



UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

In re:

THE DISCIPLINARY PROCEEDING OF  
THOMAS D. SANDS

State Bar Number 279020

Disciplinary Proceeding No. 2:20-mp-00102

Bankruptcy Case No. 2:19-bk-21655-BR

**MEMORANDUM OF DECISION IN  
DISCIPLINARY PROCEEDING  
AGAINST THOMAS D. SANDS**

The matter before the court is a disciplinary proceeding ("Proceeding") commenced against attorney Thomas D. Sands ("Mr. Sands") pursuant to The Sixth Amended General Order 96-05 of the United States Bankruptcy Court for the Central District of California (the "General Order").

**Statement of Procedure and Notice of Hearing**

The Honorable Barry Russell initiated this disciplinary proceeding against Mr. Sands pursuant to the General Order by filing with the Clerk of the United States Bankruptcy Court for the Central District of California (the "Clerk") a Statement of Cause, dated September 15, 2020,

1 setting forth the basis for the referral and a suggestion of appropriate discipline (“Statement of  
2 Cause”).

3 In accordance with the procedures set forth in the General Order, the Clerk designated a  
4 panel of three bankruptcy judges from this district to hear the matter. The members of the panel  
5 are the Honorable Theodor C. Albert, Presiding Judge, the Honorable Mark S. Wallace, and the  
6 Honorable Julia W. Brand (collectively, the “Panel”). A Notice of Assignment of Hearing Panel,  
7 the General Order, and Statement of Cause were served on Mr. Sands on October 19, 2020.  
8 Pursuant to the General Order, Mr. Sands had until November 2, 2020 to move to recuse one or  
9 more of the judges assigned to the Panel. No motion to recuse was filed.

10 Pursuant to that Notice of Disciplinary Hearing served on November 6, 2020, Mr. Sands  
11 was given notice of the attorney disciplinary hearing to be held before the Panel on December 3,  
12 2020, at 2:00 p.m. (the “Disciplinary Hearing”). Mr. Sands filed his “Response of Sands to  
13 Disciplinary Hearing” (“Sands Response”), and Mr. Sands appeared at the Disciplinary Hearing.  
14 On January 4, 2021, Mr. Sands filed his “Declaration and Telephone Records of Mr. Thomas D.  
15 Sands” (“Second Sands Declaration and Telephone Records”).

16 **Referral to the Panel Pursuant to General Order No. 96-05**

17 The conduct that gave rise to the referral to the Panel is set forth in the Statement of  
18 Cause, which contains a thorough discussion of Mr. Sands’ actions at issue. In summary, Judge  
19 Russell found that Mr. Sands lied under oath in the Chapter 11 case of Mahvash Mazgani, case  
20 no. 2:19-21655-BR (“Mazgani Case”) and refused to explain his conduct despite multiple  
21 opportunities to do so. Mr. Sands, counsel for petitioning creditors in the Mazgani Case, filed a  
22 “Notice of Ex Parte Motion and Ex Parte Motion, Pursuant to Federal Rule of Bankruptcy  
23 Procedure 2004 and Local Bankruptcy Rule 2004-1, for the Production of Documents and Oral  
24 Examinations” (“Rule 2004 Motion”) together with an attached Declaration of Thomas D. Sands,  
25 Esquire (the “Sands Declaration”). In the Sands Declaration, Mr. Sands stated that he attempted  
26 to comply with the “meet and confer” requirements of Local Bankruptcy Rule 2004-1 “on a  
27 variety of occasions and all to no avail.” Rule 2004 Motion at page 13, lines 14-19.  
28 Specifically, Mr. Sands testified in his declaration at paragraph 10 as follows:

1                   **10. From August 3, 2020, and continuing every two**  
2                   **days since August 3, 2020, I have attempted to reach Mr. Selth,**  
3                   **counsel for the Debtor in the attempt to meet and confer.**

4                   **11. None of my efforts to meet and confer and to**  
5                   **stipulate to a deposition without Motion practice has been**  
6                   **reciprocated on a variety of occasions and all to no avail...**

7 Sands Declaration at page 17, lines 19-26 (emphasis added).

8           James R. Selth, Esq., counsel for the debtor, filed the “Opposition of Debtor to Ex Parte  
9 Motion for Rule 2004 Examination and Production of Documents and Request to Set Matter for  
10 Hearing” (“Opposition to Rule 2004 Motion”), where he stated that paragraph 10 of the Sands  
11 Declaration was “a complete lie” and which also attached as an exhibit an email dated August  
12 15, 2020 from Mr. Selth to Mr. Sands making the same assertion. Opposition to Rule 2004  
13 Motion at page 2, lines 13 1/2-27 and Exhibit “1.”

