

**PUBLIC MATTER**

STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL
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FILED

SEP 24 2010

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:)	Case Nos. 17-O-00411 and 17-O-00412
STEVEN FRANKLYN HELFAND,)	NOTICE OF DISCIPLINARY CHARGES
No. 206667,)	
)	
and)	
)	
JOSEPH DARRELL PALMER,)	
No. 125147)	
)	
Members 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.

1 The State Bar of California alleges:

2 JURISDICTION

3 1. Steven Franklyn Helfand ("Helfand") was admitted to the practice of law in the State
4 of California on or about June 1, 2000, was a member at all times pertinent to these charges, and
5 is currently a member of the State Bar of California.

6 2. Joseph Darrell Palmer ("Palmer") was admitted to the practice of law in the State of
7 California on or about December 15, 1986, was a member at all times pertinent to these charges,
8 and is currently a member of the State Bar of California.

9 COUNT ONE

10 Case No. 17-O-00411
11 Business and Professions Code section 6068, subdivision (d)
12 [Seeking to Mislead a Judge]

13 3. On or about June 30, 2016, the Objection Of Jeanelle Branch To Proposed Settlement
14 And Notice Of Intent To Appear ("Objection") was filed on behalf of Jeanelle Branch
15 ("Branch") with the Claims Administrator in *Cynthia E. Spann v. J.C. Penney Corporation, Inc.*,
16 USDC Case No. 8:12-cv-00215-FMO-KES. The identifying information on the first page, the
17 signature page, and the certificate of service bear the name and/or typed signature of Helfand as
18 Branch's attorney of record; however, Helfand denies preparing the Objection, filing the
19 Objection, or representing Branch at any time. Helfand claims that he first learned that the
20 Objection had been filed using his identity upon receipt of the Reply Memorandum In Support
21 Of Motion For Attorney's Fees filed and served by Class Counsel on or about July 29, 2016.
22 Although Helfand denied preparing the Objection, filing the Objection or representing Branch to
23 Branch, opposing counsel, and the State Bar, Helfand intentionally took no action to notify the
24 United States District Court that he did not prepare the Objection, file the Objection, or represent
25 Branch, and thereby sought to mislead the judge or judicial officer by an artifice or false
26 statement of fact or law, in willful violation of Business and Professions Code section 6068,
27 subdivision (d).

28 ///

1 COUNT TWO

2 Case No. 17-O-00411
3 Business and Professions Code section 6106
4 [Moral Turpitude – Dishonesty to the Court]

5 4. On or about June 30, 2016, the Objection Of Jeanelle Branch To Proposed Settlement
6 And Notice Of Intent To Appear (“Objection”) was filed on behalf of Jeanelle Branch
7 (“Branch”) with the Claims Administrator in *Cynthia E. Spann v. J.C. Penney Corporation, Inc.*,
8 USDC Case No. 8:12-cv-00215-FMO-KES. The identifying information on the first page, the
9 signature page, and the certificate of service bear the name and/or typed signature of Helfand as
10 Branch’s attorney of record; however, Helfand denies preparing the Objection, filing the
11 Objection, or representing Branch at any time. Helfand claims that he first learned that the
12 Objection had been filed using his identity upon receipt of the Reply Memorandum In Support
13 Of Motion For Attorney’s Fees filed and served by Class Counsel on or about July 29, 2016.
14 Although Helfand denied preparing the Objection, filing the Objection, or representing Branch to
15 Branch, opposing counsel, and the State Bar, Helfand intentionally or grossly negligently took no
16 action to notify the United States District Court that he did not prepare the Objection, file the
17 Objection, or represent Branch, and thereby sought to dishonestly mislead the judge or judicial
18 officer.

19 5. Helfand thereby committed acts involving moral turpitude, dishonesty or corruption
20 in willful violation of Business and Professions Code section 6106.

21 6. A violation of section 6106 may result from intentional conduct or grossly negligent
22 conduct. Helfand is charged with committing intentional misrepresentation. However, should
23 the evidence at trial demonstrate that Helfand committed misrepresentation as a result of gross
24 negligence, Helfand must still be found culpable of violating section 6106 because
25 misrepresentation through gross negligence is a lesser included offense of intentional
26 misrepresentation.

