

PUBLIC MATTER

FILED

MAR 25 2011

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

1 STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
2 JAMES E. TOWERY, No. 74058
CHIEF TRIAL COUNSEL
3 RUSSELL G. WEINER, No. 94504
DEPUTY CHIEF TRIAL COUNSEL
4 LAWRENCE J. DAL CERRO, No. 104342
ASSISTANT CHIEF TRIAL COUNSEL
5 DONALD R. STEEDMAN, NO. 104927
SUPERVISING TRIAL COUNSEL
6 SUSAN CHAN, No. 233229
ASSIGNED DEPUTY TRIAL COUNSEL
7 180 Howard Street
San Francisco, California 94105-1639
8 Telephone: (415) 538-2384

10 STATE BAR COURT

11 HEARING DEPARTMENT - SAN FRANCISCO

13 In the Matter of:) Case No. 11-O-11361
14 Wendell D. Peters,)
No. 150132,) NOTICE OF DISCIPLINARY CHARGES
15)
16 A Member of the State Bar)

17 **NOTICE - FAILURE TO RESPOND!**

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

- 20 (1) **YOUR DEFAULT WILL BE ENTERED;**
21 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
WILL NOT BE PERMITTED TO PRACTICE LAW;
22 (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;
23 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
24 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
25 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**
26 **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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The State Bar of California alleges:

JURISDICTION

1. Wendell D. Peters ("respondent") was admitted to the practice of law in the State of California on December 4, 1990, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

Case No. 11-O-11361
Business and Professions Code, section 6068(k)
[Failure to Comply With Conditions of Probation]

2. Respondent willfully violated Business and Professions Code, section 6068(k), by failing to comply with all conditions attached to any disciplinary probation, as follows:

3. On July 22, 2010, the California Supreme Court filed a disciplinary order in State Bar Court case number 06-O-15339 et alia (Supreme Court Case Number S183013).

4. The order became effective on August 21, 2010 (California Rules of Court, rule 9.18(a)), and at all times subsequent has remained in full force and effect.

5. Notice of the rule 9.20 order was properly served upon respondent (California Rule of Court 9.18(b)).

6. The July 22, 2010, disciplinary order mentioned above placed respondent on disciplinary probation for five years, beginning on the date the disciplinary order became effective, and required him to comply with the conditions of probation contained in the stipulation approved by Hearing Department of the State Bar Court in its Order filed on February 11, 2010.

7. At all times subsequent to August 21, 2010, respondent has remained on disciplinary probation and the probation conditions mentioned above have remained in full force and effect.

//
//

1 **8. QUARTERLY REPORTING CONDITION:**

2 (a) One of the conditions of probation provided as follows:

3
4 “Respondent must submit written quarterly reports to the Office of Probation on each
5 January 10, April 10, July 10, and October 10 of the period of probation. Under penalty
6 of perjury, Respondent must state whether Respondent has complied with the State Bar
7 Act, the Rules of Professional Conduct, and all conditions of probation during the
8 preceding calendar quarter. Respondent must also state whether there are any proceedings
9 pending against him or her in the State Bar Court and if so, the case number and current
10 status of that proceeding. If the first report would cover less than 30 days, that report
11 must be submitted on the next quarter date, and cover the extended period.

12 “**In addition to all quarterly reports, a final report, containing the same information, is due
13 no earlier than twenty (20) days before the last day of the period of probation and no later
14 than the last day of probation.**”

15 (b) The conditions of probation required that, in each quarterly report, respondent provide
16 information certifying his attendance at self-help groups and information concerning his
17 handling of client trust accounts.

18 (c) Respondent violated the quarterly reporting condition by failing to timely submit his
19 quarterly report for the third quarter of 2010. Although he submitted an email of this quarterly
20 report on October 8, 2010, respondent did not submit a version with an original signature until on
21 or about November 10, 2010.

