



# PUBLIC MATTER

1 STATE BAR OF CALIFORNIA  
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**FILED**

**MAY 3 1 2016**

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

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STATE BAR COURT

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HEARING DEPARTMENT - LOS ANGELES

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In the Matter of:

) Case No. 15-O-13798

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STEPHEN L. SCHWARTZ,  
No. 38686,

) NOTICE OF DISCIPLINARY CHARGES

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A Member of the State Bar.

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**NOTICE - FAILURE TO RESPOND!**

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

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- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
21 WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
22 THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
23 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
24 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
25 ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
26 FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
27 RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. STEPHEN L. SCHWARTZ ("Respondent") was admitted to the practice of law in the  
4 State of California on June 21, 1966, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No.15-O-13798  
8 Rules of Professional Conduct, rule 3-110(A)  
9 [Failure to Perform with Competence]

10 2. On or about June 7, 2015, Tonayell Smith employed Respondent to perform legal  
11 services, namely to represent her in a pending criminal matter, *People v. Tonayell Yvette Smith*,  
12 County of Tuolumne Superior Court, case no. CRF47055, which Respondent intentionally,  
13 recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of  
14 Professional Conduct, rule 3-110(A), by failing to appear at the preliminary hearing or provide  
15 any other legal services.

15 COUNT TWO

16 Case No. 15-O-13798  
17 Rules of Professional Conduct, rule 3-700(D)(2)  
18 [Failure to Refund Unearned Fees]

19 3. On or about June 7, 2015, Respondent received advanced fees of \$1,800 from a  
20 client, Tonayell Smith, to represent her in a pending criminal matter, *People v. Tonayell Yvette*  
21 *Smith*, County of Tuolumne Superior Court, case no. CRF47055. Respondent failed to appear at  
22 the preliminary hearing, or perform any legal services for the client, and therefore earned none of  
23 the advanced fees paid. Respondent failed to refund promptly, upon Respondent's termination  
24 of employment on or about June 12, 2015, any part of the \$1,800 fee to the client, in willful  
25 violation of Rules of Professional Conduct, rule 3-700(D)(2).

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COUNT THREE

Case No.15-O-13798  
Rules of Professional Conduct, rule 4-100(B)(3)  
[Failure to Render Accounts of Client Funds]

4. On or about June 7, 2015, Respondent received from Respondent's client, Tonayell Smith, the sum of \$1,800 as advanced fees for legal services to be performed. Respondent thereafter failed to render an appropriate accounting to the client regarding those funds upon the termination of Respondent's employment on or about June 12, 2015, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

COUNT FOUR

Case No. 15-O-13798  
Rules of Professional Conduct, rule 3-700(A)(2)  
[Improper Withdrawal from Employment]

5. Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to Respondent's client, Tonayell Smith, by failing to appear at the preliminary hearing on June 12, 2015, failing to take any action on the client's behalf after the preliminary hearing on June 12, 2015, and thereafter failing to inform the client that Respondent was withdrawing from employment, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

COUNT FIVE

Case No. 15-O-13798  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

6. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letters of November 10, 2015, December 21, 2015 and January 26, 2016, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 15-O-13798 in willful violation of Business and Professions Code, section 6068(i).

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**NOTICE - INACTIVE ENROLLMENT!**

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.

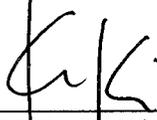
**NOTICE - COST ASSESSMENT!**

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: May 3, 2016

By:   
KIM KASRELIOVICH  
Senior Trial Counsel

DATED: May 3, 2016

By:   
MICHAELA F. CARPIO  
Deputy Trial Counsel

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 15-O-13798

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, CA 90017-2515, 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))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (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.: 9414 7266 9904 2010 0658 21 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: Stephen L Schwartz, 10573 W Pico Blvd #830 Los Angeles, CA 90064, 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: May 31, 2016

SIGNED: [Signature] JULI FINNILA Declarant