| 1 2 3 4 5 6 7 8 9 | STATE BAR OF CALIFORNIA OFFICE OF CHIEF TRIAL COUNSEL JAYNE KIM, No. 174614 CHIEF TRIAL COUNSEL JOSEPH R. CARLUCCI, No. 172309 DEPUTY CHIEF TRIAL COUNSEL GREGORY P. DRESSER, No. 136532 ASSISTANT CHIEF TRIAL COUNSEL ROBERT A. HENDERSON, No. 173205 SUPERVISING SENIOR TRIAL COUNSEL ROBIN B. BRUNE, No. 149481 SENIOR TRIAL COUNSEL 180 Howard Street San Francisco, California 94105-1639 Telephone: (415) 538-2218 | PUBLIC MATTERFILEDMAR 2 4 2016State bar court clerk's office San Francisco |
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| 10 | STATE B | AR COURT |
| 11 | | ENT - SAN FRANCISCO |
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| 13 | In the Matter of: |) Case Nos.: 14-O-00459; 14-O-05543; |
| 14 | DALE IRVING GUSTIN, |) 15-O-11167 |
| 15 | No. 76642, |) NOTICE OF DISCIPLINARY CHARGES |
| 16 | A Member of the State Bar. |) |
| 17 | NOTICE - FAILU | URE TO RESPOND! |
| 18 | | FTEN ANSWER TO THIS NOTICE |
| 19 | WITHIN 20 DAYS AFTER SERVIC THE STATE BAR COURT TRIAL: | E, OR IF YOU FAIL TO APPEAR AT |
| 20 | (1) YOUR DEFAULT WILL BE EN | TERED; |
| 21 | WILL NOT BE PERMITTED TO | IANGED TO INACTIVE AND YOU O PRACTICE LAW; |
| 22 | THESE PROCEEDINGS UNLES | ED TO PARTICIPATE FURTHER IN SS YOU MAKE A TIMELY MOTION |
| 23 | AND THE DEFAULT IS SET AS (4) YOU SHALL BE SUBJECT SPECIFICALLY IF YOU FAIL | TÓ ADDITIONAL DISCIPLINE. |
| 24 | OR VACATE YOUR DEFAUL | TO TIMELY MOVE TO SET ASIDE T, THIS COURT WILL ENTER AN YOUR DISBARMENT WITHOUT |
| 25 | ORDER RECOMMENDING FURTHER HEARING OR PRO | CEEDING. SEE RULE 5.80 ET SEQ., HE STATE BAR OF CALIFORNIA. |
| 26 | KULES OF PROCEDURE OF 1 | TE STATE DAR UF CALIFURNIA. |
| 27 | The State Bar of California alleges: | kwiktag ° 197 146 772 |
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| 1 | JURISDICTION |
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| 2 | 1. Dale Irving Gustin ("respondent") was admitted to the practice of law in the State of |
| 3 | California on December 21, 1977, was a member at all times pertinent to these charges, and is |
| 4 | currently a member of the State Bar of California. |
| 5 | COUNT ONE Case No. 14-O-00459 |
| 6 | Business and Professions Code, section 6068(o) (3) [Failure to Report Judicial Sanctions] |
| 7 | 2. Respondent failed to report to the agency charged with attorney discipline, in writing, |
| 8 9 | within 30 days of the time respondent had knowledge of the imposition of judicial sanctions |
| 9 10 | against respondent by failing to report to the State Bar the \$1,250 in sanctions the court imposed |
| 10 | on respondent on or about May 14, 2014 in connection with Kalvans et.al. v. Mizera, Monterey |
| 11 | Superior Court, case no. M92503, in willful violation of Business and Professions Code section, |
| 12 | 6068(o)(3). |
| 13 | COUNT TWO |
| 15 | Case No. 14-O-00459 Business and Professions Code, section 6103 [Failure to Obey a Court Order] |
| 16 | 3. Respondent disobeyed or violated an order of the court requiring respondent to do or |
| 17 | forbear an act connected with or in the course of respondent's profession which respondent ought |
| 18 | in good faith to do or forbear by failing to comply with the May 14, 2014 Order After Hearing |
| 19 | (Sanctions) in Kalvans et. al. v. Mizera, Monterey Superior Court, case no. M92503, in willful |
| 20 | violation of Business and Professions Code, section 6103. |
| 21 | COUNT THREE Case No. 14-O-00459 |
| 22 | Rules of Professional Conduct, rule 3-200(B) [Presenting an Unwarranted Claim or Defense] |
| 23 | 4. Between in/or about July 5, 2013 and October 31, 2013, respondent continued |
| 24 | employment by Mary Kalvans and Craig Rambo in Kalvans et al. v. Mizera, Monterey County |
| 25 | Superior Court, case no. M92503, when respondent knew or should have known that the |
| 26 | objective of such employment was to present a claim or defense in litigation that was not |
| 27 | warranted under existing law, as more fully set forth in the Court's Order After Submission filed |
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| 1 | on or about December 3, 2013, in that respondent filed pleadings and therein failed to cite to an | |
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| 2 | applicable provision of the Civil Code; failed to designate specifically the grounds upon which | |
| 3 | the motion would be made; failed to file a timely motion; failed to identify the order sought to be | |
| 4 | vacated; failed to cite any viable authority for vacating the order; failed to cite any authority that | |
| 5 | the opposing party acted improperly as the junior lien holder; failed to cite to newly discovered | |
| 6 | evidence in support of allegations of fraud; and failed to cite to facts in that matter, in willful | |
| 7 | violation of Rules of Professional Conduct, rule 3-200(B). | |
| 8 | COUNT FOUR | |
| 9 | Case No. 14-O-00459 Rules of Professional Conduct, rule 5-100(A) | |
