

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
 OFFICE OF THE CHIEF TRIAL COUNSEL
 2 JAYNE KIM, No. 174614
 CHIEF TRIAL COUNSEL
 3 JOSEPH R. CARLUCCI, No. 172309
 DEPUTY CHIEF TRIAL COUNSEL
 4 MELANIE J. LAWRENCE, No. 230102
 ASSISTANT CHIEF TRIAL COUNSEL
 5 MIA R. ELLIS, No. 228235
 SUPERVISING SENIOR TRIAL COUNSEL
 6 ANTHONY GARCIA, No. 171419
 SENIOR TRIAL COUNSEL
 7 845 South Figueroa Street
 Los Angeles, California 90017-2515
 8 Telephone: (213) 765-1089

FILED
DEC 19 2014
 STATE BAR COURT
 CLERK'S OFFICE
 LOS ANGELES

9 STATE BAR COURT
 10 HEARING DEPARTMENT - LOS ANGELES

11
 12 In the Matter of:) Case No. 13-O-13381
 13 MICHAEL JAY STEWART,)
 14 No. 75354,) NOTICE OF DISCIPLINARY CHARGES
 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.

26 The State Bar of California alleges:

27 JURISDICTION



28 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).

14 COUNT TWO

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

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

- 22 1) Respondent promoted AA as a financial business with a successful track record when
23 respondent knew or was grossly negligent in not knowing that in fact AA was a new
24 business with no track record;
- 25 2) Respondent stated that he and his business partners were managing a property
26 portfolio valued at over \$200 million when respondent knew or was grossly negligent
27 in not knowing that when he made the statement the referenced \$200 million property
28 portfolio was being managed by a bankruptcy trustee; and
- 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))
 - 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.: **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
 LAURA JETT
 Declarant