

FILED

AUG 22 2016

STATE BAR COURT
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LOS ANGELES

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10 **STATE BAR COURT**
11 **HEARING DEPARTMENT – LOS ANGELES**

12 In the Matter of:

13 **PHILIP EBERHARD KOEBEL**,
14 No. 249899,

15 A Member of the State Bar
16

Case No.: 15-O-13356-DFM
15-O-13357-DFM
Filed 07/26/2016

RESPONSE TO NOTICE OF
DISCIPLINARY CHARGES

Status Conference:

Date: ~~August 29, 2016~~ *Sep 12, 2016*

Time: ~~10:15 a.m.~~ *10:00am*

Place: 845 S. Figueroa St.
Los Angeles, CA 90017-2515

Hon. Donald F. Miles, presiding

23 I.

24 1. Philip Eberhard Koebel (“Respondent”), pro se, files this response to
25 Notice of Disciplinary Charges filed July 26, 2016 timely pursuant to Rule 5.43(A)
26 of the Rules of Procedure of the State Bar of California (January 1, 2016) and
27 California Code of Civil Procedure §1013(a). Respondent received the Notice of
28 Disciplinary Charges by mail on August 9, 2016.



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II.
JURISDICTION

2. Respondent was admitted to the practice of law as a member of the State Bar for the State of California on June 6, 2007, he has been a member in good standing at all times pertinent to the charges alleged, and he is currently a member in good standing of the State Bar of California.

3. Subsequent to his admission to the State Bar, Respondent was admitted as a member of the federal bar for the Central District of California with privileges to practice before the district courts and the bankruptcy courts at all times pertinent to the charges alleged.

4. Respondent is also admitted before the Ninth Circuit Court of Appeals, including the Bankruptcy Appellate Panel of the Ninth Circuit Court of Appeals ("BAP") at all times pertinent to the charges alleged.

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III.
DISCIPLINARY ORDER SUSPENDING RESPONDENT ON APPEAL

5. On May 17, 2016, a disciplinary panel convened by the United States Bankruptcy Court ordered Respondent suspended from filing new cases and new proceedings in the Central District's bankruptcy courts for six months or until three sanctions orders have been paid. 2:15-MP-00111-ES, Docket # 24, Entered 05/07/16, Docket # 27, Entered 05/23/16 (collectively "Disciplinary Order"). The Disciplinary Order is on appeal before the BAP as case CC-16-1149.

6. One of the three sanctions orders encompassed within the Disciplinary Order is the same March 26, 2014 sanctions order to pay \$23,800.00 to defendants Varougan Karapetian and Vincent Karapetian that gave rise to the charges alleged

1 in 15-O-13356. 2:13-ap-02078-VZ, Docket # 55, Entered 03/26/14 (hereinafter
2 “Zurzolo Order” or “Karapetian Order”).

3 7. The Disciplinary Order did not consider, nor encompass, the October
4 14, 2014 sanctions order to pay \$8,669.96 to Polymathic Properties, Inc., as
5 amended June 19, 2015, that gave rise to the charges alleged in 15-O-13357. 1:13-
6 bk-13908-VK, Docket # 81, 82-1, Entered 10/14/14, Docket # 89, Entered
7 06/19/15 (hereinafter “Kaufman Order” or “Polymathic Order”).

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9 IV.

10 RESPONDENT OBJECTS TO SUBJECT MATTER JURISDICTION

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12 8. Respondent objects to the subject matter jurisdiction of the State Bar
13 Court over enforcement of the Zurzolo Order in case 15-O-13356 because the
14 bankruptcy court has original jurisdiction over the Zurzolo Order and the
15 bankruptcy court has not abstained, nor is it required to abstain, from its
16 jurisdiction. 28 U.S.C. § 1334. The jurisdiction of the bankruptcy court is referred
17 from the district court. 28 U.S.C. § 157(a); General Order No. 13-05 (July 1,
18 2013).

19 9. Respondent further objects to the subject matter jurisdiction of the
20 State Bar Court over enforcement of the Zurzolo Order in case 15-O-13356
21 because the bankruptcy disciplinary panel encompassed the Zurzolo Order in its
22 Disciplinary Order. By doing so, the disciplinary panel asserted jurisdiction over
23 the Zurzolo Order. Fourth Amended General Order 96-05 (September 15, 2011).
24 Because the Disciplinary Order is on appeal, the BAP now has jurisdiction. 28
25 U.S.C. § 158; General Order No. 13-05 (July 1, 2013).

