

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
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FILED

MAY 06 2015
 STATE BAR COURT
 CLERK'S OFFICE
 LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of:)	Case Nos. 14-O-04441, 14-O-04507,
14 VITO TORCHIA, Jr.,)	14-O-04926, 14-O-04968 and
15 No. 244687,)	14-O-05192
16 A Member of the State Bar.)	NOTICE OF DISCIPLINARY CHARGES

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
 21 THE STATE BAR COURT TRIAL:

- 22 (1) YOUR DEFAULT WILL BE ENTERED;
- 23 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
 WILL NOT BE PERMITTED TO PRACTICE LAW;
- 24 (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;
- 25 (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
 26 ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
 27 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. Vito Torchia, Jr. ("Respondent") was admitted to the practice of law in the State of
4 California on December 1, 2006, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 GENERAL BACKGROUND

7 2. Brookstone Law is and was at all times herein, a professional law corporation
8 established and owned by Respondent, wherein Respondent performs the duties and
9 responsibilities of managing attorney for the operation. Brookstone and Respondent are one and
10 the same for purposes of the following charging allegations.

11 COUNT ONE

12 Case No. 14-O-04441
13 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

14 3. On or about November 18, 2013, David Maffei ("Maffei") employed Respondent
15 to determine if he was a viable candidate to allow him to participate within a mass joinder
16 litigation against his lender, JP Morgan Chase. On or about November 24, 2013, Maffei, having
17 been advised by Respondent that he was a good candidate, employed Respondent to allow him
18 to participate as a plaintiff within a pending mass joinder litigation, *Potter v. JP Morgan Chase*,
19 Case No. 459627, filed in Los Angeles Superior Court. Respondent intentionally, recklessly, or
20 repeatedly failed to perform with competence, in willful violation of Rules of Professional
21 Conduct, rule 3-110(A), by failing to add Maffei as a plaintiff to the mass joinder litigation or
22 perform any other legal services on behalf of Maffei.

23 COUNT TWO

24 Case No. 14-O-04441
25 Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

26 4. Between on or about November 18, 2013 and May 14, 2014, Respondent received
27 total advanced fees of \$4,895 from a client, David Maffei, to perform legal services, namely, to
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1 add the client as a plaintiff to the mass joinder litigation against the client's lender, and to
2 perform an analysis to determine if he was a proper candidate for mass joinder. Respondent
3 failed to perform any legal services for the client and therefore earned none of the advanced fees
4 paid. Respondent failed to refund promptly, upon Respondent's termination of employment on
5 or about May 21, 2014, any part of the \$4,895 advanced fees, in willful violation of Rules of
6 Professional Conduct, rule 3-700(D)(2).

7 COUNT THREE

8 Case No. 14-O-04441
9 Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

10 5. Respondent failed to cooperate and participate in a disciplinary investigation
11 pending against Respondent by failing to provide a substantive response to the State Bar's letters
12 of September 10, 2014, and October 10, 2014, which Respondent received, that requested
13 Respondent's response to the allegations of misconduct being investigated in case no. 14-O-
14 04441, in willful violation of Business and Professions Code, section 6068(i).

15 COUNT FOUR

16 Case No. 14-O-04441
17 Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

18 6. Between on or about November 18, 2013 and May 14, 2014, Respondent received
19 total advanced fees of \$4,895 from a client, David Maffei, for legal services to be performed.
20 Respondent thereafter failed to render an appropriate accounting to the client regarding those
21 funds following the client's request for such accounting upon the termination of Respondent's
22 employment on or about May 21, 2014, in willful violation of the Rules of Professional
23 Conduct, rule 4-100(B)(3).

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COUNT FIVE

Case No. 14-O-04441
Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

7. Respondent failed to keep Respondent's clients, David Maffei ("Maffei") reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m), by failing to inform the client of the following:

- a. Maffei had not been added to the mass joinder complaint, *Potter v. JP Morgan Chase*, Case No. 459627, filed in Los Angeles Superior Court on April 15, 2011;
- b. that the mass joinder litigation, *Potter v. JP Morgan Chase*, Case No. 459627, filed in Los Angeles Superior Court, resulted in a favorable judgment for the bank entered for the bank on July 24, 2014; and
- c. that the appeal from the entered judgment in *Potter v. JP Morgan Chase*, Case No. 459627, filed in Los Angeles Superior Court, had been dismissed by the Court of Appeal on October 28, 2014.

COUNT SIX

Case No. 14-O-04507
Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

8. Respondent failed to keep Respondent's clients, Xiomara and Roger Millette ("Millette") reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m), by failing to inform the client of the following:

- a. that the mass joinder litigation, *Potter v. JP Morgan Chase*, Case No. 459627, filed in Los Angeles Superior Court, resulted in the entry of favorable judgment for the bank on July 24, 2014; and

1 b. that the appeal from the entered judgment in *Potter v. JP Morgan Chase*, Case
2 No. 459627, filed in Los Angeles Superior Court, had been dismissed by the
3 Court of Appeal on October 28, 2014.

4 COUNT SEVEN

5 Case No. 14-O-04507
6 Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

7 9. Respondent failed to cooperate and participate in a disciplinary investigation
8 pending against Respondent by failing to provide a substantive response to the State Bar's letters
9 of September 10, 2014, and October 10, 2014, which Respondent received, that requested
10 Respondent's response to the allegations of misconduct being investigated in case no. 14-O-
11 04507, in willful violation of Business and Professions Code, section 6068(i).