14           Mr. Sands filed the “Reply to Opposition to Ex Parte Motion, Pursuant to Federal Rule of  
15 Bankruptcy Procedure 2004 and Local Bankruptcy Rule 2004-1, for the Production of  
16 Documents and Oral Examinations” (“Reply to Opposition to Rule 2004 Motion”). Mr. Sands  
17 did not address Mr. Selth’s statement that Mr. Sands lied in his declaration. Instead, he only  
18 stated that “[t]he Meet and Confer attempts were ignored until the [Rule 2004] Motion was  
19 filed.” Reply to Opposition to Rule 2004 Motion at page 10, lines 2-3. In his declaration, he  
20 stated that “I have tried in vain to arrange for a deposition...” Reply to Opposition to Rule 2004  
21 Motion at page 13, line 4.

22           On September 1, 2020, Judge Russell conducted a hearing on the Rule 2004 Motion.  
23 Judge Russell questioned Mr. Sands whether the statement in paragraph 10 of the Sands  
24 Declaration was a lie. Judge Russell gave Mr. Sands multiple opportunities to explain the  
25 statement in paragraph 10 of the Sands Declaration and whether Mr. Sands lied, including  
26 admonishing Mr. Sands as to the seriousness of the issue and offering Mr. Sands the option to  
27 testify under oath about any facts not previously included in the Rule 2004 Motion. Mr. Sands  
28 refused to address the issue. Judge Russell found that Mr. Sands had lied about his “meet and  
confer” efforts as testified in his declaration and denied the Rule 2004 Motion.

1 Based on the foregoing actions of Mr. Sands, by the Statement of Cause, Judge Russell  
2 referred Mr. Sands to this Panel. In the Statement of Cause, Judge Russell recommended that

3 Mr. Sands' privileges to practice in the United States Bankruptcy  
4 Court for the Central District of California be revoked for a period  
5 of at least one year from the date of entry of an order on this  
6 disciplinary proceeding...[and] further recommend[ed] that after  
7 the expiration of the suspension period, Mr. Sands be permitted to  
8 apply for reinstatement of his practice privileges only if he is able to  
9 provide proof that he has successfully completed 10 hours of  
10 bankruptcy-related Mandatory Continuing Legal Education in  
11 Ethics; demonstrate that he is in good standing with the State Bar of  
12 California; and demonstrate that he has met all additional  
13 Reinstatement requirements set forth in detail in Sixth Amended  
14 General Order 96-05.

15 Statement of Cause at page 12, line 24-page 13, line 7.

#### 16 Sands Response

17 In the Sands Response, Mr. Sands stated his view of the circumstances surrounding the  
18 Rule 2004 Motion and the hearing before Judge Russell, including acknowledging his testimony  
19 as specifically stated in paragraph 10 of the Sands Declaration. However, instead of addressing  
20 whether he made false statements to the court, his response focused on accusing Judge Russell of  
21 attempting a perjury trap and other attacks on Judge Russell. Although Mr. Sands concluded that  
22 he committed no perjury and resisted a perjury trap, the Sands Response nevertheless failed to  
23 state whether or not he had called Mr. Selth in an attempt to meet and confer regarding the  
24 deposition as he declared under oath in the Sands Declaration.

