

**ORIGINAL**

**FILED**

JAN 23 2009

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of: ) Case Nos. 06-O-14552, 07-O-10134  
14 ) & 07-O-10899  
15 TODD E. MACALUSO, )  
16 No. 133009, ) NOTICE OF DISCIPLINARY CHARGES  
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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**

1 SUSPENSION WILL CONTINUE UNTIL YOU HAVE REQUESTED,  
2 AND THE STATE BAR COURT HAS GRANTED, A MOTION FOR  
3 TERMINATION OF THE ACTUAL SUSPENSION. AS A CONDITION  
4 FOR TERMINATING THE ACTUAL SUSPENSION, THE STATE BAR  
5 COURT MAY PLACE YOU ON PROBATION AND REQUIRE YOU TO  
6 COMPLY WITH SUCH CONDITIONS OF PROBATION AS THE STATE  
7 BAR COURT DEEMS APPROPRIATE. SEE RULE 205, RULES OF  
8 PROCEDURE FOR STATE BAR COURT PROCEEDINGS.

9 The State Bar of California alleges:

10 JURISDICTION

11 1. TODD E. MACALUSO ("Respondent") was admitted to the practice of law in the  
12 State of California on January 4, 1988, was a member at all times pertinent to these charges, and  
13 is currently a member of the State Bar of California.

14 COUNT ONE

15 Case Nos. 06-O-14552, 07-O-10134 & 07-O-10899  
16 Business and Professions Code, section 6106  
17 [Moral Turpitude-Issuing NSF Checks]

18 2. Respondent wilfully violated Business and Professions Code, section 6106, by  
19 committing an act involving moral turpitude, dishonesty or corruption, as follows:

20 3. At all times relevant to the events alleged herein, Respondent maintained a client trust  
21 account at California Bank & Trust, account number xx-xxxx28-41 ("CTA").<sup>1</sup>

22 4. Between on or about July 25, 2006, and on or about February 9, 2007, Respondent  
23 issued the following checks drawn upon his CTA against insufficient funds:

Check Nos.:	Date Issued:	Amount:	Payee:	Date Presented:	Account Balance when Presented:
104	07/25/06	\$130,000.00	L.A. Funding	07/27/06	\$113,437.42
128	01/03/07	\$10,740.20	Richard H. Benes	01/04/07	\$8,967.06
141	02/09/07	\$30,047.87	County Medical Services	02/26/07	\$764.73

24 5. Respondent issued the checks set forth above when he knew, or was grossly negligent  
25 in not knowing, that there were insufficient funds in his CTA to pay them.

26  
27  
28 <sup>1</sup> The complete account numbers have been omitted due to privacy concerns.

1 6. By repeatedly issuing checks drawn upon his CTA when he knew, or was grossly  
2 negligent in not knowing, that the checks were issued against insufficient funds, Respondent  
3 committed acts involving moral turpitude, dishonesty, or corruption, in wilful violation of  
4 Business and Professions Code section 6106.

5 COUNT TWO

6 Case No. 07-O-10134  
7 Rules of Professional Conduct, rule 4-100(A)  
8 [Failure to Maintain Client Funds in Trust Account]

9 7. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A), by failing  
10 to maintain the balance of funds received for the benefit of a client and deposited in a bank  
11 account labeled "Trust Account," "Client's Funds Account" or words of similar import, as  
12 follows:

13 8. The allegations of paragraphs 3 through 5 are incorporated by reference.

14 9. At all times relevant to the events alleged herein, Respondent represented Julie  
15 Randall ("Randall") in an attorney fee dispute matter wherein funds were being held by the Los  
16 Angeles County Superior Court pursuant to a related interpleader action.

17 10. In or about August 2006, the court determined that \$108,750 of the funds being held  
18 by the court was to be returned to Randall.

19 11. On or about August 25, 2006, the court forwarded a check for \$108,750 to  
20 Respondent on behalf of Randall.

21 12. On or about August 25, 2006, Respondent received a check for \$108,750 from the  
22 court on behalf of Randall. These funds belonged entirely to Randall and Respondent was not  
23 entitled to receive any of these funds.

24 13. On or about September 21, 2006, Respondent deposited the \$108,750 check that he  
25 received from the court on behalf of Randall into his CTA.

26 14. On or about September 21, 2006, Respondent issued check no. 117 from his CTA  
27 made payable to Randall in the amount of \$108,750, which represented Randall's funds that  
28 were returned by the court ("check no. 117").