22 **9. RESTITUTION CONDITION**

23 (a) One of the conditions of probation provides as follows:

24 **“a. Restitution**

25 **[x]** Respondent must pay restitution (including the principal amount, plus interest of
26 10% per annum) to the payee(s) listed below. If the Client Security Fund (“CSF”)
27 has reimbursed one or more of the payee(s) for all or any portion of the principal
28 amount(s) listed below, Respondent must also pay restitution to CSF in the
 amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Steven Gilger	\$2,500	September 12, 2006
Barbara Sherman	\$2,500	July 8, 2006

Norell Porter	\$2,500	November 17, 2006
James Durell	\$3,500	September 2006

Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

"b. Installment Restitution Payments

Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Steven Gilger	\$25.00	First day of the month
Barbara Sherman	\$25.00	First day of the month
Norell Porter	\$25.00	First day of the month
James Durell	\$25.00	First day of the month

//
//
//
//
//
//
//
//
//
//
//
//
//

1 (b) Respondent violated this condition of probation by making some of the required
 2 minimum \$25 payments late and failing make some required minimum payments at all, as
 3 follows:
 4

Payee	Date Payment Due	Date Payment Made
Steven Gilger	September 1, 2010	If payment he made any of these payments, respondent made them on or after October 7, 2010.
Barbara Sherman	September 1, 2010	
Norell Porter	September 1, 2010	
James Durell	September 1, 2010	
Steven Gilger	October 1, 2010	The State Bar alleges that respondent has not made any of these required payments. This allegation is based upon: (1) respondent's failure to provide proof of any of these restitution payments to the Office of Probation, (2) respondent's admission in his November 10, 2010 quarterly report that he was "not in compliance" with the restitution condition, and (3) respondent's failure to provide any information about restitution compliance in his January 10, 2011 quarterly report.
Barbara Sherman	October 1, 2010	
Norell Porter	October 1, 2010	
James Durell	October 1, 2010	
Steven Gilger	November 1, 2010	
Barbara Sherman	November 1, 2010	
Norell Porter	November 1, 2010	
James Durell	November 1, 2010	
Steven Gilger	December 1, 2010	
Barbara Sherman	December 1, 2010	
Norell Porter	December 1, 2010	
James Durell	December 1, 2010	

14 (c) Respondent also violated the restitution condition by failing to submit satisfactory
 15 proof of payment to the Office of Probation as follows.
 16

Payee	Date Payment Due	Proof of Payment Due Date	Date Proof of Payment Submitted
Steven Gilger	September 1, 2010	October 10, 2010	On October 7, 2010, respondent submitted from copies of the front of cashier's checks for these four payments, but never submitted proof that the checks had been received by the payees.
Barbara Sherman	September 1, 2010		
Norell Porter	September 1, 2010		
James Durell	September 1, 2010		
Steven Gilger	October 1, 2010	January 10, 2011	Respondent has submitted no proof that he has made any of these payments.
Barbara Sherman	October 1, 2010		
Norell Porter	October 1, 2010		
James Durell	October 1, 2010		
Steven Gilger	November 1, 2010		
Barbara Sherman	November 1, 2010		
Norell Porter	November 1, 2010		
James Durell	November 1, 2010		
Steven Gilger	December 1, 2010		
Barbara Sherman	December 1, 2010		
Norell Porter	December 1, 2010		

NOTICE - INACTIVE ENROLLMENT!

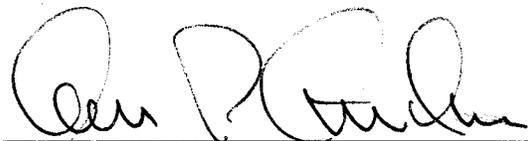
YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. 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 THE CHIEF TRIAL COUNSEL



By: Donald R. Steedman
Supervising Trial Counsel

SUSAN CHAN, No. 233229
ASSIGNED DEPUTY TRIAL COUNSEL

DATED: March 24, 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF SERVICE BY CERTIFIED MAIL AND REGULAR MAIL

CASE NUMBER: 11-O-11361

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that 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; that 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; that I am aware that on motion of 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; and that 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 San Francisco, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as *certified mail, return receipt requested*, **Article No.: 7160 3901 9848 1845 8270**, and in an additional sealed envelope as *regular mail* at San Francisco, on the date shown below, addressed to:

**Wendell D. Peters
Law Ofc Wendell D Peters
130 Maple St., Ste. 102
Auburn, CA 95603**

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

N/A

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

DATED: March 25, 2011

Signed: 
Paula H. D'Oyen
Declarant