

**PUBLIC MATTER
FILED**

AUG 08 2018

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

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STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

12 In the Matter of:) Case No. 16-O-16352
13 RICHARD MENDELSON,)
14 No. 57788,) NOTICE OF DISCIPLINARY CHARGES
15 A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

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

- 20 (1) **YOUR DEFAULT WILL BE ENTERED;**
21 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
22 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
23 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
24 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**
25 **AND THE DEFAULT IS SET ASIDE, AND;**
26 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
27 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
28 **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. Richard Mendelsohn ("respondent") was admitted to the practice of law in the State
4 of California on December 19, 1973, 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. 16-O-16352
8 Business and Professions Code, section 6106
9 [Moral Turpitude - Misappropriation]

10 2. Between in or about January 2008 and March 2009, respondent received on behalf of
11 respondent's clients, Paul Favero, Rex Favero and Gillott Ranches, LLC, settlement funds
12 totaling \$317,657.50 from Canterbury Crossings, LLC.

13 3. Between in or about January 2008 and March 2009, respondent deposited a total of
14 \$317,657.50 into respondent's client trust account at Rabobank America, account number
15 xxxx1048¹ on behalf of the clients. Clients, Paul Favero and Rex Favero were entitled to at least
16 \$248,890.50 of the \$317,657.50.

17 4. Between in or about January 2008 and March 2009, respondent willfully and
18 intentionally misappropriated \$248,890.50 that respondent's clients, Paul Favero and Rex Favero
19 were entitled to receive. Respondent thereby committed an act involving moral turpitude,
20 dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

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

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28 ¹ The full account number is redacted for privacy reasons.

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COUNT TWO

Case No. 16-O-16532
Rules of Professional Conduct, Rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

6. In or about January 2008 and in or about March 2009, respondent received on behalf of respondent's clients, Paul Favero and Rex Favero, settlement funds from Canterbury Crossings, LLC in the amount of \$317,347.48. Between, in or about January 2008 through March 2009, respondent deposited the \$317,347.48 into respondent's client trust account at Rabobank America, account number XXXX1048 on behalf of the client. Of this sum, the clients Paul Favero and Rex Favero were entitled to \$248,090.50. Respondent failed to maintain a balance of \$248,090.50 on behalf of the clients in respondent's client trust account, in willful violation of the Rules of Professional Conduct, rule 4-100(A).

COUNT THREE

Case No. 16-O-16532
Business and Professions Code, section 6068(a)
[Breach of Fiduciary Duty]

7. In or about January 2008 and in or about March 2009 respondent violated his fiduciary duty to his clients, Paul Favero and Rex Favero, by disbursing \$248,090.50 in settlement funds to James Gillott without the knowledge and consent of Paul Favero and Rex Favero when respondent knew that Paul Favero and Rex Favero were entitled to the funds and respondent thereby failed to support the laws of this State in willful violation of Business and Professions Code section 6068(a).

COUNT FOUR

Case No. 16-O-16352
Rules of Professional Conduct, Rule 3-310(C)(2)
[Actual Conflict – Representing Multiple Clients]

8. Between, in or about January 2008 to March 2009, respondent represented multiple clients, Paul Favero, Rex Favero, and Gillott Ranches, LLC, in a real estate dispute. During that

1 time, the interests of the clients actually conflicted because there was no agreement about how to
2 divide the \$248,090.50 settlement proceeds between the clients. Respondent disbursed all the
3 proceeds to Jim Gillott without the knowledge or informed, written consent of Paul Favero and
4 Rex Favero and did not inform the clients of the relevant circumstances, of the actual and
5 reasonably foreseeable adverse consequences to the clients and obtain the written consent of
6 each client, in willful violation of Rules of Professional Conduct, rule 3-310(C)(2).

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8 COUNT FIVE

9 Case No. 16-O-16352
10 Rules of Professional Conduct, Rule 3-310(D)
[Conflict – Aggregate Settlement]

11 9. Between in or about January 2008 and March 2009, respondent represented two or
12 more clients, namely, Paul Favero, Rex Favero, and Gillott Ranches, LLC, and entered into an
13 aggregate settlement of the clients' claim and did not inform all the clients of the relevant
14 circumstances and of the actual and reasonably foreseeable adverse consequences to the clients
15 and obtain the written consent of each client to the aggregate settlement, in willful violation of
16 Rules of Professional Conduct, rule 3-310(D).

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18 COUNT SIX

19 Case No. 16-O-16352
20 Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentation]

21 10. From on or about March 18, 2009 to December 18, 2014, respondent stated orally
22 and in writing to Paul Favero and Rex Favero that settlement funds in the amount of \$248,090.50
23 were in his client trust account and that he would maintain the \$248,090.50 in his client trust
24 account until the clients instructed him on how to disburse the funds when respondent knew that
25 the statements were false and misleading because he had already disbursed the \$248,090.50 to
26 James Gillott without the knowledge and consent of his clients. Respondent thereby committed

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

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

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10 **NOTICE - INACTIVE ENROLLMENT!**

11 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
12 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
13 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
14 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
15 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
16 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
17 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
18 RECOMMENDED BY THE COURT.**

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20 **NOTICE - COST ASSESSMENT!**

21 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
22 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
23 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
24 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
25 PROFESSIONS CODE SECTION 6086.10.**

26 Respectfully submitted,

27 THE STATE BAR OF CALIFORNIA
28 OFFICE OF CHIEF TRIAL COUNSEL

DATED: August 8, 2018

By: 
Erica L. M. Dennings
Senior Trial Counsel

