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CENTRAL DISTRICT OF CALIFORNIA
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re

Case No.: 13-mp-00129-MJ

**THE DISCIPLINARY PROCEEDING OF
THOMAS E. KENT**

**MEMORANDUM DECISION REGARDING
ATTORNEY DISCIPLINARY PROCEEDING
OF THOMAS E. KENT**

Date: August 16, 2013
Time: 10:00 a.m.
Courtroom: 1339
Edward R. Roybal Federal
Building and Courthouse
255 East Temple Street
Los Angeles, CA 90012

Judge Sheri Bluebond referred Thomas E. Kent, Esq. ("Mr. Kent") to the disciplinary process of the United States Bankruptcy Court for the Central District of California on June 7, 2013. In conformance with the Fourth Amended General Order 96-05, the Clerk of Court opened case file 13-mp-00129 and selected Judges Jury, Saltzman, and Wallace to serve as the Hearing Panel (the "Panel"). Each judge accepted assignment to the Panel.

The Panel held a hearing on August 16, 2013 at which appearances were made by Ron Maroko, Esq. ("Mr. Maroko") for the Office of the United States Trustee ("UST"), and Susan Montgomery, Esq., ("Ms. Montgomery") for the Century Park East Homeowners Association (the "HOA"). Also present were James Grove Seely III ("Mr. Seely") and Gabriela Paul ("Ms. Paul") (jointly, Mr. Seely and Ms. Paul shall be referred to herein as the

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[Signature]

1 "Debtors"). Neither Mr. Kent nor his counsel (if any) appeared. With no objection being
2 made, the Court received into evidence the entire record in the case, including but not limited
3 to findings of fact and conclusions of law issued by Judge Bluebond, the Statement of Cause
4 for Referral to Disciplinary Panel issued by Judge Bluebond, declarations of percipient
5 witnesses, the Debtors and Ms. Montgomery. Based upon such evidence and statements
6 made at the hearing, the Court makes the following findings of fact and conclusions of law:

7 1. The Debtors filed their chapter 11 bankruptcy petition on January 16, 2012 that
8 was assigned Case No. 2:12-bk-11522. The case was converted to chapter 7 on February
9 13, 2013. Mr. Seely is permanently disabled. Ms. Paul has back injuries, a torn anterior
10 cruciate ligament (a knee injury) and a meniscus injury (also a knee injury). She makes her
11 living as ballet teacher and has a dance studio. One of the major assets in the case was a
12 personal injury lawsuit in which the Debtors were plaintiffs (the "Personal Injury Action").

13 2. On April 9, 2012, Thomas E. Kent of the Law Offices of Thomas E. Kent ("Kent
14 Firm") substituted in as Debtors' counsel.

15 3. The order approving the Kent Firm's employment in this case was entered on May
16 29, 2012.

17 4. By an order entered on June 18, 2012 ("June 18, 2012 Order"), the Court approved
18 a noticed settlement of the Personal Injury Action between Gabriela Paul, Christina Marie
19 Behrens and Progressive Insurance Company pursuant to which the Debtors were to receive
20 approximately \$275,000 in settlement of the action. Because the HOA asserted a lien on the
21 settlement proceeds, paragraph 1 of the June 18, 2012 Order required the Kent Firm to
22 deposit the full amount of the settlement proceeds, \$270,357.51 (the "Settlement Funds"),
23 "into a client trust account to be opened and maintained by Debtors' counsel" and expressly
24 provided that such funds "were to remain in that trust account unless and until ordered by this
25 Court."

26 5. The Debtors and the HOA subsequently negotiated an agreement resolving their
27 disputes. The Court entered orders approving and enforcing that agreement on February 13,
28 2013 (the "February 13, 2013 Order") and April 4, 2013 (the "April 4, 2013 Order"). By these

1 orders, the Court ordered the Kent Firm to release \$125,000.00 from the trust account
2 moneys to the HOA.

3 6. On April 15, 2013, Mr. Kent presented client trust account check 1008 to counsel
4 for the HOA. Check 1008 was rejected for insufficient funds.

5 7. The April 4, 2013 Order required the Kent Firm to release \$10,000.00 from the trust
6 account moneys to Debtors.

7 8. Mr. Kent has not released the \$10,000.00 to Debtors.

8 9. By an order entered on May 6, 2013 (the "May 6, 2013 Order"), this Court ordered
9 the Kent Firm to release the balance of the Settlement Funds, not previously ordered
10 released, to Debtors.

11 10. Mr. Kent has not released the balance of the Settlement Funds to Debtors.

12 11. Other than the February 13, 2013 Order, the April 4, 2013 Order and the May 6,
13 2013 Order, no other disbursement of Settlement Funds from the client trust account was
14 authorized by the Court.

15 12. On June 29, 2012, Mr. Kent deposited \$270,357.51 into his client trust account
16 maintained at Chase Bank. As of June 30, 2012, the Settlement Funds were the only
17 moneys in the client trust account.

18 13. On July 26, 2012, \$92,052.13 was deposited into the same client trust account
19 that held the Settlement Funds. Another \$495.02 was deposited on July 11, 2013 into the
20 same client trust account.

21 14. On July 26 and 27, 2013, \$127,737.13 was paid from the same client trust
22 account, leaving an ending balance on July 31, 2012 of \$235,167.53.