27 ///

1 COUNT THREE

2 Case No. 17-O-00411
3 Business and Professions Code section 6104
4 [Appearing for Party without Authority]

5 7. On or about October 7, 2016, Helfand corruptly or willfully, and without authority,
6 appeared as attorney of record for a party, Jeanelle Branch ("Branch"), without her knowledge or
7 authorization, by filing a Notice Of Appeal Of The Judgment And Order Re: Motion For Final
8 Approval on behalf of Branch and two other parties in an action or proceeding, namely *Cynthia*
9 *E. Spann v. J.C. Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-FMO-KES, without
10 Branch's knowledge or consent, in willful violation of Business and Professions Code section
11 6104.

12 COUNT FOUR

13 Case No. 17-O-00411
14 Rules of Professional Conduct, Rule 3-310(B)(1)
15 [Conflict – Relationship with a Party or Witness]

16 8. Beginning on or about October 7, 2016 and continuing thereafter, Helfand accepted
17 and continued representation of multiple clients, Jeanelle Branch ("Branch"), W.R.E.,¹ and
18 P.S.S., in joint representation, by filing a Notice Of Appeal Of The Judgment And Order Re:
19 Motion For Final Approval ("Notice Of Appeal") on their behalf in an action or proceeding,
20 namely *Cynthia E. Spann v. J.C. Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-
21 FMO-KES, negotiating settlement and dismissal of the Notice Of Appeal, dismissing the Notice
22 Of Appeal, and disbursing the settlement proceeds from the settlement, without providing written
23 disclosure to Branch that respondent has a legal, financial, and personal relationship with a party,
24 namely W.R.E., and a legal and financial relationship with another party, namely P.S.S., in
25 Branch's same matter, in willful violation of the Rules of Professional Conduct, rule 3-
26 310(B)(1).

27 ¹ The Office of Chief Trial Counsel ("OCTC") provides the clients' initials in lieu of the
28 clients' full names to protect their privacy. OCTC will provide a key listing the clients' full
names to respondent and this court.

1 COUNT FIVE

2 Case No. 17-O-00411
3 Rules of Professional Conduct, rule 3-310(C)(1)
4 [Potential Conflict – Representing Multiple Clients]

5 9. Beginning on or about October 7, 2016 and continuing thereafter, Helfand accepted
6 and continued representation of multiple clients, Jeanelle Branch (“Branch”), W.R.E.,² and
7 P.S.S., in joint representation by filing a Notice Of Appeal Of The Judgment And Order Re:
8 Motion For Final Approval (“Notice Of Appeal”) on their behalf in an action or proceeding,
9 namely *Cynthia E. Spann v. J.C. Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-
10 FMO-KES, negotiating settlement and dismissal of the Notice Of Appeal, dismissing the Notice
11 Of Appeal, and disbursing the settlement proceeds from the settlement. At the time he accepted
12 and continued their joint representation, the interests of the clients potentially conflicted, but
13 Helfand failed to inform the clients of the relevant circumstances and of the actual and
14 reasonably foreseeable adverse consequences to the clients and failed to obtain the written
15 consent of each client, in willful violation of the Rules of Professional Conduct, rule 3-
16 310(C)(1).

17 COUNT SIX

18 Case No. 17-O-00411
19 Business and Professions Code section 6106
20 [Moral Turpitude – Misrepresentation to Client]

21 10. On or about October 14, 2016, Helfand orally told Lonnie Tiran (“Tiran”) that Class
22 Counsel in *Cynthia E. Spann v. J.C. Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-
23 FMO-KES (“*Spann v. J.C. Penney*”) was considering seeking sanctions against Tiran’s spouse
24 Jeanelle Branch (“Branch”) because of the filing of the Objection Of Jeanelle Branch To
25 Proposed Settlement And Notice Of Intent To Appear (“Objection”), but that Helfand’s filing of
26 a Notice Of Appeal Of The Judgment And Order Re: Motion For Final Approval (“Notice Of
27 Appeal”) on behalf of Branch and two other parties would protect Branch from those sanctions,
28 when Helfand knew those statements were false. By making these statements, Helfand thereby

² OCTC provides the clients’ initials in lieu of the clients’ full names to protect their privacy. OCTC will provide a key listing the clients’ full names to respondent and this court.

1 committed acts involving moral turpitude, dishonesty or corruption in willful violation of
2 Business and Professions Code section 6106.

