

PUBLIC MATTER

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STATE BAR COURT
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THE STATE BAR COURT
HEARING DEPARTMENT - LOS ANGELES

In the Matter of) Case Nos. 06-O-14560, 07-O-10017,
JAMES EARL BROWN, No. 59180,) 07-O-11482
A Member of the State Bar.) NOTICE OF DISCIPLINARY CHARGES

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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 7. Between about July 21, 2004, and September 29, 2005, no fewer than 12 letters went
2 back and forth between Respondent and Progressive regarding Banos' claim.

3 8. On about December 7, 2005, Respondent sued Progressive's insured in Superior
4 Court. On about December 7, 2005, Respondent sent a letter to Progressive enclosing the proofs
5 of service that were served upon Progressive's insured. In addition, the letter notified
6 Progressive of a pending court date.

7 9. On about May 17, 2006, Respondent settled Banos' personal injury claim with
8 Progressive. Respondent did not tell Banos that his case had settled.

9 10. On about May 17, 2006, Respondent received a settlement check from Progressive,
10 payable to Respondent and Banos, in the amount of \$7,000. Respondent did not tell Banos that
11 Respondent had received his settlement check from Progressive.

12 11. On about May 18, 2007, Respondent forged Banos' name onto the settlement check.
13 Respondent signed Banos' name on the settlement check without authority to do so. Respondent
14 deposited the settlement check into a bank account that was not Respondent's client trust
15 account. Respondent did not disburse any of Banos' settlement funds to Banos or to a lien
16 holder on his behalf.

17 12. After subtracting Respondent's contingency fee from Banos' settlement funds,
18 Respondent was required to maintain \$4,662 of Banos' funds in his trust account.

19 13. On about July 11, 2006, Respondent mailed a letter to Banos. Respondent identified
20 the topic of the letter as "money owed to you". Respondent's letter informed Banos that Brown
21 and Associates was evicted from its Wilshire Boulevard location and gave Banos Respondent's
22 new contact information.

23 14. Respondent's July 11, 2006, letter was an acknowledgment that Respondent knew
24 that he had received Banos's settlement funds.

25 15. To date, Banos has received no money from his settlement.

26 16. By not depositing Banos' funds into his CTA, Respondent wilfully failed to deposit
27 funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's
28 Funds Account" or words of similar import.

1 settlement funds, Respondent failed to keep a client reasonably informed of significant
2 developments in a matter in which Respondent had agreed to provide legal services.

3 COUNT FIVE

4 Case No. 07-O-10017
5 Rules of Professional Conduct, rule 4-100(A)
6 [Failure to Maintain Client Funds in Trust Account]

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

11 29. On about July 22, 2005, Lucio Flores (Flores) was hit by a car. While in the
12 hospital, someone told Flores that Respondent could represent him in his personal injury claim
13 against the driver of the car that hit him.

14 30. On about July 25, 2005, Flores hired Respondent to pursue his personal injury claim.
15 They agreed that Respondent would be compensated by a contingency fee of 33⅓ percent.

16 31. In about August 2005, Respondent sent Flores a check for \$1,500 to compensate him
17 for lost wages.

18 32. On about September 8, 2005, Respondent signed an attorney's lien with Whittier
19 Health Services, one of Flores' treatment providers.

20 33. On about September 19, 2005, Respondent settled Flores' case with Farmers
21 Insurance Company (Farmers).

22 34. On about September 19, 2005, Respondent forged Flores' name on a release in
23 Flores' personal injury case, and delivered the release to Farmers. Respondent signed Flores'
24 name on the release without authority to do so.

25 35. On about September 19, 2005, Respondent received a settlement check from Farmers
26 payable to Flores and Respondent in the amount of \$15,000. Respondent never notified Flores
27 that he had settled Flores' case or that he had received Flores' settlement funds.

28 36. On about September 20, 2005, Respondent forged Flores' name on the settlement
draft and deposited it into his client trust account at Wells Fargo Bank, account no. 798-7607400

1 (CTA). Respondent signed Flores' name on the settlement check without authority to do so.

2 Respondent did not disburse any of Flores' settlement funds to Flores or to a lien holder on his
3 behalf.

4 37. After subtracting Respondent's contingency fee from Flores' settlement funds, and
5 the \$1,500 advance to Flores, Respondent was required to maintain \$8,500 of Flores' funds in
6 his CTA.

7 38. On about October 7, 2005, the balance in Respondent CTA dipped to \$4,593.

8 39. On about December 20, 2005, the balance in Respondent's CTA dipped to \$-302.24

9 40. As of December 20, 2005, Respondent failed to maintain Flores' settlement funds in
10 his CTA. and had misappropriated \$8,500 of Flores' settlement funds through dishonesty or
11 gross negligence.

12 41. On about December 31, 2005, Respondent sent a letter to Flores informing him that
13 his case had settled for \$15,000.