| 10 | [Threatening Charges to Gain Advantage in Civil Suit] | |
| 11 | 5. On or about June 19, 2014, respondent communicated with counsel for the defendants | |
| 12 | in Kalvans et. al. v. Mizera, Monterey Superior Court, case no. M92503, and threatened to | |
| 13 | present criminal charges against the defendants, specifically, forgery and/or perjury, to obtain an | |
| 14 | advantage in a civil dispute with the defendants, specifically a settlement of \$450,000, in willful | |
| 15 | violation of the Rules of Professional Conduct, rule 5-100(A). | |
| 16 | <u>COUNT FIVE</u> Case Nos. 14-O-05543; 15-O-11167 | |
| 17 | Business and Professions Code, section 6068(a) [Failure to Comply With Laws – Unauthorized Practice of Law] | |
| 18 | 6. On or between July 7, 2014, and January 2, 2015, respondent held himself out as | |
| 19 | entitled to practice law and actually practiced law when respondent was not an active member of | |
| 20 | the State Bar by filing pleadings and/or appearing on behalf of Nesenia Gonzales, in Gonzales v. | |
| 21 | Rodriguez (aka Gonzales v. Farmers Insurance), San Luis Obispo County Superior Court case | |
| 22 | #CV 138197; filing pleadings and/or appearing on behalf of Willemke Bokma in Bokma v. | |
| 23 | Backlund et al. case no. GNM128434 filed in Monterey County Superior Court, and signing and | |
| 24 | filing a stipulation on behalf of Loren Nauta in Nauta v. Bank of America; case nos. B248343 | |
| 25 | and B255962, filed in the 2 nd District Court of Appeal, in violation of Business and Professions | |
| 26 | Code, sections 6125 and 6126, and thereby willfully violated Business and Professions Code, | |
| 27 | section 6068(a). | |
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| 1 2 | COUNT SIX Case Nos. 14-O-05543; 15-O-11167 Business and Professions Code, section 6106 | |
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| 2 | [Moral Turpitude] | |
| 4 | 7. On or between July 7, 2014, and January 2, 2015, respondent held himself out as | |
| 5 | entitled to practice law, and actually practiced law, when respondent knew, or was grossly | |
| 6 | negligent in not knowing, respondent was not an active member of the State Bar by Bar by filing | |
| 7 | pleadings and appearing in court on behalf of Nesenia Gonzales, in <i>Gonzales v. Rodriguez (aka</i> | |
| | Gonzales v. Farmers Insurance), San Luis Obispo County Superior Court case #CV 138197; | |
| 8 | filing pleadings and appearing on behalf of Willemke Bokma in Bokma v. Backlund et al., case | |
| 9 | no. GNM128434 filed in Monterey County Superior Court, and filing a stipulation on behalf of | |
| 10 | Loren Nauta in Nauta v. Bank of America, case nos. B248343, and B255962, filed in the 2 nd | |
| 11 | District Court of Appeal, and thereby committed acts involving moral turpitude, dishonesty or | |
| 12 | corruption in willful violation of Business and Professions Code, section 6106. | |
| 13 | NOTICE - INACTIVE ENROLLMENT! | |
| 14 15 16 17 18 | YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT. | |
| 19 | NOTICE - COST ASSESSMENT! | |
| 20 | IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS | |
| 21 | INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND | |
| 22 | PROFESSIONS CODE SECTION 6086.10. | |
| 23 | Respectfully submitted, | |
| 24 | THE STATE BAR OF CALIFORNIA OFFICE OF CHIEF TRIAL COUNSEL | |
| 25 | $Q \cdot R$ | |
| 26 | DATED: March 24, 2016 By: Consel Robin B. Brune Senior Trial Counsel | |
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| 1 | DECLARATION OF SERVICE BY CERTIFIED AND REGULAR MAIL |
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| 2 | RE: DALE GUSTIN CASE NOS.: 14-O-00459; 14-O-05543; 15-O-11167 |
| 3 | |
| 4 5 | I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing |
| 6 | with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California |
| 7 | would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage |
| 8 | meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of |
| 9 | California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within |
| 10 | NOTICE OF DISCIPLINARY CHARGES |
| 11 | in a sealed envelope placed for collection and mailing as <i>certified mail</i> , return receipt |
| 12 | requested, and in an additional sealed envelope as <i>regular mail</i> , at San Francisco, on the date shown below, addressed to: |
| 13 | <u>Article No. 9414 7266 9904 2042 4851 85</u> |
| 14 | DALE I. GUSTIN |
| 15 | 945 Spring St., Ste 9 PO Box 764 |
| 16 | Paso Robles, CA 93447-0764 |
| 17 | in an inter-office mail facility regularly maintained by the State Bar of California addressed to: |
| 18 | N/A |
| 19 20 | I declare under penalty of perjury under the laws of the State of California that the |
| 20 | foregoing is true and correct. Executed at San Francisco, California, on the date shown below. |
| 21 | The linducing |
| 22 | DATED: March 24, 2016 Signed: Dawn Williams |
| 23 | Declarant |
| 24 25 | |
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