

PUBLIC MATTER
FILED

DEC 29 2015

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

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STATE BAR COURT
HEARING DEPARTMENT - SAN FRANCISCO

12 In the Matter of:) Case No.: 15-O-11466
13 JAMES LYSTON EVERTTS,)
14 No. 147768,) NOTICE OF DISCIPLINARY CHARGES
15 A Member of the State Bar.)

NOTICE - FAILURE TO RESPOND!

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

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

27 The State Bar of California alleges:



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JURISDICTION

1. James Lyston Evertts ("respondent") was admitted to the practice of law in the State of California on August 8, 1990, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE
Case No. 15-O-11466
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

2. In or about 2011, and continuing thereafter, respondent served as the attorney for and successor trustee for the court supervised *Anthony Sparacino Trust*, Santa Clara County Superior Court case no. 123805. The beneficiary of the trust, Jack Sparcino ("Jack"), died on or about February 5, 2011. Subsequent to Jack's death, respondent consolidated the assets of the estate to distribute to the residuary beneficiaries. In or about May 2013, respondent provided the beneficiaries with a preliminary distribution of his/her pro rata interest in the trust. Since the preliminary distributions made in or about May 2013, respondent has taken no further action to complete distribution of trust assets and wind down the trust and has thereby intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by ceasing to work on the matter as of in or about May 2013.

COUNT TWO
Case No. 15-O-11466
Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

3. Respondent failed to respond promptly to repeated telephonic inquiries asking for reasonable status inquiries made by Dennis Boire, a beneficiary of the *Anthony Sparacino Trust*, respondent's client, between in or about January 2013 and in or about February 23, 2015 that respondent received in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

1 *Sparacino Trust*. On or about June 25, 2012, respondent dishonestly or grossly negligently
2 misappropriated for respondent's own purposes \$425,000 that respondent's client, was entitled to
3 receive, and thereby committed an act involving moral turpitude, dishonesty or corruption in
4 willful violation of Business and Professions Code, section 6106.

5 COUNT SIX

6 Case No. 15-O-11466

7 Business and Professions Code, section 6068(i)
8 [Failure to Cooperate in State Bar Investigation]

9 7. Respondent failed to cooperate and participate in a disciplinary investigation pending
10 against respondent by failing to provide a substantive response to the State Bar's letters of April
11 23, 2015 and May 8, 2015, which respondent received, that requested respondent's response to
12 the allegations of misconduct being investigated in case no. 15-O-11466, in willful violation of
13 Business and Professions Code, section 6068(i).

14 COUNT SEVEN

15 Case No. 15-O-11466

16 Business and Professions Code, section 6068(j)
17 [Failure to Update Membership Address]

18 8. In or about June 2015, respondent vacated respondent's office at the address
19 maintained on the official membership records of the State Bar and thereafter failed to comply
20 with the requirements of Business and Professions Code section 6002.1, by failing to notify the
21 State Bar of the change in respondent's address within 30 days, in willful violation of Business
22 and Professions Code, section 6068(j).

23 NOTICE - INACTIVE ENROLLMENT!

24 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
25 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
26 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
27 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
28 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.**

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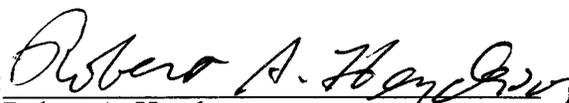
NOTICE - COST ASSESSMENT!

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: December 23, 2015

By: 
Robert A. Henderson
Supervising Senior Trial Counsel

DECLARATION OF SERVICE
BY CERTIFIED AND REGULAR MAIL

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CASE NO.: 15-O-11466

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 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 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 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 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

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as *certified mail, return receipt requested*, and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

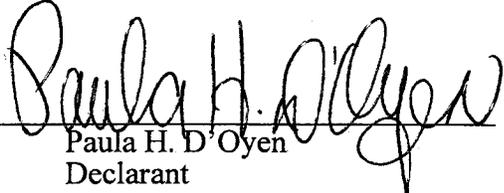
Article No.: 9414 7266 9904 2042 4856 35
James L. Evertts
1999 S Bascom Ave., Ste. 7
Campbell, CA 95008

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: December 29, 2015

Signed: 
Paula H. D'Oyen
Declarant