



PUBLIC MATTER

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FILED**FEB 19 2015**

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:

DANIEL ALAN BERNATH
No. 116636,

A Member of the State Bar

Case Nos. 14-O-00699
14-O-01941

NOTICE OF DISCIPLINARY CHARGES

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.**

1 The State Bar of California alleges:

2 JURISDICTION

3 1. Respondent Daniel Alan Bernath was admitted to the practice of law in the State
4 of California on December 3, 1984, was a member at all times pertinent to these charges, and
5 is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 14-O-00699

8 Business and Professions Code, section 6068(a)
[Failure to Comply With Laws – Unauthorized Practice of Law]

9 2. In or about August 2013 through in or about December 2013, Respondent held
10 himself out as entitled to practice law when Respondent was not an active member of the
11 State Bar, by setting up and publishing a website entitled www.yelpclassaction.info,
12 representing himself to be “The 13th Amendment Law Firm,” publishing posts on Facebook
13 identifying himself as a “CLASS ACTION lawyer suing YELP,” sending emails and other
14 communications to potential claimants in a lawsuit against Yelp in which Respondent
15 identified himself as a lawyer, and sending substitution of counsel forms to the claimants in
16 the Yelp lawsuit filed on October 22, 2013 in Federal Court in the Central District of
17 California, case no. 2:13-cv-07805 in December 2013, substituting Respondent in as attorney
18 of record, in violation of Business and Professions Code sections 6125 and 6126, and thereby
19 Respondent wilfully violated Business and Professions Code section 6068(a).

20 COUNT TWO

21 Case No. 14-O-00699

22 Business and Professions Code, section 6106
[Moral Turpitude]

23 3. In or about August 2013 through in or about December 2013, Respondent held
24 himself out as entitled to practice law when Respondent knew, or was grossly negligent in
25 not knowing, that he was not an active member of the State Bar, by setting up and publishing
26 a website entitled www.yelpclassaction.info, representing himself to be “The 13th
27 Amendment Law Firm,” publishing posts on Facebook identifying himself as a “CLASS
28

1 ACTION lawyer suing YELP,”sending emails and other communications to potential
2 claimants in a lawsuit against Yelp in which Respondent identified himself as a lawyer, and
3 sending substitution of counsel forms to the claimants in the Yelp lawsuit filed on October
4 22, 2013 in Federal Court in the Central District of California, case no. 2:13-cv-07805 in
5 December 2013, substituting Respondent in as attorney of record, and thereby engaged in
6 acts involving moral turpitude, dishonesty or corruption in wilful violation of Business and
7 Professions Code section 6106.

8 COUNT THREE

9 Case No. 14-O-00699

10 Business and Professions Code, section 6106
[Moral Turpitude -- Misrepresentation]

11 4. On or about March 9, 2014, Respondent stated in writing to the State Bar of
12 California, in connection with a disciplinary complaint he lodged against another attorney,
13 that “[a]ll 4 plaintiffs have file [sic] a complaint with you as I also have done, as their
14 attorney.” When Respondent made this statement to the State Bar he knew, or was grossly
15 negligent in not knowing the statement was false, because the four plaintiffs in the lawsuit
16 against Yelp had not filed a State Bar complaint, and thereby committed an act involving
17 moral turpitude, dishonesty or corruption in willful violation of Business and Professions
18 Code section 6106.

19 COUNT FOUR

20 Case No. 14-O-01941

21 Rules of Professional Conduct, Rule 1-300(B)
[Unauthorized Practice of Law in Other Jurisdiction]

22 5. From in or about August 2013 through in or about December 2013, Respondent
23 held himself out as entitled to law in Oregon by sending a letter dated August 20, 2013 to the
24 State Bar of Oregon in which he identified himself as a lawyer, sending a demand letter dated
25 September 20, 2013 to Flight Design, an airplane manufacturer, in which he identified
26 himself as a lawyer, filing a lawsuit in federal court in Oregon against Flight Design in which
27 he identified himself with the honorific “Esq.” in October 2013, and sending solicitation
28

1 letters to owners of Flight Design aircraft in which he identified himself as a lawyer from in
2 or about October 2013 through December 2013, when to do so was in violation of the
3 regulations of the profession in Oregon, namely Oregon Revised Statutes 9.160 et seq., in
4 wilful violation of the Rules of Professional Conduct, rule 1-300(B).

