuit against the Church of Scientology and related entities,
5 respondent repeatedly failed to perform legal services with competence.

6 COUNT TWO

7 Case No. 12-O-14751
8 Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

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

11 12. Count One is hereby incorporated by this reference.

12 13. Lugli and Sorrentini paid respondent \$6,500 as advanced attorney fees.

13 14. On or about October 4, 2010, respondent sent Lugli an e-mail message stating he
14 would not bill Lugli and Sorrentini for any time spent on the case until the complaint was filed.

15 15. Respondent provided no services of value to Lugli and Sorrentini. Respondent did
16 not earn any portion of the \$6,500 paid.

17 16. On or about October 11, 2010, Lugli, on behalf of Sorrentini as well, sent respondent
18 a letter via e-mail terminating respondent's employment and requesting a refund of the \$6,500.
19 Respondent received the e-mail shortly after it was sent.

20 17. On or about October 21, 2010, respondent sent Lugli and Sorrentini an e-mail
21 message acknowledging receipt of the e-mail message terminating him. Respondent told Lugli
22 and Sorrentini that he would refund the \$6,500.

23 18. Thereafter, respondent failed to refund any portion of the \$6,500 to Lugli and
24 Sorrentini.

25 19. By not refunding any portion of the \$6500 after he was terminated, Respondent failed
26 to refund promptly any part of a fee paid in advance that has not been earned.

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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: June 14, 2013

By: 
Erica L. M. Dennings
Senior Trial Counsel

Tammy Albertsen-Murray
Assigned Deputy Trial Counsel

DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL and U.S. CERTIFIED MAIL

CASE NUMBER(s): **12-O-14751**

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, 180 Howard Street, San Francisco, California 94105, 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 San Francisco.
- By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**
- 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 San Francisco, 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 6240 0754 at San Francisco, 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 via E-Mail to:
BARRY L. VANSICKLE	PO BOX 61 BELVEDERE, CA 94920		bvansicklelaw@gmail.com
		Electronic Address	

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

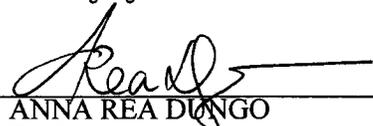
N/A

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 San Francisco, California, on the date shown below.

DATED: June 14, 2013

SIGNED: 
 ANNA REA DINGO
 Declarant