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8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **LOS ANGELES DIVISION**

11 In re

Case No.: 2:11-mp-00105

12 **The DISCIPLINARY PROCEEDING of**  
13 **THOMAS P. GIORDANO.**

**STIPULATED ORDER OF DISCIPLINE**

14 DATE: September 30, 2011  
15 TIME: 10:00 a.m.  
16 PLACE: Courtroom 1545

17 Order to Appear and Show Cause

18 This matter is a disciplinary action initiated by the Honorable Vincent P. Zurzolo  
19 ("Judge Zurzolo"), United States Bankruptcy Judge, who issued an "Order to Show Cause  
20 Directing Thomas P. Giordano to Personally Appear and Show Cause Why He Should Not  
21 Be Referred to the Bankruptcy Court's Disciplinary Panel for Filing False Declarations and to  
22 Adequately Represent Multiple Clients Before the Bankruptcy Court" ("Order to Show  
23 Cause"). That Order to Show Cause was heard by Judge Zurzolo on January 27, 2011, at  
24 which time Thomas P. Giordano ("Respondent") appeared in pro se. Dare Law, Esq.  
25 appeared on behalf of the United States Trustee ("U.S. Trustee") and Randy Dorcy, Esq.  
26 appeared as an interested party. At that time, Judge Zurzolo considered the Application for  
27 the Order to Show Cause, the request for Judicial Notice, Volumes 1-7, Respondent's  
28 response, the record in the matter, and issued his Findings of Fact and Conclusions of Law;  
Statement of Cause Referring Thomas P. Giordano to the Disciplinary Panel ("Order")

1 pursuant to the Third Amended General Order 96-05. That Order was entered on February  
2 23, 2011.

3  
4 Disciplinary Panel

5 Subsequently, the Honorable Barry Russell ("Judge Russell"), Mark S. Wallace  
6 ("Judge Wallace") and Richard M. Neiter ("Judge Neiter"), each a United States Bankruptcy  
7 Judge, were appointed as the members of the Panel (the "Panel") to hear and determine  
8 whether to discipline Respondent, and if so, the extent of such discipline.

9 The matter then came on for hearing before the Panel first on May 27, 2011 at 10:00  
10 a.m. in Courtroom 1545 of the above entitled Court, the Judge Russell presiding; and then  
11 on September 8, 2011 at 10:00 a.m.; and again on September 30, 2011 at 10:00 a.m. Dare  
12 Law, Esq. appeared at each of the hearings on behalf of the U.S. Trustee; Respondent  
13 appeared pro se at the hearing on May 27, 2011; and R. Gibson Pagter, Jr. appeared on  
14 behalf of Respondent on September 8 and 30, 2011.

15  
16 Joint Pretrial Status Report

17 The matters complained of were set forth in the U.S. Trustee's allegations as  
18 described in the Joint Pretrial Status Report and Settlement Proposal ("Report") wherein the  
19 U.S. Trustee alleged:

- 20 1. Respondent and his law firm filed documents without his debtor clients'  
21 approval;
- 22 2. Respondent and his law firm, in some instances, filed multiple bankruptcy  
23 cases without the approval or knowledge of his debtor clients;
- 24 3. In most cases, if not all, the debtor clients never met with Respondent or any  
25 other attorney of the Law Offices of Thomas P. Giordano prior to the filing of  
26 their petitions or anytime thereafter until the initial debtor Interview or first  
27 meeting of creditors held in accordance with 11 USC § 341(a);
- 28

1           4.     Respondent and his law firm failed to properly prosecute chapter 11 cases by  
2           failing to file cash collateral motions, failing to submit documents in accordance  
3           with U.S. Trustee requirements for debtors in possession, by failing to file other  
4           required motions, and by failing to set for hearing objections to Respondent's  
5           employment applications as required by the Local Bankruptcy Rules of this  
6           Court ("LBR").

7           In the Report, the U.S. Trustee also stated his intention to present evidence that  
8     Respondent had violated at least four rules of the California Bar Rules of Professional  
9     Conduct: (1) Rule 3-110, Failing to Act Competently; (2) Rule 4-200, Fees for Legal  
10    Services; (3) Rule 3-700(d)(1), Failure to Return Client Files; and (4) Rule 3-700(d)(2),  
11    Failure to Return Unearned Fees.

12           In the Report, the U.S. Trustee also stated his intent to present evidence that  
13    Respondent violated several Federal Rules of Bankruptcy Procedure and LBRs, including,  
14    but not limited to, LBR 2014-1(b), and that Respondent ignored the U.S. Trustee  
15    requirements for chapter 11 debtors in possession as stated in the U.S. Trustee's published  
16    Guide for Chapter 11 Debtors in Possession and LBR 2015-2.

17           The U.S. Trustee further stated that he was intending to present the dockets of the  
18    chapter 11 cases presently pending wherein Respondent and the Law Offices of Thomas P.  
19    Giordano either failed to file an employment application or where he and the Law Offices of  
20    Thomas P. Giordano failed to set for hearing objections to their employment applications that  
21    were filed in violation of LBR 9013-1(o)(4).

