

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
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FILED
DEC 04 2013
 STATE BAR COURT
 CLERK'S OFFICE
 LOS ANGELES

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STATE BAR COURT
 HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case Nos. 12-O-18036, 12-O-18054 and
) 13-O-11703
 JOEL SAMUEL FARKAS,)
 No. 244032,)
) NOTICE OF DISCIPLINARY CHARGES
 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.



1 The State Bar of California alleges:

2 JURISDICTION

3 1. Joel Samuel Farkas (“Respondent”) was admitted to the practice of law in the State
4 of California on September 11, 2006, was a member at all times pertinent to these charges, and
5 is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 12-O-18036
8 Business and Professions Code, section 6106.3
9 [Violation of Civil Code section 2944.7(a)(1)-Illegal Advanced Fee]

10 2. On or about July 2, 2010, Respondent agreed to attempt to negotiate a home
11 mortgage loan modification for a fee for his client, Astrid Conte-Williams, and thereafter on or
12 about July 2, 2010, charged and received \$3,650 from the client before Respondent had fully
13 performed each and every service Respondent contracted to perform or represented to the
14 clients that Respondent would perform, in violation of Civil Code, section 2944.7, and in willful
15 violation of Business and Professions Code, section 6106.3.

16 COUNT TWO

17 Case No. 12-O-18036
18 Rules of Professional Conduct, rule 3-700(D)(1)
19 [Failure to Release File]

20 3. Respondent failed to release promptly, after termination of Respondent’s
21 employment on or about January 2, 2013, to Respondent’s client, Astrid Conte-Williams, all of
22 the client’s papers and property following the client’s request for the client’s file on January 2,
23 2013, which request was renewed by certified mail on March 16, 2013, in willful violation of
24 Rules of Professional Conduct, rule 3-700(D)(1).

25 COUNT THREE

26 Case No. 12-O-18036
27 Rules of Professional Conduct, rule 4-100(B)(3)
28 [Failure to Render Accounts of Client Funds]

4. Between on or about July 2, 2010 and October 16, 2010, Respondent received from
Respondent’s client, Astrid Conte-Williams, the sum of \$20,250 as advanced fees and costs for

1 legal services to be performed. Respondent thereafter failed to render an appropriate accounting
2 to the client regarding those funds following the client's request for such accounting on or about
3 January 2, 2013, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

4 COUNT FOUR

5 Case No. 12-O-18036
6 Business and Professions Code, section 6068(i)
7 [Failure to Cooperate in State Bar Investigation]

8 5. Respondent failed to cooperate and participate in a disciplinary investigation
9 pending against Respondent by failing to provide a substantive response to the State Bar's
10 letters of January 28, 2013 and February 7, 2013, which Respondent received, that requested
11 Respondent's response to the allegations of misconduct being investigated in case no.
12 12-O-18036, in willful violation of Business and Professions Code, section 6068(i).

13 COUNT FIVE

14 Case No. 12-O-18054
15 Rules of Professional Conduct, rule 3-110(A)
16 [Failure to Perform with Competence]

17 6. On or about November 18, 2010, Derek Plonka employed Respondent to handle a
18 malpractice claim against the client's former counsel, which Respondent intentionally,
19 recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of
20 Professional Conduct, rule 3-110(A), by actions and inactions including the following:

21 (a) failing to negotiate the dispute directly with the former counsel prior to filing on
22 January 4, 2012, an unverified and untimely malpractice complaint which did not protect the
23 Statute of Limitations;

24 (b) failing to oppose and appear at a demurrer hearing on May 14, 2012;

25 (c) failing to appeal the demurrer ruling by filing a timely notice of appeal by
26 September 6, 2012;

27 (d) failing to notify Plonka that he neither opposed nor appeared at the May 14,
28 2012 hearing.

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COUNT SIX

Case No. 12-O-18054
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

7. On or about November 19, 2010 and January 5, 2011, Respondent received total advanced fees of \$5,500 from a client, Derek Plonka, to perform legal services, namely, to handle a malpractice claim against the client's former counsel. Respondent performed no services of value on behalf of the client and therefore earned none of the advanced fees paid. Respondent failed to refund promptly, upon Respondent's termination of employment on or about September 25, 2012, any part of the \$5,500 fee, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

COUNT SEVEN

Case No. 12-O-18054
Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentation]

8. On or about May 14, 2012, Respondent misrepresented to his client, Derek Plonka, that he had appeared at the demurrer hearing and that opposing counsel failed to appear in Los Angeles Superior Court Case No. SC115456, styled *Plonka v. Herzog*, when Respondent knew or was grossly negligent in not knowing the statements were false, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

COUNT EIGHT

Case No. 12-O-18054
Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentation]

9. On or about September 25, 2012, Respondent misrepresented to his client, Derek Plonka, that he continued to negotiate with his former attorney's counsel in an effort to favorably resolve Plonka's malpractice claim against his former attorney, when Respondent knew or was grossly negligent in not knowing the statements were false, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

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COUNT NINE

Case No. 13-O-11703
Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentation]

10. On or about November 3, 2012, Respondent created and/or caused to be created, a fraudulent letter on Travelers Insurance Company letterhead and thereby misrepresented to his client, Brett Livingston-Strong, as well as to any other recipient of the letter, that he had successfully secured Travelers' cooperation and participation in evaluating and appraising an art collection which his client desired to insure when Respondent knew or was grossly negligent in not knowing the letter and statements contained within the letter were false, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

COUNT TEN

Case No. 13-O-11703
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

11. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letters of April 4, 2013 and April 24, 2013, which Respondent's counsel received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 13-O-11703, 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.

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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

DATED: December 4th 2013 By: Hugh G. Radigan
Hugh G. Radigan
Deputy Trial Counsel

DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 12-O-18036, 12-O-18054, 13-O-11703

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, 1149 South Hill Street, Los Angeles, California 90015, 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))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (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.: 7196 9008 9111 6410 6692 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)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, Courtesy Copy to. Row 1: Paul Jean Virgo, Century Law Group, 5200 W. Century Blvd., Ste. 345, Los Angeles, CA 90045, Electronic Address, 9909 Topanga Blvd., #282 Chatsworth, CA 91311

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').

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: December 4, 2013

SIGNED:

Sandra Reynolds
Declarant