

PUBLIC MATTER

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FILED
OCT 13 2015
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT
HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of:) Case No. 14-O-05758
14 EARL NELSON FELDMAN,) NOTICE OF DISCIPLINARY CHARGES
15 No. 45125,)
16 A Member of the State Bar.)

NOTICE - FAILURE TO RESPOND!

18 **IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE**
19 **WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT**
20 **THE STATE BAR COURT TRIAL:**

- 21 (1) **YOUR DEFAULT WILL BE ENTERED;**
- 22 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
23 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
- 24 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
25 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**
26 **AND THE DEFAULT IS SET ASIDE, AND;**
- 27 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
28 **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.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. EARL NELSON FELDMAN ("Respondent") was admitted to the practice of law in
4 the State of California on January 15, 1970, was a member at all times pertinent to these charges,
5 and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 14-O-05758
8 Business and Professions Code, section 6106
9 [Moral Turpitude –Breach of Fiduciary Duty]

10 2. Since in or about 1997, Respondent has been the sole trustee of the Maury and Lillian
11 Novak Trust ("Novak Trust"). The Novak Trust is a trust created for charitable purposes. In his
12 capacity as the trustee, Respondent owes a fiduciary duty to the beneficiaries of the trust.
13 Between in or about 2012 and in or about 2013, Respondent claimed on the Novak Trust tax
14 returns to have made approximately 75 donations, totaling \$535,757, on behalf of the Novak
15 Trust. Instead, between in or about 2012 and in or about 2013, Respondent actually disbursed
16 approximately \$882,600.49 to himself and made only four charitable donations, totaling \$25,000,
17 thereby negating the purpose of the charitable trust. By failing to make the purported charitable
18 donations, Respondent knowingly or with gross negligence failed to administer the Novak Trust
19 solely in the interest of the beneficiaries in violation of his duties as trustee as codified in Probate
20 Code section 16002, subsection (a), and thereby committed an act of moral turpitude, dishonesty,
21 or corruption in violation of Business and Professions Code section 6106.

22 COUNT TWO

23 Case No.14-O-05758
24 Business and Professions Code, section 6106
25 [Moral Turpitude - Misrepresentation]

26 3. In or about 2012 and in or about 2013, Respondent falsely reported in writing to the
27 Internal Revenue Service that, in his capacity as trustee, Respondent had made or caused to be
28 made approximately 75 donations in the amount of \$535,757, to various charitable organizations
on behalf of the Maury and Lillian Novak Trust when Respondent knew or was grossly negligent

1 in not knowing the statements were false because in or about 2012 and in or about 2013,
2 Respondent had made or caused to be made only four charitable donations in the amount of
3 \$25,000 on behalf of the Maury and Lilian Novak Trust. Respondent thereby committed an act
4 involving moral turpitude, dishonesty or corruption in willful violation of Business and
5 Professions Code, section 6106.

6 COUNT THREE

7 Case No. 14-O-05758
8 Business and Professions Code, section 6106
9 [Moral Turpitude - Misappropriation]

10 4. Between in or about 2012 and in or about 2014, Respondent received on behalf of the
11 Maury and Lillian Novak Trust (“Novak Trust”), of which Respondent was the sole trustee,
12 liquidated assets of the Novak Trust totaling \$1,402,000. Between in or about 2012 and in or
13 about 2014, Respondent deposited the \$1,402,000 into the trust account for the Novak Trust at
14 Union Bank, account number XXXXXX3576. Between in or about 2012 and in or about 2014,
15 Respondent dishonestly or grossly negligently misappropriated for Respondent’s own purposes
16 approximately \$1,266,037.49 that the beneficiaries of the Novak Trust were entitled to receive,
17 and thereby committed an act involving moral turpitude, dishonesty or corruption in willful
18 violation of Business and Professions Code, section 6106.

18 NOTICE - INACTIVE ENROLLMENT!

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



DATED: October 13, 2015

By: _____
ELI D. MORGENSTERN
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-05758

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, 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.: 7196 9008 9111 1007 9483 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: JAMES IRWIN HAM, Pansky Markle Ham LLP, 1010 Sycamore Ave. Unit 308 So. Pasadena, CA 91030, 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: October 13, 2015

SIGNED:

Sandra Reynolds
Sandra Reynolds
Declarant