14 42. In about March 2006, Flores went to Respondent's office on Wilshire Boulevard to
15 inquire about his settlement. At that meeting, Flores spoke with Respondent directly using an
16 interpreter. Respondent gave Flores an additional \$1,500. Respondent told Flores that he would
17 be disbursing more money to him after Respondent negotiated Flores' bills with the medical
18 providers.

19 43. As of about March 2005, Respondent was required to maintain \$7,000 of Flores'
20 funds in his CTA

21 44. Between about March and September 2006, Flores called Respondent's office more
22 than 20 times. Each time that he called, Flores left a message asking Respondent to return his
23 call. Respondent never returned Flores' calls.

24 45. On about April 3, 2006 the balance in Respondent's CTA was \$-2,383.57.

25 46. As of April 3, 2006, Respondent failed to maintain Flores' settlement funds in his
26 CTA. and had misappropriated \$7,000 of Flores' settlement funds through dishonesty or gross
27 negligence.

28 47. On about May 4, 2006, Respondent's CTA was closed with an ending balance of

1 \$264.38.

2 48. On about August 6, 2007, Noriega Chiropractic Clinic (NCC) (the parent company
3 of Whittier Health Center) sent a letter to Respondent informing him that Flores had an
4 outstanding balance of \$2,365, that Respondent was responsible for the bill, and demanded that
5 Respondent pay Flores' bill.

6 49. On about August 13, 2007, NCC mailed another letter to Respondent informing him
7 that Flores had an outstanding balance of \$2,365, that Respondent was responsible for the bill,
8 and demanded that Respondent pay Flores' bill.

9 50. On about August 17, 2007, NCC sued Respondent in small claims court for the full
10 amount of Flores' bill, plus costs.

11 51. On about October 2, 2007, NCC obtained a judgement in its case against Respondent
12 in the amount of \$2,595. To date, Respondent has not satisfied the judgment.

13 52. By not keeping \$8,500 of Flores settlement finds in his CTA on about December 20,
14 2005, and by not keeping \$7,000 of Flores settlement finds in his CTA after April 3, 2006,
15 Respondent wilfully failed to maintain the balance of funds received for the benefit of a client
16 and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of
17 similar import.

18 COUNT SIX

19 Case No.07-O-10017
20 Business and Professions Code, section 6106
[Moral Turpitude]

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

23 54. The allegations of paragraphs 29 through 51 are incorporated by reference.

24 55. Respondent had actual knowledge that his office represented Flores in his personal
25 injury matter.

26 56. Respondent dishonestly or with gross negligence misappropriated Flores' settlement
27 funds.

28 57. By misappropriating at least \$7,000 of Flores' settlement funds, Respondent

1 committed an act involving moral turpitude, dishonesty or corruption.

2 COUNT SEVEN

3 Case No.07-O-10017
4 Business and Professions Code, section 6106
[Moral Turpitude]

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

7 59. The allegations of paragraphs 29 through 51, and 55 are incorporated by reference.

8 60. By forging Flores' name on the settlement check from Farmers, Respondent
9 committed an act involving moral turpitude, dishonesty or corruption.

10 COUNT EIGHT

11 Case No.07-O-10017
12 Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

13 61. Respondent wilfully violated Business and Professions Code, section 6068(m), by
14 failing to keep a client reasonably informed of significant developments in a matter in which
15 Respondent had agreed to provide legal services, as follows:

16 62. The allegations of paragraphs 29 through 51, and 55 are incorporated by reference.

17 63. By not informing Flores that he had settled his claim against Farmers and by not
18 informing Flores that he had received Flores' settlement funds from Farmers, Respondent failed
19 to keep a client reasonably informed of significant developments in a matter in which
20 Respondent had agreed to provide legal services.

21 COUNT NINE

22 Case No. 07-O-11482
23 Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

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

1 65. On about June 7, 2005, Xavier Garcia (Garcia) was injured in an automobile
2 accident. Garcia was insured by Farmers Insurance Co. (Farmers). The other driver in the
3 accident was insured by Mercury Insurance Co. (Mercury).

4 66. On about June 16, 2005, Garcia hired Respondent to pursue his personal injury
5 claim. They agreed that Respondent would be compensated by a contingency fee of 33⅓
6 percent.

7 67. On about June 16, 2005, Garcia received a letter from the Law Office of Brown &
8 Associates thanking him for retaining the law office and requesting him to sign and return a
9 designation/authorization and a fee agreement. Garcia signed the documents and returned them
10 to the law office of Brown & Associates.

11 68. On about June 16, 2005, Respondent sent a letter of representation to Farmers
12 informing it that Brown and Associates represented Garcia in his claim.

13 69. Garcia's truck was totaled in the accident. On about July 26, 2007, Farmers
14 delivered a check to Garcia in the amount of \$20,155.36, payable to Garcia and GMAC, for the
15 balance of Garcia's loan at GMAC.

16 70. On about September 6, 2005, Farmers sent a letter to Respondent informing him that
17 the check it sent to Garcia had ben cashed but that GMAC had not received the money.

