

1 DANIEL K. LAK, State Bar No. 216983
2 18101 Von Karman Ave. Suite 330
3 Irvine, CA 92612
4 Phone: (949) 225-4477
5 Fax: (949) 225-4478

6 DANIEL K. LAK, IN PRO PER

FILED
OCT - 1 2012 *Per Court ok to file*
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

7 STATE BAR COURT
8 HEARING DEPARTMENT - LOS ANGELES

9 IN THE MATTER OF:

10 DANIEL KRISTOF LAK
11 STATE BAR NO. 216983,
12 A MEMBER OF THE STATE BAR.

Case No.: 12-0-11263

DANIEL KRISTOF LAK'S SPECIFIC
DENIALS TO COUNTS ONE AND TWO,
AND OBJECTION TO NOTICE OF
DISCIPLINARY CHARGES; EXHIBITS;
VERIFICATION.



16 I. SUMMARY

17 The State Bar brings this action against Respondent alleging violations of Rule 4-100 (A) and
18 Business and Professions Code Section 6106. Both the Rule and Code Section mentioned above
19 pertain specifically to attorney client trust accounts. Here, the bank account in question *is not* an
20 attorney client trust account and, therefore, the aforementioned Rule and Code Section mentioned
21 above do not apply. Therefore, Respondent has committed no violation of the Rules of Professional
22 Conduct.

23 II. DISCUSSION

24 DANIEL KRISTOF LAK was admitted to practice law in the State of California on
25 December 3, 2001. MR. LAK practices law primarily in the area of drafting wills and trusts and has
26 at all times since admission to the bar been a member thereof in good standing. MR. LAK has at no
27 time *ever* been subject to disciplinary charges in the ten years he has been practicing law.

28 In 2003, MR. LAK opened an "Attorney Client Trust Account" with Washington Mutual
Bank (See Exhibit A). The account ending in 1377 was titled as follows:

1 Daniel K. Lak
2 Attorney Client Trust Account

3 MR. LAK's law partner at the time, Stephen M. Rochford, was also a signer on the account.
4 A bank statement from December 2007 shows the account titled in such a manner and is provided in
5 Exhibit B.

6 In April of 2008, Mr. LAK directed the account title to be changed from "Attorney Client
7 Trust Account" to "DANIEL K. LAK, Attorney At Law" as it was no longer to be used as a client
8 trust account (See Exhibit C).

9 From that date forward, all bank documents pertaining to this account (i.e., bank statements
10 and checks) *never* contained the words "Trust Account," "Client's Funds Account" or words of
11 similar import" as required by Rule 4-100 (A) (See Exhibit D).

12 This is because the account was the general operating account for the Law Offices of Daniel
13 K. Lak and *not* an attorney client trust account.

14 The changing of the account title was accomplished with the aid of Laynie Nguyen, Senior
15 Personal Financial Representative with Washington Mutual Bank who informed MR. LAK that she
16 was successful in changing the account name.

17 Ms. Nguyen was also instructed to change the social security number on the account to that
18 of MR. LAK. (See Exhibit D, email correspondence between MR. LAK and Ms. Nguyen).

19 Again, at no time following the re-naming of the account, did any bank document associated
20 with the account (i.e., bank statements or checks) contain statements such as "Trust Account,"
21 "Client Funds Account," or any other words of similar import that would identify the account as a
22 client trust bank account.

23 The account was specifically designed to be the general operating account for "DANIEL K.
24 LAK, Attorney At Law" and NOT an attorney client trust account.

25 III. THE LAW

26 Rule 4-100 (A) of the Rules of Professional Conduct states the following:
27
28

1 "All funds received or held for the benefit of clients by a member or law firm, including
2 advances for costs and expenses, shall be deposited in one or more identifiable bank accounts
3 labeled "Trust Account," "Client's Funds Account" or words of similar import"
4

5 Furthermore, the California State Bar Handbook On Client Trust Accounting also states:

6 "the name of any account where you keep your clients' money must clearly tell the bank,
7 your clients, your employees, the State Bar, the people you pay out your clients' funds to and
8 everyone else that it is a client trust bank account"

9 Here, at no time following the re-naming of the Washington Mutual account ending in 1377
10 from "Attorney Client Trust Account" to "DANIEL K. LAK, ATTORNEY AT LAW" did either the
11 bank statements, the checks for the account, or any correspondence from the Bank to MR. LAK
12 whatsoever, contain the words "Trust Account," "Client's Funds Account" or "words of similar
13 import."