12 COUNT EIGHT

13 Case No. 14-O-04926
14 Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

15 10. Respondent failed to keep Respondent's client, Juan Planz ("Planz") reasonably
16 informed of significant developments in a matter in which Respondent had agreed to provide
17 legal services, in willful violation of Business and Professions Code, section 6068(m), by failing
18 to inform the client of the following:

- 19 a. that the mass joinder litigation, *Potter v. JP Morgan Chase*, Case No. 459627,
20 filed in Los Angeles Superior Court on April 15, 2011, had been removed to the
21 USDC on February 8, 2013 and remanded to the Superior Court on May 8, 2013;
- 22 b. that the mass joinder litigation, *Potter v. JP Morgan Chase*, Case No. 459627,
23 filed in Los Angeles Superior Court, resulted in a favorable judgment entered
24 for the bank on July 24, 2014; and
- 25 c. that the appeal from the entered judgment in *Potter v. JP Morgan Chase*, Case
26 No. 459627, filed in Los Angeles Superior Court, had been dismissed by the
27 Court of Appeal on October 28, 2014.

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COUNT NINE

Case No. 14-O-04926
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

11. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letters of October 14, 2014, and November 17, 2014, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 14-O-04926, in willful violation of Business and Professions Code, section 6068(i).

COUNT TEN

Case No. 14-O-04968
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

12. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letters of October 14, 2014, and November 17, 2014, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 14-O-04968, in willful violation of Business and Professions Code, section 6068(i).

COUNT ELEVEN

Case No. 14-O-04968
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

13. Between on or about October 10, 2013 and February 19, 2014, Respondent received total advanced fees of \$1,250 from a client, William Names, to perform an analysis to determine if he was a proper candidate for mass joinder. Respondent determined Names was not a good candidate and was obligated by the terms of the retainer to refund the advanced fee. Respondent failed to refund the advanced fee. Respondent failed to refund promptly, upon Respondent's termination of employment on or about February 19, 2014, any part of the \$1,250 advanced fees, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

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COUNT TWELVE

Case No. 14-O-05192
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

14. On or about February 27, 2013, Malu Lujan (“Lujan”) employed Respondent to determine if she was a viable candidate to allow her to participate within a mass joinder litigation against her lender, JP Morgan Chase. On or about April 22, 2013, Lujan, having been advised by Respondent that she was a good candidate for participation within the mass joinder litigation, employed Respondent to allow her to participate as a plaintiff within a pending mass joinder litigation, *Potter v. JP Morgan Chase*, Case No. 459627, filed on April 15, 2011, in Los Angeles Superior Court. Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by failing to add Lujan as a plaintiff to the mass joinder litigation or perform any other legal services on behalf of Lujan.

COUNT THIRTEEN

Case No. 14-O-05192
Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

15. Respondent failed to keep Respondent’s client, Malu Lujan (“Lujan”) reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m), by failing to inform the client of the following:

- d. Lujan had not been added to the mass joinder complaint, *Potter v. JP Morgan Chase*, Case No. 459627, filed in Los Angeles Superior Court on April 15, 2011;
- e. that the mass joinder litigation, *Potter v. JP Morgan Chase*, Case No. 459627, filed in Los Angeles Superior Court, resulted in a favorable judgment for the bank on July 24, 2014; and

1 f. that the appeal from the entered judgment in *Potter v. JP Morgan Chase*, Case
2 No. 459627, filed in Los Angeles Superior Court, had been dismissed by the
3 Court of Appeal on October 28, 2014.

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5 COUNT FOURTEEN

6 Case No. 14-O-05192
7 Rules of Professional Conduct, rule 3-700(D)(2)
8 [Failure to Refund Unearned Fees]

9 16. Between on or about February 27, 2013 and July 22, 2014, Respondent received
10 total advanced fees of \$2,895 from a client, Malu Lujan, to perform legal services, namely, to
11 add the client as a plaintiff to the mass joinder litigation against the client's lender, and to
12 perform an analysis to determine if she was a proper candidate for mass joinder litigation.
13 Respondent failed to perform any legal services for the client and therefore earned none of the
14 advanced fees paid. Respondent failed to refund promptly, upon Respondent's termination of
15 employment on or about July 22, 2014, any part of the \$2,895 advanced fees, in willful violation
16 of Rules of Professional Conduct, rule 3-700(D)(2).

17 COUNT FIFTEEN

18 Case No. 14-O-05192
19 Rules of Professional Conduct, rule 3-700(D)(1)
20 [Failure to Release File]

21 17. Respondent failed to release promptly, after termination of Respondent's
22 employment on or about July 22, 2014, to Respondent's client, Malu Lujan, all of the client's
23 papers and property following the client's request for the client's file on July 22, 2014, in willful
24 violation of Rules of Professional Conduct, rule 3-700(D)(1).

25 COUNT SIXTEEN

26 Case No. 14-O-05192
27 Business and Professions Code, section 6068(i)
28 [Failure to Cooperate in State Bar Investigation]

18. Respondent failed to cooperate and participate in a disciplinary investigation
pending against Respondent by failing to provide a substantive response to the State Bar's letters

1 of October 15, 2014, and November 17, 2014, which Respondent received, that requested
2 Respondent's response to the allegations of misconduct being investigated in case no. 14-O-
3 05192, in willful violation of Business and Professions Code, section 6068(i).

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5 **NOTICE - INACTIVE ENROLLMENT!**

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

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15 **NOTICE - COST ASSESSMENT!**

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

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Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: May 4 '15

By: Hugh G. Radigan
Hugh G. Radigan
Deputy 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-04441, 14-O-04507, 14-O-04926, 14-O-04968 and 14-O-05192.

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))
- 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.: 9414726699042010072447 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: Vito Torchia Jr, Brookstone Law, PC, 1503 S. Coast Drive, Suite 100, Costa Mesa, CA 92626, 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: May 6, 2015

SIGNED:

JULI FINNILA
Declarant