

PUBLIC MATTER

FILED

SEP - 7 2016

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

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STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of:) Case No. 15-O-14345
STEVEN MICHAEL SCULLY,) NOTICE OF DISCIPLINARY CHARGES
No. 263092,)
A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

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

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



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The State Bar of California alleges:

JURISDICTION

1. STEVEN MICHAEL SCULLY ("respondent") was admitted to the practice of law in the State of California on June 1, 2009, 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-14345
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

2. On or about March 14, 2015, Brian Drake employed respondent to perform legal services, namely to expunge the client's criminal convictions and obtain a certificate of rehabilitation, which respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by failing to take any steps to expunge the client's criminal convictions or obtain a certificate of rehabilitation.

COUNT TWO

Case No. 15-O-14345
Rules of Professional Conduct, rule 3-700(A)(2)
[Improper Withdrawal from Employment]

3. Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, Brian Drake, by constructively terminating respondent's employment on or about March 28, 2015, by failing to take any action on the client's behalf after sending a text message to the client on or about March 28, 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).

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COUNT THREE

Case No. 15-O-14345
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

4 4. On or about March 16, 2015, respondent received advanced fees of \$2,000 from a
5 client, Brian Drake, to expunge the client's criminal convictions and obtain a certificate of
6 rehabilitation. Respondent failed to take any steps to expunge the client's criminal convictions
7 or obtain a certificate of rehabilitation, or perform any legal services for the client, and therefore
8 earned none of the advanced fees paid. Respondent failed to refund promptly, upon respondent's
9 termination of employment on or about March 28, 2015, any part of the \$2,000 fee to the client,
10 in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

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COUNT FOUR

Case No. 15-O-14345
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

15 5. On or about March 16, 2015, respondent received from respondent's client, Brian
16 Drake, the sum of \$2,000 as advanced fees for legal services to be performed. Respondent
17 thereafter failed to render an appropriate accounting to the client regarding those funds following
18 respondent's termination of employment on or about March 28, 2015, in willful violation of the
19 Rules of Professional Conduct, rule 4-100(B)(3).

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COUNT FIVE

Case No. 15-O-14345
Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

24 6. Respondent failed to respond promptly to reasonable status inquiries consisting of
25 two text messages, three emails and 16 telephonic made by respondent's client, Brian Drake,
26 between on or about April 21, 2015, and on or about August 3, 2015, that respondent received in
27 a matter in which respondent had agreed to provide legal services, in willful violation of
28 Business and Professions Code, section 6068(m).

COUNT SIX

Case No. 15-O-14345
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

7. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to provide a response to the State Bar's letters of September 16, 2015, and October 2, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 15-O-14345, in willful violation of Business and Professions Code, section 6068(i).

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: September 7, 2016

By: 

SUSAN L. KAGAN
Senior Trial Counsel

1 **DECLARATION OF SERVICE BY CERTIFIED AND REGULAR MAIL**

2 **RE: SCULLY**
3 **CASE NOS.: 15-O-14345**

4 I, the undersigned, over the age of eighteen (18) years, whose business address and place of
5 employment is the State Bar of California, 180 Howard Street, San Francisco, California
6 94105, declare that I am not a party to the within action; that I am readily familiar with the
7 State Bar of California's practice for collection and processing of correspondence for mailing
8 with the United States Postal Service; that in the ordinary course of the State Bar of
9 California's practice, correspondence collected and processed by the State Bar of California
10 would be deposited with the United States Postal Service that same day; that I am aware that
11 on motion of party served, service is presumed invalid if postal cancellation date or postage
12 meter date on the envelope or package is more than one day after date of deposit for mailing
13 contained in the affidavit; and that in accordance with the practice of the State Bar of
14 California for collection and processing of mail, I deposited or placed for collection and
15 mailing in the City and County of San Francisco, on the date shown below, a true copy of the
16 within

17 **NOTICE OF DISCIPLINARY CHARGES**

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

21 **Article No. 9414 7266 9904 2069 9446 34**

22 **Steven Michael Scully**
23 **Law Office of Steven M. Scully**
24 **PO Box 3681**
25 **Modesto, CA 95352-3681**

26 **Steven Michael Scully**
27 **2140 Newton Ave.**
28 **San Jose, CA 95122**

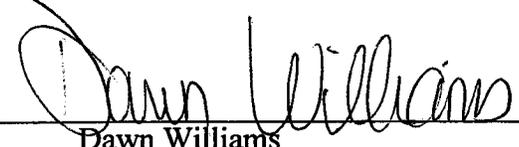
29 **(Courtesy Copy)**

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

31 N/A

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

34 DATED: September 7, 2016

35 Signed: 

36 Dawn Williams
37 Declarant