14 This was because the account ceased to exist as an attorney client trust account when the
15 account title was changed.

16 IV. PROCEDURAL ERRORS COMMITTED BY THE OFFICE OF THE TRIAL
17 COUNSEL.

18 The Trial Counsel did not provide notice to the Respondent when it issued its investigative
19 subpoenas to Respondent's bank in violation of Rule 5.60 regarding Investigative Subpoenas. This
20 violation by the Trial Counsel of the rules of procedure of the State Bar Court resulted in the
21 Respondent being prevented from properly bringing a motion to quash under Rule 5.60 (E) which
22 states:

23 The sole basis for a motion to quash a trust account financial records subpoena is that the
24 records sought are not trust account financial records that the member must maintain under
25 the Rules of Professional Conduct.

26
27 Because the Trial Counsel did not provide notice to the Respondent of its investigative
28 Subpoenas in violation of Rule 5.60, Respondent's remedies under the same Rule were prejudiced.

1 by the State Bar Rules of Procedure, Respondent's position has been extremely prejudiced and he
2 has been subsequently deprived of his remedies under these very same Rules.

3 //

4 //

5 1. SPECIFIC DENIAL OF COUNT ONE:

6
7 DANIEL LAK specifically denies the allegations contained in Count One of the Chief Trial
8 Counsel's Notice of Disciplinary Charges on the grounds that the bank account in question was not a
9 client trust account as defined by Rule 4-100 (A).

10 The discussion regarding the bank account in question above is incorporated here by
11 reference.

12 Because the account was not a client trust account as defined by Rule 4-100 (A), Count One
13 of the Chief Trial Counsel's Notice of Disciplinary Charges should be dismissed.

14
15 2. SPECIFIC DENIAL OF COUNT TWO:

16
17 DANIEL LAK specifically denies the allegations contained in Count Two of the Chief Trial
18 Counsel's Notice of Disciplinary Charges on the grounds that the bank account in question was not a
19 client trust account.

20 The discussion regarding the bank account in question above is incorporated here by
21 reference.

22 Because the account was not a client trust account as defined by Rule 4-100 (A), Count Two
23 of the Chief Trial Counsel's Notice of Disciplinary Charges should be dismissed.

24
25 DATED: August 7, 2012

26
27
28 By:


DANIEL K. LAK, Respondent

- EXHIBIT A -

COMP NO 02	OWN CODE 01	PRODUCT DDA	FC NUMBER 0917	ACCOUNT NUMBER 0490-0000411137-7
1. ACCOUNT TITLE STEPHEN M ROCHFORD				
2. ACCOUNT TITLE DANIEL K LAK				
3. ACCOUNT TITLE ATTORNEY CLIENT TRUST ACCOUNT				
4. ACCOUNT TITLE				
ADDRESS (CITY, STATE, ZIP CODE - GIVE PROVINCE AND COUNTRY - IF NOT IN U.S.A.) 901 PROMONTORY DR W NEWPORT BEACH, CA 92660-7368				
TAX ID 550-77-8925	PERSONAL PHONE (949) 706-9010	BUSINESS PHONE (714) 838-5327		
DATE OPENED 03/13/2003	BY MP	TAX LINK 1	DATE CHANGED	APPROVAL CODE ESTABLISHED
CUSTOMER INFORMATION STEPHEN M ROCHFORD				
DATE OF BIRTH 07/14/1968	BIRTHPLACE	MOTHER'S MAIDEN NAME	SEX M	TAXID 550-77-8925
IDENTIFICATION DRIVERS LICENSE C4608680 CA 08/03/1994				APPROVAL CODE
The account opened under this Master Account Agreement shall be of the following type: IOLTA.				01 / 24
The type of account is described in detail in the Account Disclosures and Regulations				

