



ORIGINAL

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FILED

MAR 21 2008

STATE BAR COURT  
 CLERK'S OFFICE  
 LOS ANGELES

PUBLIC MATTER

THE STATE BAR COURT  
 HEARING DEPARTMENT - LOS ANGELES

In the Matter of ) Case Nos. 05-O-01949  
 ) [07-O-11318]  
 BARRY SCOTT SILVER, )  
 No. 87520, ) NOTICE OF  
 ) DISCIPLINARY CHARGES  
 A Member of the State Bar. )

**NOTICE - FAILURE TO RESPOND!**

**IF YOU FAIL TO FILE AN ANSWER TO THIS NOTICE WITHIN THE TIME ALLOWED BY STATE BAR RULES, INCLUDING EXTENSIONS, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL, (1) YOUR DEFAULT SHALL BE ENTERED, (2) YOU SHALL BE ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR AND WILL NOT BE PERMITTED TO PRACTICE LAW UNLESS THE DEFAULT IS SET ASIDE ON MOTION TIMELY MADE UNDER THE RULES OF PROCEDURE OF THE STATE BAR, (3) YOU SHALL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOUR DEFAULT IS SET ASIDE, AND (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**

**STATE BAR RULES REQUIRE YOU TO FILE YOUR WRITTEN RESPONSE TO THIS NOTICE WITHIN TWENTY DAYS AFTER SERVICE.**

**IF YOUR DEFAULT IS ENTERED AND THE DISCIPLINE IMPOSED BY THE SUPREME COURT IN THIS PROCEEDING INCLUDES A PERIOD OF ACTUAL SUSPENSION, YOU WILL REMAIN SUSPENDED FROM THE PRACTICE OF LAW FOR AT LEAST THE PERIOD OF TIME SPECIFIED BY THE SUPREME COURT. IN ADDITION, THE ACTUAL SUSPENSION WILL CONTINUE UNTIL YOU HAVE REQUESTED, AND THE STATE**



1 that he would attempt to negotiate down the medical liens and get Tabb \$1,000 for his share of  
2 the settlement funds. Respondent did not provide an accounting to Tabb.

3 7. In or about early May 2004, Respondent received a settlement check in the  
4 amount of \$3,862, payable to Respondent and Tabb. Respondent deposited the \$3,862  
5 settlement check into his CTA on May 10, 2004.

6 8. On or about May 12, 2004, Respondent issued CTA check #5152 to himself in the  
7 amount of \$550 for attorney's fees. On or about May 14, 2004, Respondent issued CTA check  
8 #5156 to himself in the amount of \$650 for attorney's fees. Thus, Respondent was required to  
9 maintain at least \$2,662 in his CTA on behalf of Tabb and his medical providers.

10 9. However, on or about May 14, 2004, the balance in Respondent's CTA was  
11 \$2,604.60, which was below the amount Respondent was required to maintain on behalf of Tabb.  
12 By on or about May 26, 2004, the balance in Respondent's CTA further fell to \$112.51. At no  
13 time between on or about May 14 and May 26, 2004, did Respondent disburse any settlement  
14 funds to Tabb or to any lienholder on Tabb's behalf.

15 10. In or about July 2004, Respondent spoke to Tabb. Tabb requested that  
16 Respondent send him \$75 to cover some expenses he had incurred in prison and hold his share of  
17 the settlement funds in trust until his release.

18 11. On or about December 5, 2004, Tabb sent Respondent a letter requesting his  
19 share of the settlement funds.

20 12. On or about July 14, 2005, Respondent sent Tabb a \$75 check. The \$75 check  
21 was returned by the prison facility because it was not a money order.

22 13. In or about January 2005, Tabb filed a complaint with the State Bar that he had  
23 not received his settlement funds.

24 14. In or about June 2005, after the State Bar notified Respondent of Tabb's  
25 complaint, Respondent sent a letter to Tabb's medical providers to negotiate down the amounts  
26 owed to the providers.

27 15. On or about August 26, 2005, Respondent sent Tabb CTA check #5240 for \$100.  
28







1 37. To date, Respondent has not paid White her share of settlement funds.

2 38. By not maintaining at least \$5,667 in his CTA on behalf of White and her medical  
3 providers from on or about October 1, 2002, Respondent intentionally misappropriated funds  
4 belonging to White, thereby committing an act involving moral turpitude, dishonesty or  
5 corruption.

6 COUNT SIX

7 Case Nos. 05-O-01949; 07-O-11318  
8 Rules of Professional Conduct, rule 4-100(A)  
9 [Commingling Personal Funds in Client Trust Account]

10 39. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A), by  
11 commingling personal funds into his client trust account, as follows:

12 40. The allegations of paragraphs 4 through 16, and 27 through 32 are incorporated  
13 by reference.

14 41. Between in or about June 2002 and January 2005, Respondent deposited personal  
15 funds into his CTA, including but not limited to the following:

<u>Date of Deposit</u>	<u>Amount of Deposit</u>	<u>Nature of Deposit</u>
08/22/02	4,500.00	Workers' compensation attorney fees
09/03/02	7,875.00	Applicant's attorney settlement fees
09/03/02	3,775.00	Workers' compensation attorney fees
09/20/02	4,250.00	Workers' compensation attorney fees
07/14/03	3,675.00	Workers' compensation attorney fees
09/26/03	10,500.00	Workers' compensation attorney fees
01/06/04	1,692.00	Workers' compensation attorney fees
12/16/04	825.00	Workers' compensation attorney fees
01/26/05	1,117.50	Workers' compensation attorney fees

21 None of the attorney fees payments in Respondent's workers' compensation cases  
22 included any sums in which Respondent's clients held an interest.

23 42. Between May 2002 and January 2005, Respondent issued CTA checks to pay for  
24 personal expenses, including but not limited to the following:

<u>CTA Check #</u>	<u>Amount</u>	<u>Date Issued</u>	<u>Payee</u>
4957	\$4,100.00	05/13/02	Carlos Rivera, Respondent's paralegal ("Rivera")
4995	2,250.00	09/04/02	Rivera
5052	7,079.48	02/04/03	Rivera
5067	2,838.98	03/26/03	Rivera

1	5078	\$ 2,625.00	04/15/03	Rivera
	5112	2,117.00	09/30/03	Rivera
2	5172	4,125.00	07/19/04	Rivera
	5180	1,650.00	08/12/04	Rivera
3	5204	2,500.00	11/05/04	Rivera
4	5211	4,376.87	01/25/05	Rivera

5 Rivera is an independent contractor who provided paralegal services to Respondent as a  
6 hearing representative in workers' compensation cases.

7 43. By depositing personal funds into his client trust account and issuing client trust  
8 account checks to pay personal or business expenses, Respondent commingled personal funds  
9 into his client trust account.

10 **NOTICE - INACTIVE ENROLLMENT!**

11 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR  
12 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE  
13 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL  
14 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO  
15 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN  
16 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE  
17 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE  
18 RECOMMENDED BY THE COURT. SEE RULE 101(c), RULES OF  
19 PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

16 **NOTICE - COST ASSESSMENT!**

17 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE,  
18 YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY  
19 THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF  
20 THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE  
21 SECTION 6086.10. SEE RULE 280, RULES OF PROCEDURE OF THE  
22 STATE BAR OF CALIFORNIA.**

21 Respectfully submitted,

22 THE STATE BAR OF CALIFORNIA  
23 OFFICE OF THE CHIEF TRIAL COUNSEL

24  
25 Dated: March 21, 2008 By: *Monique T. Miller*  
26 MONIQUE T. MILLER  
27 Deputy Trial Counsel  
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