18 71. On about September 19, 2005, Respondent issued a check from his CTA at Wells
19 Fargo Bank, acct. no. 7987607400, in the amount of \$20,155.36, payable to GMAC. On about
20 September 19, 2005, Respondent mailed that check to GMAC via USPS Express Mail.
21 Respondent's check was delivered to GMAC on about September 23, 2005.

22 72. On about January 25, 2006, Respondent sent a demand letter to Mercury demanding
23 that it pay \$17,500 to settle Garcia's claim.

24 73. On about February 21, 2006, Respondent settled the med-pay portion of Garcia's
25 claim with Farmers. On about February 21, 2006, Respondent received a settlement check from
26 Farmers payable to Respondent and Garcia in the amount of \$3,004. The check was issued to
27 pay for Garcia's medical expenses (med-pay).

28 74. Respondent did not notify Garcia that he had settled a portion of Garcia's claim or

1 that he had received the \$3,004 med-pay check from Farmers.

2 75. On about February 24, 2006, Respondent forged Garcia's name on the settlement
3 check and deposited the med-pay funds received on Garcia's behalf into his CTA. Respondent
4 signed Garcia's name on the settlement check without authority to do so. Respondent did not
5 disburse any of Garcia's settlement funds to Garcia or to a lien holder on Garcia's behalf.

6 76. On about February 22, 2006, Mercury sent a letter to Respondent offering to settle
7 Garcia's claim for \$5,800. On about February 27, 2006, Respondent settled Garcia's case with
8 Mercury for \$6,000. The Mercury settlement included payments for bodily injury and med-pay.

9 77. On about February 27, 2006, Respondent received a settlement check from Mercury
10 payable to Respondent and Garcia in the amount of \$6,000.

11 78. Respondent did not notify Garcia that he had settled a portion of Garcia's claim or
12 that he had received \$6,000 from Mercury for med-pay and bodily injury.

13 79. On about March 6, 2006, Respondent forged Garcia's name on the settlement check
14 from Mercury and deposited the \$6,000 that he received from Mercury into his CTA.
15 Respondent signed Garcia's name on the settlement check without authority to do so.

16 80. During the time that Respondent settled Garcia's case, the month of February 2006,
17 Garcia was on active military duty in Germany.

18 81. In March 2006, Garcia returned from Germany, and contacted Respondent's office.
19 Neither Respondent nor anyone from his office informed Garcia that his case had settled nor that
20 Respondent had received \$9,004 of Garcia's settlement funds.

21 82. After subtracting Respondent's contingency fee from Garcia's settlement funds,
22 Respondent was required to maintain \$6,002 of Garcia's funds in his CTA

23 83. On about April 3, 2006, the balance in Respondent's CTA was \$-2,383.37.

24 84. In about August 2006, Garcia contacted Respondent's office. Garcia was told that he
25 had been victimized by thefts in Respondent's office and that his file was nowhere to be found.

26 85. In about October 2006, Farmers began to write letters to Garcia informing him of its
27 right to recoup the med-pay (\$3,004) that it had paid him. Farmers continues, to this day, to
28 send monthly letters to Garcia demanding that he reimburse it for the \$3,004 in med-pay that

1 delivered to Respondent.

2 86. By not maintaining at least \$6,002 received on behalf of Garcia in his CTA,
3 Respondent wilfully failed to maintain the balance of funds received for the benefit of a client
4 and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of
5 similar import.

6 COUNT TEN

7 Case No.07-O-11482
8 Business and Professions Code, section 6106
[Moral Turpitude]

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

11 88. The allegations of paragraphs 65 through 85 are incorporated by reference.

12 89. Respondent had actual knowledge that his office represented Garcia in his personal
13 injury matter.

14 90. Respondent, through dishonesty or gross negligence, misappropriated \$6,002 of
15 Garcia's settlement funds.

16 91. By misappropriating at least \$6,002 of Garcia's settlement funds, Respondent
17 committed an act involving moral turpitude, dishonesty or corruption.

18 COUNT ELEVEN

19 Case No.07-O-11482
20 Business and Professions Code, section 6106
[Moral Turpitude]

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

23 93. The allegations of paragraphs 65 through 85, and 89 are incorporated by reference.

24 94. By forging Garcia's name on the settlement checks from Mercury and Farmers,
25 Respondent committed an act or acts involving moral turpitude, dishonesty or corruption.

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1 102. The investigator's letters requested that Respondent respond in writing to specified
2 allegations of misconduct that were being investigated in the Banos matter. Respondent did not
3 respond to the investigator's letters or otherwise communicate with the investigator

4 103. By not providing a written response to the allegations in the Banos matter or
5 otherwise cooperating in the investigation of the Banos matter, Respondent failed to cooperate in
6 a disciplinary investigation.

7 **NOTICE - INACTIVE ENROLLMENT!**

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

17 **NOTICE - COST ASSESSMENT!**

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

24 Respectfully Submitted,

25 THE STATE BAR OF CALIFORNIA
26 OFFICE OF THE CHIEF TRIAL COUNSEL

27 Date: October 10, 2008

28 By: _____

ANTHONY J. GARCIA
Deputy Trial Counsel

