

PUBLIC MATTER

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FILED

MAR 21 2017

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

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of: JEFFREY BRYAN SMITH, No. 150095, A Member of the State Bar.)))))	Case No. 15-O-14891 NOTICE OF DISCIPLINARY CHARGES
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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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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Jeffrey Bryan Smith (“respondent”) was admitted to the practice of law in the State of
4 California on December 4, 1990, 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-14891
8 Rules of Professional Conduct, rule 3-110(A)
9 [Failure to Perform with Competence]

10 2. Prior to July 2, 2014, J. Evans¹ employed respondent to perform legal services,
11 namely to represent Evans in a bankruptcy proceeding and related adversary action entitled
12 *Trainor v. Evans*, United States Bankruptcy Court, Central District of California, case no. 2:14-
13 bk-22827-vz, which respondent intentionally, recklessly, or repeatedly failed to perform with
14 competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by:

- 15 a. failing to exchange documents and witness lists as required by Federal Rules of
16 Bankruptcy Procedure, rule 7026 by December 10, 2014, as agreed by the parties
17 in the Joint Status Report filed on or about November 5, 2014;
- 18 b. failing to exchange documents and witness lists as required by Federal Rules of
19 Bankruptcy Procedure, rule 7026 by January 6, 2015, despite having requested
20 and received an extension of time until January 6, 2015, to do so;
- 21 c. failing to respond to interrogatories propounded to Evans by January 6, 2015,
22 despite having requested and received an extension of time until January 6, 2015,
23 to do so;
- 24 d. failing to file a response on behalf of Evans to a motion filed and served on or
25 about February 12, 2015, for an order compelling Evans to answer interrogatories
26 without objection, precluding Evans from introducing any information, exhibits,
27 and witnesses that were not disclosed as required by Federal Rules of Bankruptcy

28 ¹ Only the first initial of the non-complaining client’s name is used for privacy considerations.

1 Procedure, rule 7026, and imposing sanctions against Evans in the amount of
2 \$4,070;

- 3 e. failing to respond to interrogatories propounded to Evans by March 29, 2015, as
4 ordered by the court on March 19, 2015. Respondent belatedly served responses
5 to the interrogatories without objection on or about May 7, 2015;
- 6 f. failing to appear at a properly-noticed deposition of Evans on or about April 14,
7 2015; and
- 8 g. failing to timely file a response on behalf of Evans to a motion for default
9 judgment against Evans filed and served on or about April 30, 2015. Respondent
10 belatedly filed an opposition to the April 30, 2015 motion for default judgment on
11 or about May 19, 2015.

12 COUNT TWO

13 Case No. 15-O-14891
14 Business and Professions Code, section 6103
15 [Failure to Obey Court Orders]

16 3. Respondent disobeyed or violated an order of the court of which he had knowledge
17 requiring respondent to do or forbear an act connected with or in the course of respondent's
18 profession which respondent ought in good faith to do or forbear, in willful violation of Business
19 and Professions Code, section 6103, by:

- 20 a. failing to comply with the March 19, 2015 Order Granting Motion Compelling
21 Defendant to Respond to Interrogatories in *Trainor v. Evans*, United States
22 Bankruptcy Court, Central District of California, case no. 2:14-bk-22827-vz,
23 which ordered respondent to serve responses to interrogatories on behalf of Evans
24 and pay sanctions of \$4,070 to J. Trainor by March 29, 2015;
- 25 b. failing to comply with the May 29, 2015 Order Granting, in Part, Motion for
26 Default Judgment Due to Violations of the Court's Prior Discovery Order and for
27 Failing to Attend Deposition; For Monetary Sanctions in *Trainor v. Evans*, United
28 States Bankruptcy Court, Central District of California, case no. 2:14-bk-22827-

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vz, which ordered respondent to pay monetary sanctions to Trainor’s attorney’s law firm in the amount of \$8,479 by June 5, 2015;