3 11. Between on or about December 9, 2016 and on or about December 12, 2016, Helfand
4 stated in writing to Tiran that:

5 (A) opposing counsel "reached its payment limit which equated to a lowly 12.5k
6 for each appeal. They refused to pay and were threatening ... sanctions against
7 [Branch]" because the Objection that had been filed on her behalf (December 9, 2016 at
8 2:42 p.m.), when that was false;

9 (B) "[Tiran] indicated on behalf of [Branch], that [Helfand] should settle for
10 whatever [Helfand] thought was the maximum was based on [Helfand's] sole discretion
11 ... and everyone reached consensus. It would then be subject to the disclosed split."
12 (December 11, 2016 at 5:13 p.m.), which were false;

13 (C) Palmer "indicated to [Helfand that the] range [Palmer] provided to [Tiran] and
14 [Branch] was 500 dollars but [Palmer] could have said up to 1,000. [Tiran] confirmed
15 this range when we spoke and never claimed otherwise" (December 11, 2016 at 5:13
16 p.m.), which was false;

17 (D) Tiran told Helfand that distribution of the settlement proceeds to Palmer was
18 to compensate Palmer for legal services he provided to Branch and/or Tiran prior to the
19 effective date of Palmer's actual suspension from the practice of law and/or a purported
20 business transaction, which was false;

21 (E) "in the abundance of caution, [Helfand] filed an appeal on [Branch's] behalf"
22 which was misleading; and

23 (F) "The split was: [¶] Helfand group: 20,000 [¶] Branch: 12,500 [¶] [P.S.S.³]:
24 12,500 [¶] ... So, that is/was the deal with the split agreed upon" (December 12, 2016 at
25 9:00 a.m.), which was false.

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27
28 ³ OCTC provides the clients' initials in lieu of the clients' full names to protect their
privacy. OCTC will provide a key listing the clients' full names to respondent and this court.

1 12. By making these false statements, Helfand thereby committed acts involving moral
2 turpitude, dishonesty or corruption in willful violation of Business and Professions Code section
3 6106.

4 13. A violation of section 6106 may result from intentional conduct or grossly negligent
5 conduct. Helfand is charged with committing intentional misrepresentation. However, should
6 the evidence at trial demonstrate that Helfand committed misrepresentation as a result of gross
7 negligence, Helfand must still be found culpable of violating section 6106 because
8 misrepresentation through gross negligence is a lesser included offense of intentional
9 misrepresentation.

10 COUNT SEVEN

11 Case No. 17-O-00411

12 Business and Professions Code section 6106

13 [Moral Turpitude – Misrepresentation to Opposing Counsel]

14 14. On or about October 18, 2016, Helfand orally told attorney Matthew J. Zevin
15 (“Zevin”) that:

16 (A) Helfand knew Jeanelle Branch (“Branch”) prior to on or about June 30, 2016,
17 when the Objection Of Jeanelle Branch To Proposed Settlement And Notice Of Intent To
18 Appear (“Objection”) was filed on her behalf with the Claims Administrator in *Cynthia*
19 *E. Spann v. J.C. Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-FMO-KES
20 (“*Spann v. J.C. Penney*”), but by her “maiden” name and therefore, did not recognize her
21 name from the Objection, which was false;

22 (B) Helfand knew Branch’s spouse prior to on or about June 30, 2016, which was
23 false; and

24 (C) Branch prepared the Objection and put Helfand’s name on it without
25 Helfand’s authority because Branch thought that she needed to have an attorney’s name
26 on it, which was false.
27
28

15. By making these false statements, Helfand thereby committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

16. Between on or about November 1, 2016 and on or about November 4, 2016, Helfand and Zevin negotiated the settlement of the appeal that Helfand filed on behalf of Branch and two other parties in *Spann v. J.C. Penney*, including but not limited to telling Zevin that the parties he represented would dismiss the appeal in exchange for the sum of \$45,000, when Helfand knew that his agreements to settle and to dismiss the appeal were false and misleading because neither Branch nor her spouse authorized Helfand to settle or dismiss the appeal. Helfand thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

17. A violation of section 6106 may result from intentional conduct or grossly negligent conduct. Helfand is charged with committing intentional misrepresentation. However, should the evidence at trial demonstrate that Helfand committed misrepresentation as a result of gross negligence, Helfand must still be found culpable of violating section 6106 because misrepresentation through gross negligence is a lesser included offense of intentional misrepresentation.