#### 25 The Hearing

26 The Disciplinary Hearing was held on December 3, 2020. Mr. Sands appeared at the  
27 Disciplinary Hearing.<sup>1</sup> Mr. Sands explained to the Panel that he felt Judge Russell attacked his  
28

29 <sup>1</sup> Kevin Moda and Danyal Roodbari also appeared as witnesses for Mr. Sands and were sworn in. Mr. Moda  
30 testified that he was in attendance at the hearing on the Rule 2004 Motion for an unrelated matter. He stated that he  
31 saw Mr. Sands recoil when Mr. Sands was accused of lying and that Mr. Sands went on the offensive, but he did not  
32 believe it was harassment when Judge Russell asked Mr. Sands the questions about whether Mr. Sands lied in the  
33 Sands Declaration. Mr. Moda testified that Mr. Sands never lied and respects the court, but that hearing was unusual  
34 and Mr. Sands was not himself that day. Mr. Roodbari testified that in an unrelated matter, Judge Russell  
35 questioned whether he was being truthful about a statement he made regarding whether a complaint he filed  
36 intended to pursue sanctions against a debtor and Judge Russell sanctioned him for violating the automatic stay.  
37 Neither witness had any knowledge as to whether Mr. Sands lied under penalty of perjury when he stated that he  
38 called Mr. Selth during the relevant period. The Panel has considered Mr. Moda's testimony regarding his

1 professional character and stated that Judge Russell tried to get him to lie in an attempt to push  
2 him into a perjury trap, which he resisted. He admitted that his statement regarding whether he  
3 called Mr. Selth was vague but also accused Mr. Selth of being equally vague. Mr. Sands stated  
4 that he did not lie and that the statement in his declaration was truthful. He chose not to respond  
5 to Judge Russell's repeated requests at the time to verify that he had not lied. When asked, Mr.  
6 Sands stated he had documentation to show he attempted to contact Mr. Selth every other day  
7 from August 3, 2020 to August 15, 2020 just as appears in the Sands Declaration. Mr. Sands  
8 stated that while he called Mr. Selth's office, he did not leave a voicemail or leave a message  
9 with anyone at Mr. Selth's office. He acknowledged that no one would know to return his call if  
10 he did not leave a message. He admitted that he could have simply answered Judge Russell's  
11 questions, but reported that Judge Russell calling him a liar left a bad taste in his mouth, which is  
12 why he took the position he did. He admitted that he could have been more clear in his  
13 declaration in articulating his efforts, but he also stated that no matter what he put in his  
14 declaration, he was sure he would have heard something from Judge Russell about his conduct or  
15 efforts. Mr. Sands apologized for his oversight and ambiguity in his drafting.

16 At the conclusion of the Disciplinary Hearing, the Panel gave Mr. Sands the opportunity  
17 to submit his telephone records as evidence that he did indeed call Mr. Selth during the relevant  
18 time period. Thereafter, Mr. Sands filed the Second Sands Declaration and Telephone Records.  
19 The Panel has reviewed the Second Sands Declaration and Telephone Records and finds that Mr.  
20 Selth's phone number, which is readily available on the Mazgani Case docket, does not appear  
21 on any of the attached telephone records. Although the telephone records were redacted, unaided  
22 by any flags or direction from Mr. Sands the Panel conducted a thorough review of the telephone  
23 records but did not find any phone numbers that remotely resembled that of Mr. Selth. Mr.  
24 Sands in the Second Sands Declaration and Telephone Records did not identify any phone calls  
25 in the records as calls he made to Mr. Selth during the relevant time period. Mr. Sands merely  
26 provided numerous pages of undifferentiated telephone records without even the courtesy of  
27 explaining where the relevant material might appear or, indeed, that it apparently did not appear

28 description of Mr. Sands demeanor before Judge Russell in reaching its decision. The Panel did not consider the  
testimony of Mr. Roodbari. His view of Judge Russell's conduct in an unrelated proceeding is not relevant.

1 at all. In the Second Sands Declaration and Telephone Records, Mr. Sands explained that the  
2 reason he responded to Judge Russell the way he did was because he felt targeted by Judge  
3 Russell and believed the referral to the Panel was vengeful, but he was mistaken and that the  
4 Panel, particularly Judge Albert, helped him to understand the situation and his mistake. His tone  
5 was less combative than in the original Sands Declaration. He expressed remorse for responding  
6 in the manner that he did, and remorse for his actions, before Judge Russell, but, significantly,  
7 never squarely confronted the charge of perjury and/or lack of candor.

8 **Discussion**

9 Local Bankruptcy Rule 2090-2(a) – entitled “Standards of Conduct” – specifies that “[a]n  
10 attorney who appears for any purpose in this court is subject to the standards of professional  
11 conduct set forth in Local Civil Rule 83-3.”

