

# PUBLIC MATTER

STATE BAR OF CALIFORNIA  
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**FILED**

**DEC 19 2014**

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

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of: ) Case No. 13-O-13381  
MICHAEL JAY STEWART, ) NOTICE OF DISCIPLINARY CHARGES  
No. 75354, )  
A Member of the State Bar. )

## 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:

JURISDICTION

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Michael Jay Stewart (respondent) was admitted to the practice of law in the State of California

1 on August 19, 1977, was a member at all times pertinent to these charges, and is currently a  
2 member of the State Bar of California.

3 COUNT ONE

4 Case No. 13-O-13381  
5 Business and Professions Code, section 6068(a)  
6 [Failure to Comply With Laws]

7 Between in or about January 2010 and March 2012, respondent used means of interstate  
8 commerce and the United States mail to sell securities without filing a securities statement with  
9 the United States Securities and Exchange Commission (SEC), in violation of section 5(c) of the  
10 Securities Act of 1933 (the 1933 Act), and prepared and delivered marketing materials to  
11 potential investors that contained false and misleading statements and material omissions, in  
12 violation of sections 17(a)(1), and 17(a)(3) of the 1933 Act, and thereby willfully violated  
13 Business and Professions Code, section 6068(a).

13 COUNT TWO

14 Case No. 13-O-13381  
15 Business and Professions Code, section 6106  
16 [Moral Turpitude - Misrepresentation]

17 Between in or about January 2010 and March 2012, respondent solicited investors for  
18 Apartments America (AA), a newly-formed business, through a website, Internet advertisements  
19 and postings, cold calls and advertising in a national newspaper. Respondent made the following  
20 misrepresentations in his solicitations:

- 21 1) Respondent promoted AA as a financial business with a successful track record when  
22 respondent knew or was grossly negligent in not knowing that in fact AA was a new  
23 business with no track record;
- 24 2) Respondent stated that he and his business partners were managing a property  
25 portfolio valued at over \$200 million when respondent knew or was grossly negligent  
26 in not knowing that when he made the statement the referenced \$200 million property  
27 portfolio was being managed by a bankruptcy trustee; and
- 28 3) Respondent promoted the track record of his previous business saying that it had  
experienced annual average profit returns of 63 percent or more on invested equity

1 when respondent knew or was grossly negligent in not knowing that the previous  
2 business was only profitable for a limited period time, that it was bankrupt, and that  
3 its investors lost all of their investments.  
4 By making false statements in his solicitations, respondent committed an act, or acts, involving  
5 moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code,  
6 section 6106.

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 18, 2014

26 By: \_\_\_\_\_

27 Anthony Garcia  
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): 13-O-13381

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 S. 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))**

- 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 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 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.: 9414 7266 9904 2010 0906 87 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 JAY STEWART	34522 N Scottsdale Rd # 120-618 Scottsdale, AZ 85266		
		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: December 19, 2014

SIGNED:

LAURA JETT  
Declarant