22           In addition, the U.S. Trustee stated his intention to present a summary of chapter 11  
23    cases where Respondent and the Law Offices of Thomas P. Giordano failed to timely submit  
24    to the U.S. Trustee numerous documents required of chapter 11 debtors in possession.

25           Finally, the U.S. Trustee indicated his intention to present evidence that where  
26    retainer agreements were attached to employment applications, the retainer agreements  
27    violated certain California Bar Rules of Professional Conduct in that they allowed the Law  
28    Offices of Thomas P. Giordano to maintain funds in its general account, including

1 impermissible nonrefundable advance fees, rather than depositing them in its client trust  
2 account to be withdrawn in accordance with the Guidelines of the US Trustee or orders of  
3 the court.

4  
5 Settlement Proposal

6 Respondent asserted no affirmative defenses to any of the aforementioned  
7 allegations. To avoid incurring the expense of litigating in this proceeding, with its attendant  
8 risks, Respondent offered to resolve the charges against him by agreeing to this Order.

9  
10 Order

11 The Panel, having deliberated has decided to accept Mr. Giordano's settlement  
12 proposal, and good cause appearing, IT IS HEREBY ORDERED THAT:

13 1. Respondent's practice privileges before all divisions of the United States  
14 Bankruptcy Court for the Central District of California and the United States Bankruptcy  
15 Court for the Southern District of California are revoked for a period of five (5) years,  
16 effective upon entry of this order.

17 2. Respondent's ECF filing privileges are revoked except that Respondent may  
18 file a motion to withdraw as counsel or a substitution of counsel in cases pending as of the  
19 entry of this order.

20 3. Respondent shall take all steps necessary either to substitute out as counsel,  
21 or to file motions to withdraw as counsel, in all cases pending under Chapter 7, 11 or 13 of  
22 the Bankruptcy Code in which he is counsel of record.

23 4. Respondent is enjoined, whether acting directly or through any corporation,  
24 partnership, subsidiary, division or other device, employee, consultant, or otherwise, for a  
25 period of five (5) years from the date of the entry of this order from advertising, marketing,  
26 offering or promoting his services as a bankruptcy lawyer or as a practitioner in the above-  
27 mentioned Districts.

1           5.     Within thirty (30) days of the entry of this order, Respondent shall refund and  
2 disgorge to his clients all retainers and monies received in all chapter 11 cases where such  
3 fees have not been approved by an entered order of the bankruptcy court. If such funds are  
4 not refunded to clients within the prescribed time, Respondent shall enter into a stipulated  
5 disgorgement order in each of said cases substantially similar to the form of an order  
6 attached hereto as Exhibit "A".

7           6.     The U.S. Trustee shall monitor Respondent's compliance with this Order.

8           7.     The period in which Respondent shall not practice law in the U.S. Bankruptcy  
9 Courts for the Central and Southern Districts of California shall be extended beyond said five  
10 years until all of the orders of disgorgement shall have been fully complied with.

11                               ####

12 DATED: October 3, 2011

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United States Bankruptcy Judge



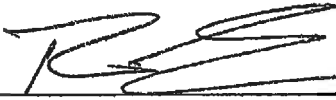
United States Bankruptcy Judge



United States Bankruptcy Judge

1 Approved as to form and content

2 Thomas P. Giordano and Law Offices of Thomas P. Giordano

3   
4 By \_\_\_\_\_  
Thomas P. Giordano

5  
6 By \_\_\_\_\_  
7 R. Gibson Pagter, Jr., Esq.  
8 Pagter and Miller  
9 Attorney for Thomas P. Giordano and  
10 the Law Offices of Thomas P. Giordano

11 United States Trustee (Peter Anderson)

12  
13 By \_\_\_\_\_  
14 Dare Law Attorney for United States Trustee

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15  
16 By \_\_\_\_\_  
Thomas P. Giordano

17  
18 By \_\_\_\_\_  
19 R. Gibson Pagter, Jr., Esq.  
Pagter and Miller  
20 Attorney for Thomas P. Giordano and  
the Law Offices of Thomas P. Giordano

21  
22  
23 United States Trustee (Peter Anderson)

24  
25 By \_\_\_\_\_  
Dare Law Attorney for United States Trustee

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16 By \_\_\_\_\_  
Thomas P. Giordano

17  
18 By \_\_\_\_\_  
19 R. Gibson Pagter, Jr., Esq.  
Pagter and Miller  
20 Attorney for Thomas P. Giordano and  
the Law Offices of Thomas P. Giordano

21  
22  
23 United States Trustee (Peter Anderson)

24  
25 By  \_\_\_\_\_  
Dare Law Attorney for United States Trustee



**NOTICE OF ENTERED ORDER AND SERVICE LIST**

1  
2 Notice is given by the court that a judgment or order entitled **STIPULATED ORDER OF DISCIPLINE** was  
3 entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the  
4 manner indicated below:

5 **I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** Pursuant to controlling  
6 General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following person(s)  
7 by the court via NEF and hyperlink to the judgment or order. As of September 30, 2011, the following person(s)  
8 are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF  
9 transmission at the email address(es) indicated below.

