

Exhibit A

1 Case No. OBC16-1504



FILED

DEC 08 2016

STATE BAR OF NEVADA
STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD
BY *[Signature]*
OFFICE OF BAR COUNSEL

6 STATE BAR OF NEVADA,)
7 Complainant,)
8 vs.)
9 ROBERT C. GRAHAM, ESQ.,)
10 BAR No. 4618,)
11 Respondent.)

COMPLAINT

12 TO: Robert C. Graham, Esq.
13 c/o P. Sterling Kerr, Esq.
14 2450 St. Rose Parkway, Suite 120
Las Vegas, NV 89074

15 PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2), a
16 **VERIFIED RESPONSE OR ANSWER** to this Complaint must be filed with the Office of
17 Bar Counsel, State Bar of Nevada, 3100 W. Charleston Boulevard, Suite 100, Las Vegas,
18 Nevada 89102, within twenty (20) days of service of this Complaint. Procedure regarding
19 service is addressed in SCR 109.

20 1. Complainant, State Bar of Nevada (hereafter "State Bar"), by and through
21 its Assistant Bar Counsel, Janeen V. Isaacson, alleges that attorney Robert C. Graham,
22 Esq. ("Respondent"), is now and at all times pertinent herein was a licensed attorney in
23 the State of Nevada and that he engaged in acts of misconduct in Clark County, Nevada,
24 warranting the imposition of professional discipline as set out herein.

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2 2. At all relevant times herein, Respondent was the owner of Robert C.
3 Graham, LTD. and practiced law under the names Rob Graham & Associates and
4 Lawyers West in Las Vegas, Nevada.

5 3. On November 17, 2016, Respondent was ordered to transfer the sum of
6 \$1,045,405.08 and \$22,569.53 which he was holding for former client Michael B. Macknin
7 to his new counsel, Michael Kling, Ltd. by Judge Gloria Sturman of Department 26 in the
8 Nevada Eighth Judicial District Court.

9 4. Prior to the issuance of the Order, Kling had communicated with
10 Respondent who represented that he was still safekeeping Macknin's funds, which
11 Respondent claimed were located in his IOLTA client trust account located at City
12 National Bank. Respondent also provided to Macknin's counsel a copy of what he
13 represented was a bank statement from that IOLTA account showing a balance of over
14 \$1 million dollars.

15 5. Respondent failed to comply with Judge Sturman's Order.

16 6. On December 2, 2016, Respondent called an office meeting with his staff at
17 10000 W. Charleston Blvd, Suite 140, Las Vegas, Nevada and informed them that he
18 was abandoning the law practice as of that day and that everyone was laid off.

19 7. Respondent's employees had no prior notice that the office was closing and
20 none of Respondent's clients were informed of the abandonment.

21 8. Prior to the abandonment of his practice, Respondent had routinely and
22 consistently failed to diligently distribute funds being held for clients in trusts, probates,
23 and estates, and failed to communicate with these clients regarding the status of their
24 money. Respondent also repeatedly lied to clients as to the true status of their client
25 funds.

1 9. On December 5, 2016, attorney Joseph S. Kistler ("Kistler") of Hutchison &
2 Steffen, LLC, obtained a Temporary Restraining Order ("TRO") and Preliminary Injunction
3 freezing all funds contained in the City National IOLTA trust account based on the
4 abandonment of Respondent's practice, and his failure to turn over the funds as ordered.

5 10. On December 6, 2016, for the benefit and protection of the clients,
6 Supreme Court Rule ("SCR") 118 representatives were appointed pro-bono to step in the
7 shoes of Respondent and assume the handling of Respondent's practice, assume
8 Respondent's cases and take all necessary steps to wind-down the practice, notify clients
9 of the situation, and secure client files and accounting information.

