

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
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FILED

DEC 11 2013

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

8
9 STATE BAR COURT

10 HEARING DEPARTMENT - LOS ANGELES

11
12 In the Matter of:) Case No. 12-O-16035
13 NEIL LEO PAPIANO,)
No. 31811,) 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. Neil Leo Papiano ("Respondent") was admitted to the practice of law in the State of
4 California on June 6, 1961, was a member at all times pertinent to these charges, and is currently
5 a member of the State Bar of California.

6 COUNT ONE

7 Case No. 12-O-16035
8 Business and Professions Code, section 6106
[Moral Turpitude – Wrongful Taking of Funds]

9 2. In or about January 2000, Dennis Page, a partner at Respondent's law firm, drafted
10 two separate revocable trusts in which Scott Nederlander was the settlor for each trust,
11 Respondent and Wells Fargo Bank were co-trustees for each trust, a minor daughter of Mr.
12 Nederlander was the beneficiary of one trust, and another minor daughter of Mr. Nederlander
13 was the beneficiary of the other trust. Between in or about March 2002 and in or about February
14 2005, Respondent, as co-trustee, in bad faith and contrary to the interests of the trust
15 beneficiaries, wrongfully approved and consented to approximately nine amendments to the
16 trusts which allowed Mr. Nederlander to withdraw \$1,770,000 from the trusts, collectively, with
17 an expectation that Mr. Nederlander would use the funds in part to pay Respondent's law firm
18 for legal services unrelated to the trusts, and wrongfully allowed funds from the trusts to be used
19 to pay Respondent's law firm at least \$239,548 in attorney fees for legal services unrelated to the
20 trusts.

21 COUNT TWO

22 Case No. 12-O-16035
23 Business and Professions Code section 6068(a)
[Failure to Comply with Laws – Breach of Fiduciary Duty]

24 3. In or about January 2000, Dennis Page, a partner at Respondent's law firm, drafted
25 two separate revocable trusts in which Scott Nederlander was the settlor for each trust,
26 Respondent and Wells Fargo Bank were co-trustees for each trust, a minor daughter of Mr.
27 Nederlander was the beneficiary of one trust, and another minor daughter of Mr. Nederlander
28

1 was the beneficiary of the other trust. Between in or about March 2002 and in or about February
2 2005, Respondent breached his fiduciary duties to the beneficiaries of the trusts under Probate
3 Code sections 15800, 16000, 16001, 16002, 16003, and 16202, by wrongfully approving and
4 consenting, as co-trustee, to approximately nine amendments to the trusts which allowed Mr.
5 Nederlander to withdraw \$1,770,000 from the trusts, and thereby failed to support the
6 Constitution and laws of the United States and of this state.

7 **NOTICE - INACTIVE ENROLLMENT!**

8 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
9 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
10 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
11 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
12 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
13 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
14 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
15 RECOMMENDED BY THE COURT.**

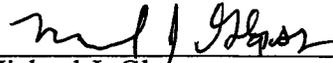
16 **NOTICE - COST ASSESSMENT!**

17 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
18 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
19 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
20 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
21 PROFESSIONS CODE SECTION 6086.10.**

22 Respectfully submitted,

23 THE STATE BAR OF CALIFORNIA
24 OFFICE OF THE CHIEF TRIAL COUNSEL

25 DATED: December 11, 2013

26 By: 

27 Michael J. Glass
28 Senior Trial Counsel

DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 12-O-16035

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))
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 1008 1707 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. Row 1: Raimund Freihube, Clark & Trevithick, 800 Wilshire Blvd., 12th Flr., Los Angeles, CA 90017, 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: December 11, 2013

SIGNED: Sandra Reynolds (signature) Sandra Reynolds Declarant