Number of signatures required (see paragraph 3 below): **1**

- The Depositor shall be bound by the Bank's Account Disclosures and Regulations, and all amendments thereto, from time to time in effect. Such provisions are by this reference made a part of this Agreement as if set forth herein in full. All accounts, products or services opened shall remain open and in effect until they terminate in accordance with their own terms or until Bank terminates them or receives termination notice from Depositor, owner or signer in form satisfactory to Bank. Not all accounts, products and services offered by Bank may be available to Depositor.
- This Agreement shall govern all accounts, products and services opened by Depositor in the capacity as indicated at the time of signing this Agreement and all other accounts, products and services that Depositor may from time to time authorize the Bank to open under this Agreement, in that ownership capacity. Such authorization may be in writing, in person, by telephone or other means as Bank may accept, at its option, or by Depositor's use of such without specific authorization (except as required by law). Depositor and each owner or signer, if more than one, agrees that any other of them may authorize Bank to open or provide other accounts, products or services from time to time in the same ownership capacity. Further, Depositor and each owner or signer, if more than one, appoints each other his attorney-in-fact to endorse, cash or deposit, any checks or drafts payable to the order of any one or more of them. This power of attorney shall not be affected by the subsequent incapacity of any owner, signer or Depositor.
- Instructions to permit withdrawal upon more than one signature apply only to checks and in-person transactions taking place in a branch. Other withdrawal or transfer transactions may be paid on the authorization of any one signer notwithstanding any instructions to the contrary, or, at its option, Bank may refuse such transaction and require joint written instructions. Without limiting the foregoing, funds in the account may be paid for accounts authorized for such: (a) upon checks, receipts, orders or drafts signed in Depositor's or agent's name by the prescribed number of authorized persons as set forth above; (b) pursuant to electronic, telephone or automated instructions using a personal identification number or; (c) pursuant to telephonic instructions from any agent or person purporting to be an agent of Depositor so long as such funds are transferred to an account in the name of Depositor or check is made payable to the Depositor. Notwithstanding the foregoing, Bank shall not be liable for any refusal or failure to make transfers or withdrawals pursuant to telephonic instructions. Except for Consumer Accounts as defined in the Account Disclosures and Regulations, depositor agrees that so long as a personal identification number is used or the agent or the purported agent identifies him or herself to Bank's satisfaction, every such payment/transfer of funds shall be at the sole risk of Depositor until Bank receives written revocation regarding such authorization applicable to future transactions.
- Most disputes arising under this Agreement related to accounts or services hereunder are subject to mandatory binding arbitration. Rights to trial by a judge or jury are waived hereby. Bank must be notified by Depositor of claims and proceedings to enforce any such claims must be brought, within the time requirements established in the Account Disclosures and Regulations.

TAX CERTIFICATION - UNDER PENALTIES OF PERJURY I CERTIFY THAT:

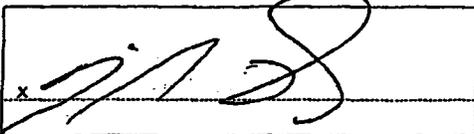
- The Tax ID number shown on this form is my correct Taxpayer Identification Number.
- I certify that I am not subject to backup withholding because (a) I have not been notified that I am subject to backup withholding as a result of a failure to report all interest or dividends, (b) the Internal Revenue Service has notified me that I am no longer subject to backup withholding, or (c) this account is owned by an entity exempt from backup withholding.
- Check this box if you are subject to backup withholding and can not certify the provisions of (2) above.
- If this box is checked, the above 1-3 of the Tax Certification do not apply because (a) I am not a United States person or (b) I am an individual and am neither a citizen nor a resident of the United States. I will complete the IRS form W-8BEN. (c) If this box is not checked, I am a U.S. person (including U.S. resident alien).

By signing below, I/we agree to be bound by the terms and conditions of this Master Account Agreement (the "Agreement") as set forth herein, and make the tax certification set forth above. In addition, I/we acknowledge receipt of the Account Disclosure and Regulations Relating to Deposit Accounts and Other Service and Electronic Funds Transfer Agreement and Disclosure ("Account Disclosure and Regulations"). Deposit are insured by the FDIC to the maximum amount permitted by law. THE INTERNAL REVENUE SERVICE DOES NOT REQUIRE YOUR CONSENT TO ANY PROVISION OF THIS DOCUMENT OTHER THAN THE CERTIFICATIONS REQUIRED TO AVOID BACKUP WITHHOLDING.