5 COUNT FIVE

6 Case No. 14-O-01941

7 Business and Professions Code, section 6106
8 [Moral Turpitude]

9 6. In or about August 2013 through December 2013, Respondent held himself out as
10 entitled to practice law when Respondent knew, or was grossly negligent in not knowing,
11 Respondent was not an active member of the State Bar, by sending a letter dated August 20,
12 2013 to the State Bar of Oregon in which he identified himself as a lawyer, sending a demand
13 letter dated September 20, 2013 to Flight Design, an airplane manufacturer, in which he
14 identified himself as a lawyer, filing a lawsuit in federal court in Oregon against Flight
15 Design in which he identified himself with the honorific "Esq." in October 2013, and sending
16 solicitation letters to owners of Flight Design aircraft in which he identified himself as a
17 lawyer from in or about October 2013 through December 2013, when Respondent was
18 prohibited by Oregon Revised Statutes 9.160 from holding himself out as entitled to practice
19 in Oregon, and thereby engaging in acts involving moral turpitude, dishonesty or corruption
20 in wilful violation of Business and Professions Code section 6106.

21 COUNT SIX

22 Case No. 14-O-01941

23 Business and Professions Code, section 6068(o)(6)
24 [Failure to Report the Imposition of
25 Discipline by Social Security Administration]

26 7. Respondent failed to report to the agency charged with attorney discipline, in
27 writing, within 30 days of the time Respondent had knowledge of the imposition of discipline
28 against Respondent, by failing to report to the State Bar the order of the Social Security
Administration permanently disqualifying him from practicing before the Social Security

1 Administration imposed on Respondent on or about March 22, 2011, in connection with the
2 proceeding before the Social Security Administration entitled *Social Security Administration*
3 *v. Bernath*, case no. R-10-10-001, in wilful violation of Business and Professions Code
4 section 6068(o)(6).

5 COUNT SEVEN

6 Case No. 14-O-01941
7 Rules of Professional Conduct, Rule 1-400(D)(4)
8 [Undesignated Advertisement]

8 8. On or about January 2, 2014, Respondent made a communication, or allowed one
9 to be made on Respondent's behalf by Respondent's staff, to prospective clients, concerning
10 Respondent's availability for professional employment which failed to indicate clearly,
11 expressly, or by context, that it was a communication or solicitation, by sending letters to
12 other owners of Flight Design aircraft, soliciting the owners to join in a lawsuit Respondent
13 planned to file against Flight Design in California, along with blank attorney client
14 contingency fee agreements, without identifying on the face of the letters the word
15 "Advertisement" or other words of similar import, in wilful violation of Rules of Professional
16 Conduct, rule 1-400(D)(4).

17 NOTICE - INACTIVE ENROLLMENT!

18 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE**
19 **BAR COURT FINDS, PURSUANT TO BUSINESS AND**
20 **PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT**
21 **POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS**
22 **OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE**
23 **INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF**
24 **THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE**
25 **IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE**
26 **COURT.**

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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: February 19, 2015

By: 
Erin McKeown Joyce
SENIOR TRIAL COUNSEL

DECLARATION OF SERVICE

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

CASE NUMBER(s): **14-O-00699 and 14-O-01941**

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 South Figueroa Street, Los Angeles, CA 90017-2515, 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 0907 93 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:
Daniel Alan Bernath	1319 Kingswood Ct Fort Myers, FL 33919	Electronic Address	Ussyorktowncvs10@yahoo.com

☐ 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: February 19, 2015

SIGNED: _____

JUFI FINNILA
Declarant