10 **R. Gibson Pagter, Jr.:** [Gibson@pagterandmiller.com](mailto:Gibson@pagterandmiller.com),  
11 [pandm@pagterandmiller.com](mailto:pandm@pagterandmiller.com); [pagterandmiller@yahoo.com](mailto:pagterandmiller@yahoo.com)

12 **United States Trustee (LA):** [ustpreion16.la.ecf@usdoj.gov](mailto:ustpreion16.la.ecf@usdoj.gov); [dare.law@usdoj.gov](mailto:dare.law@usdoj.gov)

13  Service information continued on  
14 attached page

15 **II. SERVED BY THE COURT VIA U.S. MAIL:** A copy of this notice and a true copy of this judgment or order  
16 was sent by United States Mail, first class, postage prepaid, to the following person(s) and/or entity(ies) at the  
17 address(es) indicated below:

18 **Respondent**  
19 Thomas P. Giordano, Esq.  
20 18101 Von Karman Ave., Suite 560  
21 Irvine, CA 92612  
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**EXHIBIT A**

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

In re:

Case No: \_\_\_\_\_

Chapter: \_\_\_\_

**ORDER RE DISGORGING ATTORNEY FEES  
PURSUANT TO 11 U.S.C. § 329**

Debtor(s).

It is hereby

ORDERED that Thomas P. Giordano, attorney of record in the above-entitled case, is to disgorge the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) by certified check, each made payable to debtors, \_\_\_\_\_, in two installments. The first certified check in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) is to be delivered to the United States Trustee, located at 725 S. Figueroa Street, Suite 2600, Los Angeles, CA 90017, by the close of business of 4:30 p.m. no later than twenty-eight (28) days after the entry of this Order. The second certified check in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) is to be delivered to the United States Trustee, located at

1 725 S. Figueroa Street, Suite 2600, Los Angeles, CA 90017 by the close of business  
2 of 4:30 p.m. no later than fifty-six (56) days from the entry of this Order. The United States  
3 Trustee thereafter shall forward such checks to the debtors.  
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6 IT IS SO ORDERED.

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2 **PROOF OF SERVICE OF DOCUMENT**

3  
4 I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
5

6 A true and correct copy of the foregoing document described as **ORDER DISGORGING ATTORNEY FEES**  
7 **PURSUANT TO 11 U.S.C. § 329** will be served or was served (a) on the judge in chambers in the form and  
8 manner required by LBR 5005-2(d); and (b) in the manner indicated below:

9 **I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – Pursuant to controlling  
10 General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via  
11 NEF and hyperlink to the document. On \_\_\_\_\_, I checked the CM/ECF docket for this bankruptcy  
12 case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to  
13 receive NEF transmission at the email address(es) indicated below:

14  Service information continued on attached page

15 **II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL** (indicate method for each person or entity served):

16 On \_\_\_\_\_, I served the following person(s) and/or entity(ies) at the last known address(es) in this  
17 bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the  
18 United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing  
19 the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the  
20 document is filed.

21  Service information continued on attached page

22 **III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL** (indicate method for each  
23 person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on \_\_\_\_\_, I served the  
24 following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service  
25 method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that  
26 personal delivery on the judge will be completed no later than 24 hours after the document is filed.

27  Service information continued on attached page

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type Name

\_\_\_\_\_  
Signature

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**NOTE TO USERS OF THIS FORM:**

- 1) Attach this form to the last page of a proposed Order or Judgment. Do not file as a separate document.
- 2) The title of the judgment or order and all service information must be filled in by the party lodging the order.
- 3) **Category I.** below: The United States trustee and case trustee (if any) will always be in this category.
- 4) **Category II.** below: List **ONLY** addresses for debtor (and attorney), movant (or attorney) and person/entity (or attorney) who filed an opposition to the requested relief. **DO NOT** list an address if person/entity is listed in category I.

**NOTICE OF ENTERED ORDER AND SERVICE LIST**

Notice is given by the court that a judgment or order entitled (*specify*) **ORDER DISGORGING ATTORNEY FEES PURSUANT TO 11 U.S.C. § 329** was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner indicated below:

**I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following person(s) by the court via NEF and hyperlink to the judgment or order. As of \_\_\_\_\_, the following person(s) are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email address(es) indicated below.

Service information continued on attached page

**II. SERVED BY THE COURT VIA U.S. MAIL:** A copy of this notice and a true copy of this judgment or order was sent by U.S. Mail to the following person(s) and/or entity(ies) at the address(es) indicated below:

Service information continued on attached page

**III. 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 U.S. Mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following person(s) and/or entity(ies) at the address(es), facsimile transmission number(s) and/or email address(es) indicated below:

Service information continued on attached page