

PUBLIC MATTER

FILED

1 STATE BAR OF CALIFORNIA
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NOV 18 2014
 STATE BAR COURT
 CLERK'S OFFICE
 LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:

Case No. 14-O-01542

DAVID A. ELWELL,
No. 122091,

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.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. David A. Elwell (“respondent”) was admitted to the practice of law in the State of
4 California on December 20, 1985, 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. 14-O-01542
8 Business and Professions Code section 6106
9 [Moral Turpitude – Misrepresentation of MCLE Compliance]

10 2. On or about July 1, 2013, respondent falsely reported to the State Bar, under penalty
11 of perjury, that respondent had fully complied with respondent’s minimum continuing legal
12 education (“MCLE”) requirements for the period of February 1, 2010 to January 31, 2013, when
13 respondent knew or was grossly negligent in not knowing that respondent had failed to complete
14 the MCLE requirements for that period, and thereby committed an act involving moral turpitude,
15 dishonesty or corruption in willful violation of Business and Professions Code section 6106.

16 COUNT TWO

17 Case No. 14-O-01542
18 Business and Professions Code section 6068(i)
19 [Failure to Cooperate in State Bar Investigation]

20 3. Respondent failed to cooperate and participate in a disciplinary investigation pending
21 against respondent by failing to provide a substantive response to the State Bar’s letters and
22 email correspondence of April 14, 2014 and May 12, 2014, which respondent received, that
23 requested respondent’s response to the allegations of misconduct being investigated in case
24 number 14-O-01548, in willful violation of Business and Professions Code section 6068(i).

25 NOTICE - INACTIVE ENROLLMENT!

26 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
27 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
28 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**

1 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
2 RECOMMENDED BY THE COURT.

3 NOTICE - COST ASSESSMENT!

4 IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
5 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
6 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
7 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
8 PROFESSIONS CODE SECTION 6086.10.

9 Respectfully submitted,

10 THE STATE BAR OF CALIFORNIA
11 OFFICE OF THE CHIEF TRIAL COUNSEL

12 DATED:

13 *November 13, 2014*

14 By:

15 *Sherell N. McFarlane*
16 Sherell N. McFarlane
17 Deputy 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): 14-O-01542

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))
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 1008 4258 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: David A. Elwell, P. O. Box 572556 Salt Lake City, UT 84157, Electronic Address, David A. Elwell P. O. Box 572556 Salt Lake City, UT 84157

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: November 18, 2014

SIGNED: Sandra Reynolds
Sandra Reynolds
Declarant