02

0490-0000411137-7

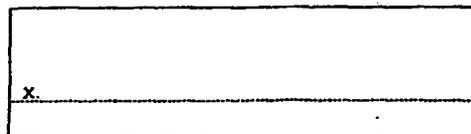
DANIEL K LAK

X 

Please sign within the box

SPECIAL

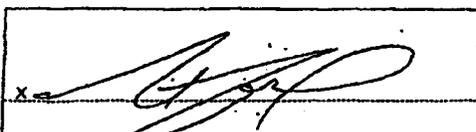
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Please sign within the box

Thumb Print

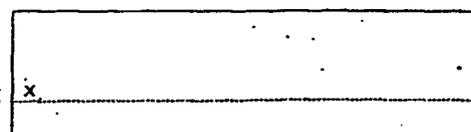
STEPHEN M ROCHFORD

X 

Please sign within the box

SPECIAL

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X 

Please sign within the box

Thumb Print

- EXHIBIT B -

Account # 49041137
 Cycle Date: 2007-12-31
 Total 1 Items: 1
 Total 3 Pages: 3

Print
 All Items
 Statement Only
 Statement with Items
 Reset

P.O. BOX 295
 CHANSHEN, CA 94529
 STEPHEN M ROCKFORD
 DANIEL K LAK
 ATONEY CLIENT TRUST ACCOUNT
 1810 VON KARMAN AVE STE 330
 IRVINE CA 92612-0146

This statement covers
 From: 12/01/07
 Through: 12/31/07
 To reach us anytime
 call 1-800-788-7000
 or visit us at wam.com

Pooled Client Checking Detail Information

STEPHEN M ROCKFORD
 DANIEL K LAK
 ATONEY CLIENT TRUST ACCOUNT
 Washington Mutual Bank, FA
 Account Number: 490-41137-7

Running a business can be time-consuming and there's always more to do. However, help is available. Let Paychex take care of your payroll processing. Paychex has the products and services to meet your business' needs, starting with comprehensive payroll processing and payroll tax return filing. To get your FREE payroll analysis and to learn how Paychex can save you time, call or visit your local Wash Mutual Financial Center today.

Account Summary	
Beginning Balance	\$5,720.31
Interest Earned	-50.00
Annual Percentage Yield Earned	0.85%
Deposits	\$39.40
Electronic & Misc. Deposits	\$2.33
Card Purchases/ATM Withdrawals	0.00
Electronic & Misc. Withdrawals	-2.33
Checks Paid	-2,609.79
Service Fees	0.00
Ending Balance	\$3,160.82

Date	Amount	Description
12/04	50.00	Customer Deposit
Deposits		

Date	Amount	Description	Card Number
12/31	2.33	Interest Paid By Transfer Deposit	
Electronic & Miscellaneous Deposits			

Date	Amount	Description
12/31	2.33	Interest Paid By Transfer Withdrawal
Electronic & Miscellaneous Withdrawals		

Dec. 2007 Statement

Cline, Alecia R

Sent: Tuesday, August 07, 2012 3:40 PM

To: Lopez, Anthony X2

Item Images - Windows Internet Explorer provided by JPMorgan Chase & Co. Close this window

Result

Cycle Date: 2007-12-31
Account #: 4904111377

Print Fax Mail PDF

Total 1 Items:
[Prev](#) [Next](#)

Total 3 Pages:

[Prev](#) [Next](#)

1 2 3

This Statement Covers
Account Number: 490-411137-7
From: 12/01/07
Through: 12/31/07

Print

Total: 1 Items, 3 pages

All Items

Item Range:

(One or range of items. Ex: 1, 5-12)

Statement Only

Statement with Items

Checks Paid					
Check Number	Amount	Date	Check Number	Amount	Date
607	750.00	12/03	618	25.00	12/19
608	50.00	12/04	614	732.00	12/24
609	350.00	12/06	615	25.00	12/20
611*	332.79	12/13	616	25.00	12/28
612	320.00	12/24			
9 Items		\$2,808.79	*Indicates check out of sequence		

Account Activity Summary			
Average Collected Balance	\$4,228.69	Minimum Daily Ending Balance	\$3,160.52
Checks Deposited	1	Cash Deposited	50.00
Number of Deposits	2	Cash Purchased	50.00
Checks/Debits	9		

*As of the statement end date, the fee for any Non-SAME Day Funds transaction, whether paid or returned, was \$30.00 per transaction.