COUNT EIGHT

Case No. 17-O-00411

Business and Professions Code section 6106

[Moral Turpitude – Misrepresentation to the Court and Opposing Counsel]

18. On or about November 4, 2016, Helfand filed with the court and served on opposing counsel an Unopposed Motion For Voluntary Dismissal of Appeal (“Motion For Dismissal”) on behalf of Jeanelle Branch (“Branch”) and two other parties in an action or proceeding, namely *Cynthia E. Spann v. J.C. Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-FMO-KES, when Helfand knew that the Motion For Dismissal and the statement in the Motion For Dismissal that Branch “hereby move[s] the Court [f]or an order dismissing the above captioned

1 appeal” was false and misleading. Helfand thereby committed an act involving moral turpitude,
2 dishonesty or corruption in willful violation of Business and Professions Code section 6106.

3 19. A violation of section 6106 may result from intentional conduct or grossly negligent
4 conduct. Helfand is charged with committing intentional misrepresentation. However, should
5 the evidence at trial demonstrate that Helfand committed misrepresentation as a result of gross
6 negligence, Helfand must still be found culpable of violating section 6106 because
7 misrepresentation through gross negligence is a lesser included offense of intentional
8 misrepresentation.

9 COUNT NINE

10 Case No. 17-O-00411
11 Rules of Professional Conduct, rule 3-310(D)
12 [Conflict - Aggregate Settlement]

13 20. Between on or about November 1, 2016 and on or about November 4, 2016, Helfand
14 represented two or more clients, namely, Jeanelle Branch, W.R.E.,⁴ and P.S.S., in settlement
15 discussions with opposing counsel, and entered into an aggregate settlement of the claims of the
16 clients with opposing counsel in an action or proceeding, namely *Cynthia E. Spann v. J.C.*
17 *Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-FMO-KES, in the sum of \$45,000,
18 and did not inform all clients of the relevant circumstances and of the actual and reasonably
19 foreseeable adverse consequences to the clients and obtain the written consent of each client to
20 the aggregate settlement, in willful violation of the Rules of Professional Conduct, rule 3-310(D).

21 COUNT TEN

22 Case No. 17-O-00411
23 Rules of Professional Conduct, rule 4-100(A)
24 [Failure to Maintain Client Funds in Trust Account]

25 21. On or about November 30, 2016, Helfand received on behalf of Helfand’s clients,
26 Jeanelle Branch (“Branch”), W.R.E.,⁵ and P.S.S., a wire transfer in the sum of \$45,000 to settle

27 ⁴ OCTC provides the clients’ initials in lieu of the clients’ full names to protect their
28 privacy. OCTC will provide a key listing the clients’ full names to respondent and this court.

⁵ OCTC provides the clients’ initials in lieu of the clients’ full names to protect their
privacy. OCTC will provide a key listing the clients’ full names to respondent and this court.

1 the aggregate claims of the clients in an action or proceeding, namely *Cynthia E. Spann v. J.C.*
2 *Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-FMO-KES in his client trust account
3 at Bank of America, xxxxxxxx9251,⁶ on behalf of the clients. Of this sum, Branch was entitled
4 to the approximate sum of \$15,000. Helfand failed to maintain a balance of \$15,000 on behalf of
5 the client in his client trust account, in willful violation of Rules of Professional Conduct, rule 4-
6 100(A).

7 COUNT ELEVEN

8 Case No. 17-O-00411
9 Business and Professions Code section 6106
[Moral Turpitude - Misappropriation]

10 22. On or about November 30, 2016, Helfand received on behalf of Helfand's clients,
11 Jeanelle Branch ("Branch"), W.R.E.,⁷ and P.S.S., a wire transfer in the sum of \$45,000 to settle
12 the aggregate claims of the clients in an action or proceeding, namely *Cynthia E. Spann v. J.C.*
13 *Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-FMO-KES in his client trust account
14 at Bank of America, xxxxxxxx9251,⁸ on behalf of the clients. Of that sum, Branch was entitled
15 to the approximate sum of \$15,000.

16 23. On or about November 30, 2016, Helfand willfully and intentionally misappropriated
17 the approximate sum of \$15,000 that Branch was entitled to receive. Helfand thereby committed
18 an act involving moral turpitude, dishonesty or corruption, in willful violation of Business and
19 Professions Code section 6106.

20 24. A violation of section 6106 may result from intentional conduct or grossly negligent
21 conduct. Helfand is charged with committing an intentional misappropriation. However, should
22 the evidence at trial demonstrate that Helfand misappropriated funds as a result of grossly
23 negligent conduct, Helfand must still be found culpable of violating section 6106 because

24
25 _____
26 ⁶ OCTC redacted the account number to protect the account and account holder.