1 15. Randall did not present check no. 117 for payment until on or about January 3, 2007.  
2 As a result, Respondent was required to maintain in his CTA the sum \$108,750 on behalf of  
3 Randall at all times prior to that date.

4 16. On or about January 3, 2007, prior to check no. 117 being presented for payment, the  
5 balance in Respondent's CTA fell to \$8,997.06.

6 17. By not maintaining \$108,750 on behalf of Randall in a client trust account,  
7 Respondent failed to deposit and maintain client funds in trust, in wilful violation of Rules of  
8 Professional Conduct, rule 4-100(A).

9 COUNT THREE

10 Case No. 07-O-10134  
11 Business and Professions Code, section 6106  
12 [Moral Turpitude-Misappropriation]

13 18. Respondent wilfully violated Business and Professions Code, section 6106, by  
14 committing an act involving moral turpitude, dishonesty or corruption, as follows:

15 19. The allegations of paragraphs 3 through 5, and 9 through 16 are incorporated by  
16 reference.

17 20. Respondent dishonestly or with gross negligence misappropriated \$99,752.94 of  
18 Randall's funds.

19 21. By misappropriating \$99,752.94 that he was required to maintain in trust on behalf of  
20 Randall, Respondent committed an act involving moral turpitude, dishonesty or corruption, in  
21 wilful violation of Business and Professions Code, section 6106.

22 COUNT FOUR

23 Case No. 06-O-14552  
24 Rules of Professional Conduct, rule 4-100(A)  
25 [Failure to Maintain Client Funds in Trust Account]

26 22. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A), by failing  
27 to maintain the balance of funds received for the benefit of a client and deposited in a bank  
28 account labeled "Trust Account," "Client's Funds Account" or words of similar import, as  
follows:

1 23. The allegations of paragraphs 3 through 5, 9 through 16, and 20 are incorporated by  
2 reference.

3 24. At all times relevant to the events alleged herein, Respondent represented plaintiff  
4 Roberto DeGregorio ("DeGregorio") in a civil matter ("DeGregorio matter").

5 25. DeGregorio had previously borrowed money from L.A. Funding that was to be repaid  
6 by DeGregorio from proceeds received by him in the DeGregorio matter.

7 26. In or about July 2006, the DeGregorio matter settled for \$275,000.

8 27. On or about July 10, 2006, Respondent received a settlement check for \$275,000 on  
9 behalf of DeGregorio.

10 28. On or about July 13, 2006, Respondent deposited the \$275,000 settlement check into  
11 his CTA.

12 29. Of the \$275,000 in settlement proceeds from the DeGregorio matter, Respondent was  
13 required to hold in trust at least \$130,000 on behalf of DeGregorio.

14 30. On or about July 25, 2006, Respondent issued check no. 104 from his CTA in the  
15 amount of \$130,000 made payable to L.A. Funding as repayment of their loan in the DeGregorio  
16 matter ("check no. 104").

17 31. On or about July 27, 2006, Respondent was required to maintain in his CTA the sum  
18 \$130,000 on behalf of DeGregorio.

19 32. On or about July 27, 2006, prior to check no. 104 being presented for payment, the  
20 balance in Respondent's CTA fell to \$113,437.42.

21 33. By not maintaining \$130,000 on behalf of DeGregorio in a client trust account,  
22 Respondent failed to deposit and maintain client funds in trust, in wilful violation of Rules of  
23 Professional Conduct, rule 4-100(A).

24 COUNT FIVE

25 Case No. 06-O-14552  
26 Business and Professions Code, section 6106  
[Moral Turpitude-Misappropriation]

27 34. Respondent wilfully violated Business and Professions Code, section 6106, by  
28 committing an act involving moral turpitude, dishonesty or corruption, as follows:

1 35. The allegations of paragraphs 3 through 5, 9 through 16, 20, and 24 through 32 are  
2 incorporated by reference.

3 36. Respondent dishonestly or with gross negligence misappropriated \$16,562.58 of  
4 DeGregorio's funds.

5 37. By misappropriating \$16,562.58 that he was required to maintain in trust on behalf of  
6 DeGregorio, Respondent committed an act involving moral turpitude, dishonesty or corruption,  
7 in wilful violation of Business and Professions Code, section 6106.

8 COUNT SIX

9 Case No. 07-O-10899  
10 Rules of Professional Conduct, rule 4-100(A)  
[Failure to Maintain Client Funds in Trust Account]

11 38. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A), by failing  
12 to maintain the balance of funds received for the benefit of a client and deposited in a bank  
13 account labeled "Trust Account," "Client's Funds Account" or words of similar import, as  
14 follows:

15 39. The allegations of paragraphs 3 through 5, 9 through 16, 20, 24 through 32, and 36  
16 are incorporated by reference.