Page 2 of 2

Deposits are FDIC Insured Member FDIC

- EXHIBIT C -

COMP NO	02	OWN CODE	1	PRODUCT	DDA	FC NUMBER	00917	ACCOUNT NUMBER	0490-0000411137-7
1. ACCOUNT TITLE DANIEL K LAK, ATTORNEY AT LAW									
2. ACCOUNT TITLE IOLTA ACCOUNT									
3. ACCOUNT TITLE									
4. ACCOUNT TITLE									
ADDRESS (CITY, STATE, ZIP CODE - GIVE PROVINCE AND COUNTRY - IF NOT IN U.S.A.)									
18101 VON KARMAN AVE STE 330 IRVINE, CA 92612-0146									
TAX ID	94-6001385			PERSONAL PHONE	BUSINESS PHONE (949) 275-5685				
DATE OPENED	03/13/2003	BY	LCN	TAX LINK	1	DATE CHANGED	04/10/2008	VERIFICATION STATUS	USER U126788
CUSTOMER INFORMATION IOLTA ACCOUNT									
DATE OF BIRTH				SEX			TAXID	94-6001385	
IDENTIFICATION								VERIFICATION STATUS	
The account opened under this Master Account Agreement shall be of the following type: IOLTA OR ACTFA 01 / 24									
This type of account is described in detail in the Account Disclosures and Regulations									

1. I/we (the Depositor) agree that the Account Disclosures and Regulations Relating to Deposit Accounts and Other Services and Electronic Funds Transfer Agreement and Disclosures, including any amendments Bank may make from time to time and any related disclosures (the Account Disclosures and Regulations), shall govern all accounts, products, or services provided to Depositor by Bank. This Agreement and the Account Disclosures and Regulations shall govern all accounts, products, and services selected by Depositor now or in the future, regardless of whether the selection is made in person, in writing, orally, electronically or by use of the account, product, or service.

2. Withdrawals or transfer transactions may be paid by Bank on the authorization of any one account owner or signer even if you have given any contrary instructions. Depositor agrees that any one account owner or signer, if more than one, may authorize Bank to open or provide other accounts, products, or services from time to time in the same ownership capacity. Further, Depositor agrees that any one account owner or signer, if more than one, is authorized to endorse, cash, or deposit any check or draft payable to the order of any of them.

3. Most disputes arising under this Agreement related to accounts or services hereunder are subject to mandatory binding arbitration. Both Depositor and Bank waive their rights to trial by a judge or jury. Bank must be notified by Depositor of claims and proceedings to enforce any such claims must be brought, within the time requirements established in the Account Disclosures and Regulations.

TAX CERTIFICATION - UNDER PENALTIES OF PERJURY I CERTIFY THAT:

- 1) The Tax ID number shown on this form is my correct Taxpayer Identification Number.
- 2) I am not subject to backup withholding because (a) I have not been notified that I am subject to backup withholding as a result of a failure to report all interest or dividends, (b) the Internal Revenue Service has notified me that I am no longer subject to backup withholding, or (c) this account is owned by an entity exempt from backup withholding.
- 3) Check this box if you are subject to backup withholding and cannot certify the provisions of (2) above.
- 4) I am a US person (including US resident alien).

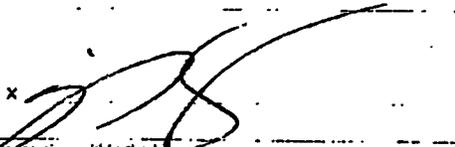
The certification above does not apply if you are not a U.S. person (or a U.S. resident alien). A Form W-8BEN must be completed as an attachment to this application.