27 ⁷ OCTC provides the clients' initials in lieu of the clients' full names to protect their
privacy. OCTC will provide a key listing the clients' full names to respondent and this court.

28 ⁸ OCTC redacted the account number to protect the account and account holder.

1 misappropriation through gross negligence is a lesser included offense of intentional
2 misappropriation.

3 COUNT TWELVE

4 Case No. 17-O-00411
5 Business and Professions Code section 6106
6 [Moral Turpitude – Misrepresentation to the State Bar]

7 25. On or about April 24, 2017 and on or about April 9, 2018, Helfand sent letters to the
8 State Bar that stated, in part, that:

9 (A) Helfand filed the Notice Of Appeal Of The Judgment And Order Re: Motion
10 For Final Approval (“Notice Of Appeal”) on behalf of Jeanelle Branch (“Branch”) and
11 two other parties in *Cynthia E. Spann v. J.C. Penney Corporation, Inc.*, USDC Case No.
12 8:12-cv-00215-FMO-KES (“*Spann v. J.C. Penney*”) without authorization from Branch
13 “out of the abundance of caution, as [Helfand] could not track her down in time prior to
14 expiration of the appellate deadline (April 24, 2017 at p. 13),” which was false;

15 (B) Tiran authorized Helfand to settle, including but not limited to for “anything
16 [Branch] could get, whatever the amount” (April 24, 2017 at p. 16.), which was false;

17 (C) Helfand and Tiran “extensively discussed how any distribution would be
18 split” (April 24, 2017 at p. 16), which was false;

19 (D) “Tiran indicated and confirmed the agreement with Mr. Palmer was that he
20 would receive a monetary range of \$500-\$1,000” (April 24, 2017 at p. 17), which was
21 false;

22 (E) “[Helfand] asked Mr. Tiran to send me a copy of any written agreement with
23 Mr. Palmer since a range of settlement as indicated made me uncomfortable as to how
24 much of the proceeds should actually be directed to Branch. In spite of indicating he
25 would do so, Tiran never conveyed the written retainer agreement” (April 24, 2017 at p.
26 17), which was false;

27 (F) “[Helfand] inquired as to the handling of any funds received and Mr. Tiran
28 suggested that the funds be distributed to Mr. Palmer who would then distribute the

1 proceeds pursuant to their operative agreement. Mr. Tiran suggested that he owed Mr.
2 Palmer some money for a boat generator and that the amount was considerable and that
3 Tiran expected that Branch would only receive a modest some [sic] of the proceeds, if
4 any at all. I told Mr. Tiran that those issues were not something that I would get involved
5 with since I knew nothing about them, but that I would follow his express instruction that
6 Mr. Palmer receive the funds payable to his trust account; with distribution then directed
7 to Branch in accordance with their agreement.” (April 24, 2017 at pp. 19-20), which was
8 false;

9 (G) opposing counsel in *Spann v. J.C. Penney* threatened to file a “motion for
10 sanctions against Branch” (April 24, 2017 at p. 24), which was false;

11 (H) “Mr. Tiran and his partner, Ms. Branch, were never my clients at any time,
12 they put my name, perhaps with Darrell Palmer’s assistance and/or connivance on a
13 pleading” (April 9, 2018 at p. 2; see also April 9, 2018 at pp. 4 to 6), which was false;

14 (I) “[Helfand] included [Branch] on a joint appeal; something which is routinely
15 done without creating any attorney client relationship and something actually suggested
16 by the Federal Rules of Appellate Procedure, cases, and commentary” (April 9, 2018 at p.
17 9), which was false; and

18 (J) “[Helfand] had multiple communications with Mr. Tiran as to the status of
19 negotiations with class counsel; ultimately culminating in the agreement and fee split, ...
20 Everything was vetted and approved by everyone involved. The split as previously noted
21 had \$20,000 to [W.R.E.⁹] (for which I retained \$10,000), \$12,500 to [P.S.S.], and
22 \$12,500 to Palmer/Tiran/Branch pursuant to their express instructions” (April 9, 2018 at
23 p. 11), which was false.

24 26. Helfand thereby committed acts involving moral turpitude, dishonesty or corruption
25 in willful violation of Business and Professions Code section 6106.