12 Central District of California Local Civil Rule 83-3.1.2 – entitled “Standards of  
13 Professional Conduct - Basis for Disciplinary Action” – states that

14 In order to maintain the effective administration of justice and the  
15 integrity of the Court, each attorney shall be familiar with and  
16 comply with the standards of professional conduct required of  
17 members of the State Bar of California and contained in the State  
18 Bar Act, the Rules of Professional Conduct of the State Bar of  
19 California, and the decisions of any court applicable thereto. These  
statutes, rules and decisions are hereby adopted as the standards of  
professional conduct, and any breach or violation thereof may be the  
basis for the imposition of discipline. The Model Rules of  
Professional Conduct of the American Bar Association may be  
considered as guidance.

20 California Rules of Professional Conduct Rule 3.3(a) – entitled “Candor Toward the  
21 Tribunal,” which is defined by California Rules of Professional Conduct Rule 1.0.1(m) to  
22 include “a court, an arbitrator, an administrative law judge, or an administrative body acting in  
23 an adjudicative capacity and authorized to make a decision that can be binding on the parties  
24 involved” – provides as follows:

25 A lawyer shall not:

26 (1) knowingly\* make a false statement of fact or law to a  
27 tribunal\* or fail to correct a false statement of material fact  
or law previously made to the tribunal\* by the lawyer;

28 ... or

(3) offer evidence that the lawyer knows\* to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence, and the lawyer comes to know\* of its falsity, the lawyer shall take reasonable\* remedial measures, including, if necessary, disclosure to the tribunal,\* unless disclosure is prohibited by Business and Professions Code section 6068, subdivision (e) and rule 1.6. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes\* is false.

An asterisk (\*) identifies a word or phrase defined in the terminology rule, rule 1.0.1.

Mr. Sands had an obligation to not knowingly make a false statement of fact or fail to correct a false statement of material fact previously made to the bankruptcy court. Mr. Sands stated in the Sands Declaration that he made multiple attempts to meet and confer with Mr. Selth regarding the 2004 exam scheduling by calling Mr. Selth every other day from August 3, 2020 to August 15, 2020. When confronted about this statement by Mr. Selth both in an email and in opposition to the Rule 2004 Motion, Mr. Sands failed to respond to the allegation that this statement was a lie and continued to pursue the narrative that he complied with the meet and confer requirements. Further, he refused to state whether or not he lied in the Sands Declaration when directly questioned by Judge Russell. He continued this pattern of behavior in his Response in this Disciplinary Proceeding. He failed to state whether or not he had called Mr. Selth in an attempt to schedule the deposition and instead pursued a 19-page attack on Judge Russell. When pressed at the disciplinary hearing, Mr. Sands finally recognized the seriousness of the allegation that he had violated his obligation as an officer of the court to make truthful statements to the court. He stated to the Panel that he made calls to Mr. Selth during the relevant time period but that he never connected with Mr. Selth and did not leave a message. In the view of this Panel, even if true this admission alone makes his statement in the Sands Declaration false. He testified under penalty of perjury in that declaration that he made calls every other day to Mr. Selth but never received a response. If Mr. Sands did not leave a message, how could Mr. Selth have known that Mr. Sands was attempting to reach him? Further, the Panel gave Mr. Sands the opportunity to produce substantiating evidence of his attempts to reach Mr. Selth by phone. The Second Sands Declaration and Telephone Records does not provide substantiation.

1 Mr. Sands did not identify in his declaration or the accompanying telephone records the calls that  
2 demonstrate that he attempted to meet and confer with Mr. Selth prior to filing the Rule 2004  
3 Motion. The Panel found no calls to Mr. Selth's telephone number. The Panel finds Mr. Sands'  
4 statements that he engaged in a meet and confer process with Mr. Selth and that he called Mr.  
5 Selth to schedule the deposition to be unsupported by the record and not credible. The Panel  
6 finds that these statements were not true when made and that Mr. Sands did not correct the  
7 statements when given an opportunity to do so. But of even graver concern, it is left unclear  
8 whether Mr. Sands even now appreciates the seriousness of the offense. After review of his  
9 attached telephone records, he could have admitted that his statements to Judge Russell and to  
10 this Panel were not true. Instead, he chose to provide a load of useless telephone records and left  
11 it to the Panel to determine on its own whether they had any relevance. It is unclear whether Mr.  
12 Sands, despite his more recently contrite tone, realizes that no court can effectively administer a  
13 system of justice when even its admitted officers are in the practice of telling it lies. Moreover,  
14 the arrogance displayed by Mr. Sands in providing an unhelpful stack of telephone records  
15 smacks of a stubborn refusal to accept that the court is right to discipline breaches of the most  
16 basic rules of attorney conduct.