26 10. Respondent objects to the subject matter jurisdiction of the State Bar
27 Court over enforcement of the Kaufman Order in case 15-O-13357 because the
28 bankruptcy court has original jurisdiction over the Kaufman Order by reference

1 from the district court and the bankruptcy court has not abstained, nor is it required
2 to abstain, from its jurisdiction. 28 U.S.C. §§ 157(a), 1334; General Order No. 13-
3 05 (July 1, 2013).

4
5 V.

6 RESPONSE TO NOTICE OF DISCIPLINARY CHARGES

7
8 **COUNT ONE**

Case No. 15-0-13356

Business and Professions Code, section 6068(o)(3)

[Failure to Report Judicial Sanctions]

9
10 2. Respondent failed to report to the agency charged with attorney discipline, in writing,
11 within 30 days of the time Respondent had knowledge of the imposition of judicial sanctions
12 against Respondent by failing to timely report to the State Bar the \$23,800 in sanctions the court
13 imposed on Respondent on or about March 26, 2014, in connection with **In re Patrick Cecil**
14 **Brooks**, Debtor, Case No. 2:13-bk-33628-VZ, filed in the United States Bankruptcy Court for
the Central District of California, in willful violation of Business and Professions Code section,
6068(o)(3).

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16 11. Respondent denies Count One in 15-O-13356. Respondent reported
17 the sanctions to the State Bar when he understood the requirement to do so. It was
18 not a willful violation of Business and Professions Code § 6068(o)(3).

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COUNT TWO
Case No. 15-0-13356

Business and Professions Code, section 6103
[Failure to Obey a Court Order]

3. Respondent disobeyed or violated an order of the court requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession which Respondent ought in good faith do or forbear, by failing to comply with the order to pay \$23,800 in sanctions the court imposed on Respondent on or about March 26,2014, in connection with **In re Patrick Cecil Brooks**, Debtor, Case No. 2:13-bk-33628-VZ, filed in the United States Bankruptcy Court for the Central District of California, which respondent had notice of, served on respondent and filed in the United States Bankruptcy Court for the Central District of California, on or about March 26,2014, in that Respondent failed to satisfy the sanctions as ordered, in willful violation of Business and Professions Code, section 6103.

12. Respondent denies Count Two in 15-O-13356. Respondent was operating under an order confirming his Chapter 13 plan until June 9, 2016. 2:12-bk-12597-WB, Docket # 1, Entered 01/25/12, # 47, Entered 09/06/12, # 138, Entered 09/09/14, # 161, Entered 06/09/16.

COUNT THREE
Case No. 15-0-13356

Business and Professions Code, section 6068(c)
[Maintaining an Unjust Action]

4. On or about November 3,2013, Respondent failed to counsel or maintain such action, proceedings, or defenses only as appear to Respondent legal or just by filing a verified complaint on behalf of the debtor, in connection with **In re Patrick Cecil Brooks**, Debtor, Case No. 2:13-bk-33628-VZ, in the United States Bankruptcy Court for the Central District of California, to avoid foreclosure sale for an improper purpose to harass, cause unnecessary delay, needlessly increase litigation costs and assert frivolous claims that were without merit and were not warranted by existing law in willful violation of Business and Professions Code, section 6068(c).

13. Respondent denies Count Three in 15-O-13356. Respondent counseled or maintained the action only as it appeared legal or just. Respondent presented a viable legal theory.

COUNT FOUR

Case No. 15-0-13357

Business and Professions Code, section 6068(d)

[Seeking to Mislead a Judge]

5. On or about June 10,2013, respondent filed on behalf of the debtor, a chapter 13 proceeding captioned **In re Kathleen Marie Latham, Debtor**, Case No. 1-13-bk-13908-VK, in the United States Bankruptcy Court, Central District of California, San Fernando Valley Division, wherein he certified by signing the petition that the information contained within the petition was accurate and that the debtor's certification was appropriate that the underlying unlawful detainer judgment for possession was not exempt from the bankruptcy automatic stay provisions of section 362(a) as set forth in 11 U.S.C. section 362(b)(22) when he knew that the exemption was applicable and Respondent knew the debtor's statement was false, and thereby sought to mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code, section 6068(d).

14. Respondent denies Count Four in 15-O-13357. Respondent had a reasonable belief that the debtor's statement was true and a viable legal theory pertaining to the statement and its purpose. Respondent did not seek to mislead the judge by an artifice or false statement of fact or law.