10 11. On December 7, 2016, the State Bar obtained accounting records and
11 copies of checks and disbursements relating to specific clients of the law firm via
12 subpoena. The State Bar, while still in the mist of its analysis of these records, has
13 reviewed more than 50 individual Transaction Detail by Account reports maintained by
14 the law firm. These reports appeared to track all deposits and client related transactions.
15 The State Bar has prepared a chart documenting 51 separate reports attached thereto
16 demonstrating that Respondent, based on his own accounting records, should be holding
17 more than \$13,000,000 in trust for those 51 clients alone. See **Exhibit 1**.

18 12. On December 7, 2016, Kistler, co-counsel for Macknin, reported to the
19 State Bar that he had been in communications with City National Bank in compliance with
20 the TRO issued by Judge Sturman. He provided the State Bar with a Declaration stating
21 that City National had confirmed the balance of Respondent's City National IOLTA was in
22 the "low six figures" and confirmed that the bank statement provided by Respondent
23 showing the balance to be over \$1 million dollars was not based on a legitimate bank
24 statement. See **Exhibit 2**.

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1 13. The State Bar, based on accounting and bank records, obtained by
2 execution of a subpoena, has determined there are other banking and investment
3 accounts which were being utilized by Respondent to keep funds provided to him for
4 safekeeping by his clients. However, based on information provided to date, the
5 balances of these accounts total much less than the more than \$13,000,000 Respondent
6 should be safekeeping for these clients.

7 14. Respondent has retained counsel, who facilitated the execution of the State
8 Bar's lawful subpoena in compliance with Rule of Professional Conduct ("RPC") 8.1(b)
9 (Bar Admission & Disciplinary Matters) but indicated that Respondent will not respond to
10 any further requests for information from the State Bar of Nevada.

11 15. Based on the investigation to date, the State Bar alleges that Respondent
12 failed to properly safekeep millions of dollars in client funds in violation of RPC 1.3
13 (Diligence) and RPC 1.15 (Safekeeping Property).

14 16. Based on the investigation to date, the State Bar alleges that Respondent
15 misappropriated millions of dollars from his current and former trust, probate and estate
16 clients in violation of RPC 8.4 (Misconduct).

17 17. Based on the investigation to date, the State Bar alleges that Respondent
18 lied to the court and opposing counsel in the Macknin matter regarding the location and
19 status of Macknin's funds in violation of RPC 3.3 (Candor Toward the Tribunal) and RPC
20 4.1 (Truthfulness in Statements to Others).

21 18. Based on the investigation to date, the State Bar alleges that Respondent
22 lied to his other clients regarding that status of their client funds in violation of RPC 1.4
23 (Communication) and RPC 4.1 (Truthfulness in Statements to Others).
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1 19. Based on the investigation to date, the State Bar alleges that Respondent
2 abandoned his practice and his clients without notice or court approval in violation of
3 RPC 1.16 (Declining or Terminating Representation).

4 20. In light of the foregoing, Respondent violated Rules of Professional Conduct
5 ("RPC") 1.3 (Diligence), RPC 1.4 (Communication), RPC 1.15 (Safekeeping Property),
6 RPC 1.16 (Declining or Terminating Representation), RPC 3.3 (Candor Toward the
7 Tribunal), RPC 4.1 (Truthfulness in Statements to Others) and RPC 8.4 (Misconduct).

8 WHEREFORE, Complainant prays as follows:

- 9 1. That a hearing be held pursuant to SCR 105;
- 10 2. That Respondent be assessed the costs of the disciplinary proceeding
11 pursuant to SCR 120(1); and
- 12 3. That pursuant to Supreme Court Rule 102, such disciplinary action be taken
13 by the Southern Nevada Disciplinary Board against Respondent as may be deemed
14 appropriate under the circumstances, including an award of restitution to the victims of
15 Respondent's conduct as demonstrated by clear and convincing evidence at trial.

16 Dated this 6th day of December, 2016.

17 STATE BAR OF NEVADA

18
19 By: 

20 Janeen V. Isaacson, Assistant Bar Counsel
21 3100 W. Charleston Boulevard, Suite 100
22 Las Vegas, Nevada 89102
23 (702) 382-2200
24 Attorney for State Bar of Nevada
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