



1 Ellen A. Pansky (SBN 77688)  
2 **PANSKY MARKLE HAM LLP**  
3 1010 Sycamore Ave., Suite 308  
4 South Pasadena, CA. 91030  
Telephone: (213) 626-7300  
Facsimile: (213) 626-7330

**FILED**

**JAN 11 2016**

**STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES**

5 Attorneys for Respondent  
6 Rory Joseph Vohwinkel

7  
8 **BEFORE THE STATE BAR COURT**  
9 **OF THE STATE OF CALIFORNIA**  
10 **HEARING DEPARTMENT – LOS ANGELES**  
11

12 In The Matter of ) Case No. 15-J-10991  
13 Rory Joseph Vohwinkel, ) **RESPONSE TO NOTICE OF**  
14 Member No. 276102, ) **DISCIPLINARY CHARGES**  
15 A Member of the State Bar. )  
16 )  
17 )  
18 )

19  
20 TO THE OFFICE OF THE CHIEF TRIAL COUNSEL OF THE STATE BAR OF  
21 CALIFORNIA AND TO ITS COUNSEL OF RECORD:

22 Respondent Vohwinkel responds to the Notice of Disciplinary Charges as follows:

23  
24 **Respondent's Preliminary Statement**

25  
26 This is a reciprocal discipline case, arising from a stipulated disposition in a Nevada State  
27 Bar disciplinary proceeding, in which Mr. Vohwinkel was found to have engaged in misconduct,  
28 including aiding and abetting the unauthorized practice of law, by permitting his former law partner,  
a California admitted lawyer, to conduct the initial interview of the law firm partnership's Nevada

1 clients, while physically located in Nevada, and to present the retainer agreements to the  
2 prospective clients. Although Mr. Vohwinkel signed the retainer agreements on behalf of the firm,  
3 and performed the legal services, he stipulated that his California former partner engaged in UPL by  
4 advising prospective Nevada clients and presenting the form retainer agreement to them. Mr.  
5 Vohwinkel also stipulated that he failed to adequately communicate with and failed to adequately  
6 perform legal services in three client matters. Mr. Vohwinkel agreed to accept a public reproof in  
7 the Nevada matter. Mr. Vohwinkel timely self-reported the findings of the Nevada Bar to the  
8 California State Bar.

9 All of the conduct which formed the basis of the Nevada proceeding occurred in 2009 and  
10 2010, well over five years ago. Mr. Vohwinkel has had no subsequent disciplinary proceedings in  
11 either Nevada or California.

12 Mr. Vohwinkel has a highly positive reputation as a careful, diligent and competent lawyer,  
13 and the acts which formed the basis of the Nevada proceeding have no connection to his practice of  
14 law in California or to his current legal practices and procedures.

15 Mr. Vohwinkel does not assert that he was denied procedural due process in the Nevada  
16 disciplinary proceedings.

17  
18 **Answer to Specific Allegations Contained in the Notice of Disciplinary Charges**

19  
20 1. Respondent admits that he was admitted to the practice of law in the State of  
21 California on May 25, 2011.

22  
23 **COUNT ONE**

24 2. Respondent admits the allegation in Paragraph 2 of the NDC that he stipulated to  
25 discipline for professional misconduct in Nevada on November 20, 2014.

26 3. Respondent objects to the argumentative allegations in Paragraph 5 which constitute  
27 legal conclusions. Without waiving this objection, Respondent admits that he engaged in the  
28 conduct set forth in paragraphs 1-53 (pages 2 through 7) contained in the Stipulation of Facts in the

1 Notice of Entry of Order attached as Exhibit "A" to the State Bar's Notice of disciplinary Charges  
2 ("NDC"). Respondent denies that the Nevada Rules of Professional Conduct are identical to  
3 California's Rules of Professional Conduct and denies that the conduct in the underlying matter  
4 constitutes acts committed in willful violation of California Rules of Professional Conduct, rule 3-  
5 110(A) and rule 1-300(A), and/or Business and Professions Code section 6068(m).

6  
7 **AFFIRMATIVE DEFENSES**

8  
9 **FIRST AFFIRMATIVE DEFENSE**

10 (Failure to State Sufficient Facts)

11 The Notice of Disciplinary Charges, and each of its purported counts, fails to state facts  
12 sufficient to state a basis for discipline under the California Rules of Professional Conduct.

13  
14 **SECOND AFFIRMATIVE DEFENSE**

15 (Good Faith Reliance Upon the Law)

16 Respondent's admitted conduct was done in reliance upon well-established laws and legal  
17 principles, upon which Respondent had the legal right to rely in conducting his professional  
18 activities. Respondent's authorization of his California-admitted partner to interface directly with  
19 the firm's Nevada clients while under Respondent's supervision was based on his good faith  
20 reliance upon applicable ethical and civil authorities.

21  
22 **THIRD AFFIRMATIVE DEFENSE**

23 (Charges Do Not Constitute Willful Misconduct)

24 The facts on which some or all of the Notice of Disciplinary Charges are based constitute  
25 mistake, inadvertence, neglect or error and do not rise to the level of willful misconduct.

26  
27 **FOURTH AFFIRMATIVE DEFENSE**

28 (Lack of Harm)

1 No persons were harmed by the acts alleged in each and every count in the Notice of  
2 Disciplinary Charges. Respondent refunded portions of the attorney fees paid by the complainants,  
3 either unilaterally or in cooperation with the resolution of the Nevada disciplinary proceeding.  
4

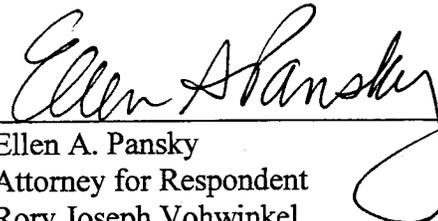
5 WHEREFORE, Respondent prays that the Court find that Respondent did not commit acts  
6 constituting professional misconduct, and that the Notice of Disciplinary Charges be dismissed.  
7

8 Respectfully submitted,

9 PANSKY MARKLE HAM, LLP

10 Dated: January 8, 2016

11  
12  
13 By:

  
14 Ellen A. Pansky  
15 Attorney for Respondent  
16 Rory Joseph Vohwinkel  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

*In the Matter of Rory Joseph Vohwinkel*

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 1010 Sycamore Ave., Suite 308, South Pasadena, California 91030.

On January 8, 2016, I served the foregoing document(s) described as:

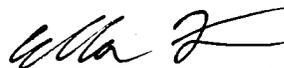
**RESPONSE TO NOTICE OF DISCIPLINARY CHARGES**

on all interested parties in this action by placing a true copy of each document, enclosed in a sealed envelope addressed as follows:

Ann J. Kim, Deputy Trial Counsel  
Office of the Chief Trial Counsel  
Enforcement  
The State Bar of California  
845 S. Figueroa Street  
Los Angeles, CA 90017

(X) **BY MAIL:** as follows: I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date in the United States mail at South Pasadena, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed January 8, 2016, at South Pasadena, California.



\_\_\_\_\_  
Ella Fishman