COUNT FIVE

Case No. 15-0-13357

Business and Professions Code, section 6106

[Moral Turpitude - Misrepresentation]

6. On or about June 10,2013, Respondent was attorney of record for debtor, Kathleen Marie Latham, and filed on her behalf a chapter 13 petition captioned **In re Kathleen Marie Latham, Debtor**, Case No. 1-13-bk-13908-VK, in the United States Bankruptcy Court, Central District of California, San Fernando Valley Division. Within the petition, Respondent certified in writing to the court that the debtor's asserted grounds for maintaining the automatic stay and precluding the creditor from enforcing the underlying judgment were accurate when Respondent knew or was grossly negligent in not knowing the statement(s) were false, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

15. Respondent denies Count Five in 15-O-13357. Respondent had a reasonable belief that the debtor's statement was true and a viable legal theory pertaining to the statement and its purpose. Respondent was not grossly negligent and he did not commit an act involving moral turpitude, dishonesty or corruption.

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COUNT SIX

Case No. 15-0-13357

Business and Professions Code, section 6103

[Failure to Obey a Court Order]

7. Respondent disobeyed or violated an order of the court requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession which Respondent ought in good faith do or forbear, by failing to comply with the order to pay \$8,669.96 in sanctions the court imposed on Respondent on or about October 14,2014, payable within twenty-one days of the issuance of the order, **In re Kathleen Marie Latham, Debtor**, Case No. 1-13-bk-13908-VK, in the United States Bankruptcy Court, Central District of California, San Fernando Valley Division, which respondent had notice of, served on respondent and filed in the United States Bankruptcy Court for the Central District of California, on or about October 14, 2014, in that Respondent failed to satisfy the sanctions as ordered, in willful violation of Business and Professions Code, section 6103.

16. Respondent denies Count Six in 15-O-13357. Respondent was operating under an order confirming his Chapter 13 plan until June 9, 2016. 2:12-bk-12597-WB, Docket # 1, Entered 01/25/12, # 47, Entered 09/06/12, # 138, Entered 09/09/14, # 161, Entered 06/09/16.

COUNT SEVEN

Case No. 15-0-13357

Business and Professions Code, section 6068(o)(3)

[Failure to Report Judicial Sanctions]

8. Respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of judicial sanctions against Respondent by failing to timely report to the State Bar the \$8,669.96 in sanctions the court imposed on Respondent on or about October 14,2014, in connection with **In re Kathleen Marie Latham, Debtor**, Case No. 1-13-bk-13908-VK, in the United States Bankruptcy Court, Central District of California, San Fernando Valley Division, in willful violation of Business and Professions Code section, 6068(o)(3).

17. Respondent denies Count Seven in 15-O-13357. Respondent reported the sanctions to the State Bar when he understood the requirement to do so. It was not a willful violation of Business and Professions Code § 6068(o)(3). Furthermore, the Kaufman Order was amended on June 19, 2015.

1 Respondent requests that this action be dismissed.

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3 Dated: August 22, 2016

By: /s/ Philip Koebel

4 Philip E. Koebel, Esq.

5 Attorney for Respondent, pro se



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1 **PROOF OF SERVICE OF DOCUMENT**

2 I am over the age of 18 and I am the respondent in this disciplinary action. My
3 business address is:

4 **PO BOX 94799, PASADENA, CA 91109 -- 1015 N. LAKE AVE., STE. 210,**
5 **PASADENA, CA 91104**

6 A true and correct copy of the document(s) entitled (*specify*):
7

8 **RESPONSE TO NOTICE OF DISCIPLINARY CHARGES**

9 will be served or was served in the manner stated below:
10

11 **SERVED BY UNITED STATES MAIL:**

12 On (*date*) 08/22/2016 I served the following persons and/or entities at the
13 last known addresses in this disciplinary action by placing a true and correct copy
14 thereof in a sealed envelope in the United States mail, first class, postage prepaid,
and addressed as follows.

15 **Hugh Radigan, Esq., Deputy Trial Counsel, Office of the Chief Trial Counsel,**
16 **845 S. Figueroa St., Los Angeles, CA 90017-2515**

17 **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE**
18 **TRANSMISSION OR EMAIL (state method for each person or entity served):**

19 On (*date*) 08/22/2016, I served the following persons and/or entities
20 by personal delivery, overnight mail service, or (for those who consented in writing
to such service method), by facsimile transmission and/or email as follows.

21 **Hugh G. Radigan, Deputy Trial Counsel, FAX: (213) 765-1442**
22 **Hugh G. Radigan, Deputy Trial Counsel,**
23 **EMAIL: Hugh.Radigan@CalBar.CA.gov**

24 I declare under penalty of perjury under the laws of the United States that the
25 foregoing is true and correct.

26 08/22/2016

PHILIP KOEBEL

/s/ PHILIP KOEBEL

27 *Date*

Printed Name

Signature