- c. failing to comply with the July 17, 2015 Order to Show Cause in *Trainor v. Evans*, United States Bankruptcy Court, Central District of California, case no. 2:14-bk-22827-vz, which ordered respondent to personally appear in court on August 27, 2015, for a hearing as to why he should not be held in civil contempt for violating the court’s May 29, 2015 Order;
- d. failing to comply with the August 18, 2015 Order Granting, in Part, Motion for Default Judgment Due to Violations of the Court’s Prior Discovery Order for Failing to Attend Deposition; For Monetary Sanctions in *Trainor v. Evans*, United States Bankruptcy Court, Central District of California, case no. 2:14-bk-22827-vz, which ordered respondent to pay monetary sanctions to Trainor’s attorney’s law firm in the amount of \$1,237 by September 4, 2015; and
- e. failing to comply with the September 3, 2015 Order Holding Attorney Jeffrey B. Smith in Civil Contempt in *Trainor v. Evans*, United States Bankruptcy Court, Central District of California, case no. 2:14-bk-22827-vz, which ordered respondent to pay monetary sanctions to Trainor’s attorney’s law firm in the amount of \$8,479 plus \$2,970 in additional costs no later than September 18, 2015.

COUNT THREE

Case No. 15-O-14891
Business and Professions Code, section 6068(o)(3)
[Failure to Report Judicial Sanctions]

- 4. 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, in willful violation of Business and Professions Code, section 6068(o)(3), by:
 - a. failing to report to the State Bar the \$4,070 in sanctions the court imposed on respondent on or about March 19, 2015, in connection with *Trainor v. Evans*,

1 United States Bankruptcy Court, Central District of California, case no. 2:14-bk-
2 22827-vz;

3 b. failing to report to the State Bar the \$8,479 in sanctions the court imposed on
4 respondent on or about May 29, 2015, in connection with *Trainor v. Evans*,
5 United States Bankruptcy Court, Central District of California, case no. 2:14-bk-
6 22827-vz;

7 c. failing to report to the State Bar the \$1,237 in sanctions the court imposed on
8 respondent on or about August 18, 2015, in connection with *Trainor v. Evans*,
9 United States Bankruptcy Court, Central District of California, case no. 2:14-bk-
10 22827-vz; and

11 d. failing to report to the State Bar the \$8,479 initial sanctions and an additional
12 \$2,970 in additional costs imposed on respondent on or about September 3, 2015,
13 in connection with *Trainor v. Evans*, United States Bankruptcy Court, Central
14 District of California, case no. 2:14-bk-22827-vz.

15 COUNT FOUR

16 Case No. 15-O-14891

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

19 5. Respondent failed to cooperate and participate in a disciplinary investigation pending
20 against respondent by failing to provide a substantive response to the State Bar's letters of
21 October 13, 2015, October 30, 2015, and September 23, 2016, which respondent received, the
22 State Bar's emails of February 12, 2016, and March 2, 2016, which respondent received, and the
23 State Bar's voicemail messages of January 20, 2016, and March 2, 2016, which respondent
24 received, that requested respondent's written response to the allegations of misconduct being
25 investigated in case no. 15-O-14891, in willful violation of Business and Professions Code,
section 6068(i).

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NOTICE - INACTIVE ENROLLMENT!

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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: March 21, 2017

By: _____

Michaela Carpio
Michaela 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-14891**

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, California 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))**
 - 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 Los Angeles.
- By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**
 - 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 Los Angeles.
- By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**
 - I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").
- By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**
 Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.
- By Electronic Service: (CCP § 1010.6)**
 Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

(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 0814 18 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)

Person Served	Business-Residential Address	Fax Number	COURTESY COPY VIA REGULAR 1 ST CLASS MAIL
Jeffrey Bryan Smith	Curd Galindo & Smith LLP 301 E. Ocean Blvd., Ste. 1700 Long Beach, CA 90802	Electronic Address	

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: March 21, 2017

SIGNED: 
 Sandra Reynolds
 Declarant