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28 ⁹ OCTC provides the clients’ initials in lieu of the clients’ full names to protect their
privacy. OCTC will provide a key listing the clients’ full names to respondent and this court.

27. A violation of section 6106 may result from intentional conduct or grossly negligent conduct. Helfand is charged with committing intentional misrepresentation. However, should the evidence at trial demonstrate that Helfand committed misrepresentation as a result of gross negligence, Helfand must still be found culpable of violating section 6106 because misrepresentation through gross negligence is a lesser included offense of intentional misrepresentation.

COUNT THIRTEEN

Case No. 17-O-00412
Business and Professions Code section 6106
[Moral Turpitude - Dishonesty]

28. On or about November 30, 2016, Palmer received a wire transfer from Helfand for \$12,500 from Helfand's settlement of the claims of Jeanelle Branch ("Branch") in an action or proceeding, namely *Cynthia E. Spann v. J.C. Penney Corporation, Inc.*, USDC Case No. 8:12-cv-00215-FMO-KES. Palmer did not have any right to receive or retain the \$12,500 from Helfand concerning Branch.

29. On or about December 2, 2016, Palmer returned the sum of \$1,000 via wire transfer to Helfand as requested by Helfand to send to Branch, which Helfand received and forwarded via Cashier's Check to Branch.

30. Palmer willfully and dishonestly retained the sum of \$11,500 that Branch was entitled to receive by failing and refusing to return that sum to Helfand and/or Branch. Palmer thereby committed an act involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106.

31. A violation of section 6106 may result from intentional conduct or grossly negligent conduct. Palmer is charged with committing an intentional misappropriation. However, should the evidence at trial demonstrate that Palmer misappropriated funds as a result of grossly negligent conduct, Palmer must still be found culpable of violating section 6106 because misappropriation through gross negligence is a lesser included offense of intentional misappropriation.

1 COUNT FOURTEEN

2 Case No. 17-O-00412

3 Business and Professions Code section 6068, subdivision (j)
4 [Failure to Update Membership Address]

5 32. In or about October 2014, Palmer vacated Palmer's office at the address maintained
6 on the official membership records of the State Bar and thereafter failed to comply with the
7 requirements of Business and Professions Code, section 6002.1, by failing to notify the State Bar
8 of the change in Palmer's address within 30 days, in willful violation of Business and
9 Professions Code section 6068, subdivision (j).

10 COUNT FIFTEEN

11 Case No. 17-O-00412

12 Business and Professions Code section 6068, subdivision (i)
13 [Failure to Cooperate in State Bar Investigation]

14 33. Palmer failed to cooperate and participate in a disciplinary investigation pending
15 against Palmer by failing to provide a substantive response to the State Bar's letters of April 3,
16 2017 and February 20, 2018, which Palmer received, that requested Palmer's response to the
17 allegations of misconduct being investigated in case no. 17-O-00412, in willful violation of
18 Business and Professions Code section 6068, section (i).

19 NOTICE - INACTIVE ENROLLMENT!

20 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
21 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
22 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
23 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
24 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
25 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
26 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
27 RECOMMENDED BY THE COURT.**

28 NOTICE - COST ASSESSMENT!

**IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS**

///

1 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
2 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
3 PROFESSIONS CODE SECTION 6086.10.

4 Respectfully submitted,

5 THE STATE BAR OF CALIFORNIA
6 OFFICE OF CHIEF TRIAL COUNSEL

7 DATED: September 24, 2018

8 By: 

9 Charles T. Calix
10 Senior Trial Counsel
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DECLARATION OF SERVICE

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

CASE NUMBER(s): 17-O-00411 and 17-O-00412

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, 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))

☐

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 2111 0149 64

at Los Angeles, addressed to: (see below)

9414 7266 9904 2111 0149 71

☐

(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 to:
Steven F. Helfand	900 West Ave Apt 701 Miami Beach, FL 33139-5212	Electronic Address	
Joseph D. Palmer	Law Offices of Darrell Palmer 301 7 th Street Nocona, TX 76255-2805		

☐

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

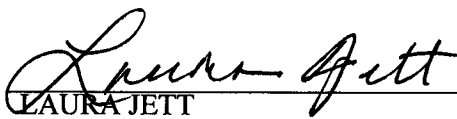
I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence 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: September 24, 2018

SIGNED:


LAURA JETT

Declarant

State Bar of California
DECLARATION OF SERVICE