

1 STATE BAR OF CALIFORNIA
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**PUBLIC MATTER
FILED**

NOV 20 2018

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

11 In the Matter of:) Case No. 16-O-17424
12 RANDY CARROLL WHALEY,)
13 No. 110157,) NOTICE OF DISCIPLINARY CHARGES
14 A Member of the State Bar.)

NOTICE - FAILURE TO RESPOND!

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

- 18 (1) YOUR DEFAULT WILL BE ENTERED;
19 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
20 WILL NOT BE PERMITTED TO PRACTICE LAW;
21 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
22 THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
23 AND THE DEFAULT IS SET ASIDE, AND;
24 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
25 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
26 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
27 ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
28 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. RANDY CARROLL WHALEY ("respondent") was admitted to the practice of law in
4 the State of California on December 12, 1983, was a member at all times pertinent to these
5 charges, and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 16-O-17424
8 Rules of Professional Conduct, rule 4-200(A)
[Illegal Fee]

9 2. On or about October 24, 2001, respondent charged and collected a fee of \$5,000
10 from Frank and JoAnn Kassik to perform legal services that was illegal because respondent
11 charged and collected the fee while he was suspended from the practice law, in willful violation
12 of Rules of Professional Conduct, rule 4-200(A).

13 COUNT TWO

14 Case No. 16-O-17424
15 Business and Professions Code, section 6106
[Moral Turpitude]

16 3. On or about October 24, 2001, respondent held himself out as entitled to practice law
17 by accepting the representation of Frank and JoAnn Kassik as clients and accepting \$5,000 as a
18 fee for legal services and thereby committed an act involving moral turpitude, dishonesty or
19 corruption in willful violation of Business and Professions Code, section 6106.

20 4. A violation of section 6106 may result from intentional conduct or grossly negligent
21 conduct. Respondent is charged with committing moral turpitude by intentionally engaging in
22 the unauthorized practice of law. However, should the evidence at trial demonstrate that
23 respondent committed an act of moral turpitude as a result of gross negligence, respondent must
24 still be found culpable of violating section 6106 because the unauthorized practice of law
25 through gross negligence is a lesser included offense of the intentional unauthorized practice of
26 law.

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COUNT THREE

Case No. 16-O-17424
Business and Professions Code section 6068(a)
[Failure to Uphold Law – Breach of Probate Code sections 710, 16060.7, and 16061.5]

5. On or about October 30, 2006, while acting as the attorney for Frank Kassik, respondent received the original trust documents and files of the Kassik Family Trust. To date, respondent has remained responsible for said documents and files. On or about June 18, 2015, Frank Kassik passed away, and the Kassik Family Trust thereby became irrevocable, and Frank Kassik's son, David Kassik, thereby became both the trustee and a beneficiary of the Kassik Family Trust. Thereafter, the attorney for David Kassik requested the original trust documents. To date, respondent has failed and refused to provide the trust documents to David Kassik. By failing to preserve the original trust documents that were entrusted to him, respondent breached his duty under Probate Code section 710. By failing to provide the original trust documents to David Kassik, respondent has violated his fiduciary obligations to David Kassik and the other trust beneficiaries. Furthermore, by failing to provide the trust beneficiaries, including David Kassik, with a copy of the trust documents upon request after the passing of Frank Kassik, respondent breached his duty under Probate Code sections 16060.7 and 16061.5 and breached his fiduciary obligations to David Kassik and the other trust beneficiaries. By violating said Probate Code sections and violating his fiduciary duties to the heirs and David Kassik, respondent breached his duty to uphold laws in willful violation of Business and Professions Code section 6068(a).

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.

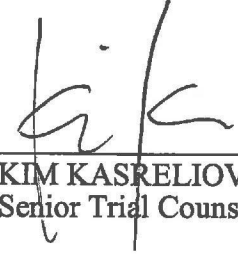
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NOTICE - COST ASSESSMENT!

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 CHIEF TRIAL COUNSEL



DATED: November 20, 2018

By: _____
KIM KASRELIOVICH
Senior Trial Counsel

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DECLARATION OF SERVICE BY REGULAR MAIL

CASE NUMBER: 16-O-17424

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, 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 – Priority Mail Express, 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 Los Angeles, on the date shown below, a true copy of the within

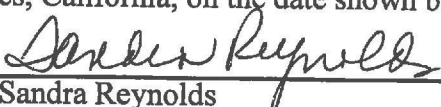
NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing by the United States Postal Service – Priority Mail Express, Item number EL 367316115 US at Los Angeles, California, on the date shown below, addressed to:

**Randy Carroll Whaley
33 Viricota Apt. 3
Puerto Vallarta, 48310
MEXICO**

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 20, 2018

Signed: 
Sandra Reynolds
Declarant