By signing the below, I/we agree to be bound by the terms and conditions of this Master Account Agreement (the "Agreement") as set forth herein, and, if applicable, make the tax certification set forth above. In addition, I/we acknowledge receipt of a complete set of the Account Disclosure and Regulations. THE INTERNAL REVENUE SERVICE DOES NOT REQUIRE MY CONSENT TO ANY PROVISION OF THIS DOCUMENT OTHER THAN THE CERTIFICATION REQUIRED TO AVOID BACKUP WITHHOLDING.

02

0490-0000411137-7

DANIEL K LAK

X 

Please sign within the box

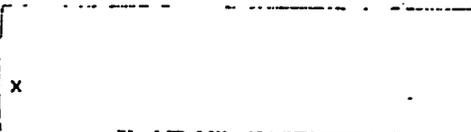
SPECIAL

Thumb Print

X 

Please sign within the box

Thumb Print

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Please sign within the box

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Please sign within the box

Thumb Print

- EXHIBIT D -



JPMorgan Chase Bank, N.A.
 P O Box 659754
 San Antonio, TX 78265-9754

September 01, 2011 through September 30, 2011
 Account Number: **000004904111377**

CUSTOMER SERVICE INFORMATION

Web site: **Chase.com**
 Service Center: **1-800-242-7338**
 Hearing impaired: **1-800-242-7383**
 Para Espanol: **1-888-622-4273**
 International Calls: **1-713-262-1679**

00653085 DRE 703 144 27411 NNNNNNNNNNT 000000000 60 0000

DANIEL K LAK, ATTORNEY AT LAW
 18101 VON KARMAN AVE STE 330
 IRVINE CA 92612-146



CHECKING SUMMARY IOLTA Account

	INSTANCES	AMOUNT
Beginning Balance		\$8,521.58
Deposits and Additions	5	17,771.88
Checks Paid	24	- 7,311.31
Electronic Withdrawals	13	- 2,368.62
Fees and Other Withdrawals	18	- 7,702.17
Ending Balance	60	\$8,911.36
Interest Earned This Period		\$1.17
Interest Paid Year-to-Date		\$7.26

DEPOSITS AND ADDITIONS

DATE	DESCRIPTION	AMOUNT
09/06	Deposit 928129885	\$7,370.71
09/22	Deposit 291353856	2,900.00
09/23	Deposit 925729709	5,000.00
09/27	Deposit 929926488	2,500.00
09/30	Interest Payment	1.17
Total Deposits and Additions		\$17,771.88

CHECKS PAID

CHECK NO.	DESCRIPTION	DATE PAID	AMOUNT
1 A		09/19	\$152.14
1748 * A		09/07	40.00
1750 * A		09/02	279.95
1770 * A		09/09	44.11
1778 * A		09/01	200.00
5004 * A		09/23	600.00

- EXHIBIT E -

From: Daniel Lak <dl@laklaw.net>
Subject: Re: Rochford & Lak Account Transfer
Date: September 30, 2008 11:02:57 AM PST
Cc: laynie.nguyen@wamu.net

Good morning Laynie,

Thank you for your help in this matter. I do have a question, however. Why is there a need to change the tax ID number. The account was a partnership and the partnership had its own tax ID. We should be able to simply remove Steve as a signer.

Please advise.

Thank you,

Daniel K. Lak, Esq.

On Sep 27, 2008, at 12:15 PM, Steve Rochford wrote:

From: Nguyen, Laynie [<mailto:laynie.nguyen@wamu.net>]
Sent: 09/27/2008 9:38 AM
Subject: RE: Rochford & Lak Account Transfer

I tried to change the account title so that it would only title "Daniel K. Lak, Attorney at Law," which I had no problem doing so. Then when it comes time to change the Tax ID number, the computer had blocked me and sent an alert to our back office. Apparently, I was not supposed to do that. The back office manager had informed me that the customer had to open a new account if either the title as well as the Tax ID number changes. I'm sorry for not being able to make the change. Mr. Lak would have to visit a branch to close out that old account and open a new one. Please let me know if you should have any other questions.

Laynie Nguyen
Senior Personal Financial Representative

Washington Mutual Bank
19461 Main Street, Suite 102
Huntington Beach, CA 92648
Mailstop 1246FCCA

714.536.6513 direct - 714.960.5839 fax
laynie.nguyen@wamu.net

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