23 15. The following were the ending balances, as reflected on the bank statements, for
24 the client trust account holding the Settlement Funds (through the entry of the April 4, 2013
25 Order):

26	A. August 31, 2012:	\$144,352.53
27	B. September 28, 2012:	\$158,352.53
28	C. October 31, 2012:	\$136,052.53

1	D. November 30, 2012:	\$ 77,552.53
2	E. December 31, 2012:	\$ 18,052.53
3	F. January 31, 2013:	\$ 152.53
4	G. February 28, 2013:	\$ 152.53
5	H. March 29, 2013:	\$ 58.89

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7 16. Mr. Kent's failure to maintain sufficient funds in his client trust account violated the
8 June 18, 2012 Order to maintain the Settlement Funds in his trust account.

9 17. Mr. Kent breached his ethical duties under California Rules of Professional
10 Conduct 4-100 by his failure to maintain the Settlement Funds in his client trust account
11 under the June 18, 2012 Order and adequate funds in his client trust account to comply with
12 the February 13, 2013 Order, the April 4, 2013 Order and the May 6, 2013 Order.

13 18. Mr. Kent breached his fiduciary duties to Mr. Seely, Ms. Paul, and the bankruptcy
14 estate by not maintaining the Settlement Funds in his client trust account under the June 18,
15 2012 Order.

16 19. Mr. Kent converted the Settlement Funds to his own account and uses, without
17 Court authority.

18 20. Mr. Kent intentionally presented a check for \$125,000 to the HOA from his client
19 trust account, knowing that there were insufficient funds in his client trust account to honor
20 the check.

21 21. The statements made by Mr. Seely and Ms. Paul at the hearing show that the loss
22 of the Settlement Funds has been devastating to them and their two young children (ages 5
23 and 7), has left the family living on a pittance and Ms. Paul without health insurance. Their
24 house is currently in foreclosure and they lack the financial wherewithal to make the monthly
25 mortgage payments.

26 22. In light of the nature and the severity of the misconduct and the intentional and
27 flagrant violations of court orders as described above, the Panel determines that adequate
28 grounds exist on which to impose discipline on Mr. Kent.

1 23. Mr. Kent is permanently suspended from the practice of law before the judges of
2 the United States Bankruptcy Court for the Central District of California, subject only to the
3 right to seek reinstatement after five (5) years from the date of entry of this Memorandum
4 Decision; provided, further, that any such reinstatement shall be conditioned on the full
5 performance of the following: (1) payment by Mr. Kent of \$125,000 to the HOA; (2)
6 payment by Mr. Kent of \$145,357.51 to the Debtors; (3) disgorgement of all fees received by
7 Mr. Kent or the Kent Firm, whether or not allowed, in Case No. 2:12-bk-11522, including any
8 retainer(s); and (4) payment in full of any fines or sanctions ordered by any judge of the
9 United States Bankruptcy Court for the Central District of California, whether in Case No.
10 2:12-bk-11522 or in any other case. If any person or entity (including but not limited to the
11 State Bar of California or an affiliate thereof) makes payment to the HOA or the Debtors of all
12 or any portion of the amounts referred to in (1) or (2) above and thereby acquires rights of
13 subrogation or reimbursement against Mr. Kent or the Kent Firm either at law or in equity, Mr.
14 Kent shall make payment consistent with such rights to such person or entity in lieu of
15 making payment to the HOA or the Debtors.

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19 Honorable Meredith A. Jury
20 United States Bankruptcy Judge

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24 Honorable Deborah J. Saltzman
25 United States Bankruptcy Judge
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Mark S. Wallace

Honorable Mark S. Wallace

United States Bankruptcy Judge

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NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*): **MEMORANDUM DECISION REGARDING ATTORNEY DISCIPLINARY PROCEEDING OF THOMAS E. KENT** was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner stated below:

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF) Pursuant to controlling General Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and hyperlink to the judgment or order. As of (*date*) August 22, 2013, the following persons are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email addresses stated below.

- Aaron De Leest aed@dgdk.com, DanningGill@gmail.com
- Richard K Diamond rdiamond@dgdk.com, DanningGill@gmail.com
- Eric P Israel eisrael@dgdk.com, danninggill@gmail.com
- Thomas E Kent tekesq@gmail.com, tkent@tkentlaw.com; kshin@tkentlaw.com; vramirez@tkentlaw.com
- Ron Maroko ron.maroko@usdoj.gov
- John J Menchaca (TR) jmenchaca@menchacacpa.com, ca87@ecfbis.com; igaeta@menchacacpa.com
- Susan I Montgomery susan@simontgomerylaw.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov

Service information continued on attached page

2. SERVED BY THE COURT VIA UNITED STATES MAIL: A copy of this notice and a true copy of this judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or entities at the addresses indicated below:

Thomas E. Kent
Law Offices of Thomas E. Kent
2600 W. Olive Ave, 5th Floor
Burbank, CA 91505

Service information continued on attached page

3. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an Entered stamp, the party lodging the judgment or order will serve a complete copy bearing an Entered stamp by United States mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following persons and/or entities at the addresses, facsimile transmission numbers, and/or email addresses stated below:

Service information continued on attached page