17 40. At all times relevant to the events alleged herein, Respondent represented plaintiff  
18 Sandra Wilson ("Wilson") in a civil matter ("Wilson matter").

19 41. At all times relevant to the events alleged herein, County Medical Services had a lien  
20 against the Wilson matter in the amount of \$30,047.87.

21 42. In or about November 2006, the Wilson matter settled for \$200,000.

22 43. On or about November 14, 2006, the defendants in the Wilson matter transferred  
23 \$200,000 to Respondent's CTA via wire pursuant to the settlement agreement.

24 44. Of the \$200,000 in settlement proceeds from the Wilson matter, County Medical  
25 Services was entitled to receive \$30,047.87 pursuant to their lien.

26 45. On or about February 9, 2007, Respondent issued check no. 141 from his CTA in the  
27 amount of \$30,047.87 made payable to County Medical Services for payment of the lien ("check  
28

1 no. 141"). County Medical Services did not present check no. 141 for payment until on or about  
2 February 26, 2007.

3 46. On or about February 26, 2007, Respondent was required to maintain in his CTA the  
4 sum \$30,047.87 on behalf of Wilson.

5 47. On or about February 26, 2007, prior to check no. 141 being presented for payment,  
6 the balance in Respondent's CTA fell to \$764.73.

7 48. By not maintaining \$30,047.87 on behalf of Wilson in a client trust account,  
8 Respondent failed to deposit and maintain client funds in trust, in wilful violation of Rules of  
9 Professional Conduct, rule 4-100(A).

10 COUNT SEVEN

11 Case No. 07-O-10899  
12 Business and Professions Code, section 6106  
13 [Moral Turpitude-Misappropriation]

14 49. Respondent wilfully violated Business and Professions Code, section 6106, by  
15 committing an act involving moral turpitude, dishonesty or corruption, as follows:

16 50. The allegations of paragraphs 3 through 5, 9 through 16, 20, 24 through 32, 36, and  
17 40 through 47 are incorporated by reference.

18 51. Respondent dishonestly or with gross negligence misappropriated \$29,283.14 of  
19 Wilson's funds.

20 52. By misappropriating \$29,283.14 that he was required to maintain in trust on behalf of  
21 Wilson, Respondent committed an act involving moral turpitude, dishonesty or corruption, in  
22 wilful violation of Business and Professions Code, section 6106.

23 COUNT EIGHT

24 Case Nos. 07-O-10134 & 07-O-10899  
25 Rules of Professional Conduct, rule 4-100(A)  
26 [Misuse of Client Trust Account]

27 53. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A), by  
28 misusing a bank account labeled "Trust Account," "Client's Funds Account" or words of similar  
import, as follows:

1 54. The allegations of paragraphs 3 through 5, 9 through 16, 20, 24 through 32, 36, 40  
2 through 47, and 51 are incorporated by reference.

3 55. Between on or about December 18, 2006, and on or about January 3, 2007,  
4 Respondent issued checks drawn upon his CTA to pay for his personal and business expenses  
5 including, but not limited to, the following:

6 Check No.	Date Issued:	Amount:	Payee:
7 126	12/18/06	\$50,000.00	Courtesy Aircraft
8 128	01/03/07	\$10,740.20	Richard H. Benes

9  
10 56. By issuing checks from his CTA to pay for his personal and business expenses,  
11 Respondent misused his CTA, in wilful violation of rule 4-100(A), Rules of Professional  
12 Conduct.

13 **NOTICE - INACTIVE ENROLLMENT!**

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

23 **NOTICE - COST ASSESSMENT!**

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

Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: January 23, 2009

By:   
AGUSTIN HERNANDEZ  
Deputy Trial Counsel

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**DECLARATION OF SERVICE BY CERTIFIED MAIL**

**CASE NUMBER: 06-O-14552, 07-O-10134 & 07-O-10899**

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

**NOTICE OF DISCIPLINARY CHARGES**

**in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7160 3901 9848 5951 4837, at Los Angeles, on the date shown below, addressed to:**

**JoAnne Robbins  
Karpman & Associates  
301 N. Canon Drive, Ste. 303  
Beverly Hills, CA 90210**

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: January 23, 2009

Signed:   
Lupe Pacheco-Granados  
Declarant