17 Having reviewed Judge Russell's Statement of Cause, the Sands Response, and the  
18 Second Sands Declaration and Telephone Records, and having considered the statements and  
19 arguments of Mr. Sands, the Panel finds that Mr. Sands lied under oath in the Sands Declaration,  
20 that Mr. Sands lied to Judge Russell, and that Mr. Sands lied to the Panel, and therefore,  
21 knowingly made a false statement of fact to a court and failed to correct a false statement of  
22 material fact previously made to the court, in violation of California Rules of Professional  
23 Conduct Rule 3.3(a).

24 On this basis, the Panel concludes that Mr. Sands should be suspended from practicing  
25 before the United States Bankruptcy Court for the Central District of California, including  
26 prohibiting Mr. Sands from utilizing electronic CM/ECF filing privileges, effective as of the  
27 entry date of the Order on Disciplinary Proceeding of Thomas D. Sands ("Discipline Order")  
28 entered concurrently herewith, for a period of two years. In addition, Mr. Sands is ordered to



1 complete ten (10) hours of continuing legal education in ethics, five (5) hours of continuing legal  
2 education in law office management, and an additional five (5) hours of continuing legal  
3 education on the topic of bankruptcy law from an educational provider approved by the State Bar  
4 of California, and submit written proof of completion thereof, before he may be reinstated to  
5 practice before the United States Bankruptcy Court for the Central District of California.

6 Mr. Sands may, after the initial year of suspension, apply for reinstatement to practice  
7 before the bankruptcy court in accordance with the provisions of the General Order, as it may be  
8 amended hereafter provided he has completed the required continuing legal education. Any  
9 application for reinstatement must include evidence sufficient to demonstrate that, after entry of  
10 the Discipline Order, Mr. Sands completed the above continuing legal education requirements.  
11 The application for reinstatement shall also demonstrate that he is in good standing with the  
12 State Bar of California and demonstrate that he has met all additional Reinstatement  
13 requirements set forth in detail in The Sixth Amended General Order 96-05. Copies of this  
14 Memorandum of Decision and the order issued concurrently herewith shall be served by the  
15 Clerk of this Court on each Bankruptcy Judge sitting in the Central District of California, on the  
16 Clerk of the United States District Court for the Central District of California, and on the State  
17 Bar of California.

18  
19 Dated: January 29, 2021

  
THEODOR C. ALBERT  
United States Bankruptcy Judge

20  
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22  
23 Dated: January 29, 2021

  
MARK S. WALLACE  
United States Bankruptcy Judge

24  
25  
26  
27 Dated: January 29, 2021

  
JULIA W. BRAND  
United States Bankruptcy Judge

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
255 E. Temple Street, Los Angeles, CA 90012

A true and correct copy of the foregoing document entitled (*specify*): Case No: 2:20-mp-102  
Memorandum of Decision in Disciplinary Proceeding Against Thomas D. Sands

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 01/29/2021, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Ron Maroko ron.maroko@usdoj.gov  
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov  
Thomas Sands, Esq. thomas@thesandslawgroup.com

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) 01/29/2021, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

The State Bar of California, Office of the Chief Trial Counsel, Intake Department, 845 South Figueroa St, Los Angeles, CA 90017

Kiry K. Gray, Clerk, United States District Court, U.S. Courthouse, 350 West 1st St., Ste 4311, 5th Flr, Los Angeles, CA 90012-4565

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served):** Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 01/29/2021, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Overnight Mail: Thomas D Sands, Esq., 205 S Broadway, Suite 500, Los Angeles, CA 90012

EMAIL: All Judges of the U.S. Bankruptcy Court, Central District of California

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

01/29/2021  
Date

Jennifer Kohout  
Printed Name

Jennifer Kohout  
Signature