

PUBLIC MATTER

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STATE BAR COURT
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LOS ANGELES

STATE BAR OF CALIFORNIA
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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case No. 07-O-10244
)
KIANOOSH NASSIRI,) NOTICE OF DISCIPLINARY CHARGES
No. 144428,)
)
)
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 BAR COURT HAS GRANTED, A MOTION FOR

1 **TERMINATION OF THE ACTUAL SUSPENSION. AS A CONDITION**
2 **FOR TERMINATING THE ACTUAL SUSPENSION, THE STATE BAR**
3 **COURT MAY PLACE YOU ON PROBATION AND REQUIRE YOU TO**
4 **COMPLY WITH SUCH CONDITIONS OF PROBATION AS THE STATE**
5 **BAR COURT DEEMS APPROPRIATE. SEE RULE 205, RULES OF**
6 **PROCEDURE FOR STATE BAR COURT PROCEEDINGS.**

7 The State Bar of California alleges:

8 **JURISDICTION**

9 1. Kianoosh Nassiri ("Respondent") was admitted to the practice of law in the State of
10 California on December 11, 1989, was a member at all times pertinent to these charges, and is
11 currently a member of the State Bar of California.

12 **COUNT ONE**

13 Case No. 07-O-10244
14 Rules of Professional Conduct, rule 3-700(A)(2)
15 [Improper Withdrawal From Employment]

16 2. Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2), by
17 failing, upon termination of employment, to take reasonable steps to avoid reasonably
18 foreseeable prejudice to his client, as follows:

19 3. On or about April 4, 2005, Evelyn Hearon ("Hearon") went to Respondent's office
20 located at 2929 Wilshire Boulevard, Suite 245, Los Angeles, California 90010 (the "Los Angeles
21 office") to meet with Respondent. Hearon employed Respondent to represent her in a matter
22 involving her son, Gabriel Aguilera ("Gabriel "), and the Department of Children and Family
23 Services ("DCFS") in a matter proceeding in the Superior Court of California, County of Los
24 Angeles ("Superior Court"), titled *In the Matter of Gabriel Aguilera, Jr.*, LASC Case No.
25 CK27184 ("*In re Gabriel* "). Hearon signed an "Attorney-Client Fee Agreement" that stated
26 that she agreed to pay Respondent a "non-refundable" retainer fee of \$2,500.

27 4. On or about April 4, 2005, Hearon paid Respondent \$2,000 in cash for advance
28 attorney fees and costs to represent her.

1 5. On or about April 12, 2005, Hearon paid Respondent \$500 in cash for advance
2 attorney fees and costs to represent her in *In re Gabriel*. Altogether, Hearon paid Respondent
3 \$2,500 in cash for advance attorney fees and costs.

4 6. Respondent never filed a Substitution of Attorney or Notice of Appearance in *In re*
5 *Gabriel* stating that he represented Hearon.

6 7. On or about October 13, 2005, a hearing was held in *In re Gabriel*. Respondent and
7 Hearon did not appear. Gabriel's father - Gabriel Aguilera, Sr. ("Aguilera"), Aguilera's court-
8 appointed counsel - L. Ernestine Fields ("Fields"), and an attorney from DCFS appeared. The
9 Superior Court released Gabriel to Aguilera and ordered, *inter alia*, (a) DCFS to prepare a pre-
10 adjudication social study; (b) a hearing for November 8, 2005; and (c) DCFS give notice of the
11 next hearing.

12 8. On or about October 25, 2005, DCFS served on Hearon a Notice of Hearing on
13 Petition in *In re Gabriel* set for November 8, 2005. Hearon received the Notice.

14 9. Between on or about October 25, 2005, and on or before November 8, 2005, Hearon
15 called Respondent and told Respondent that there was a hearing in *In re Gabriel* set for
16 November 8, 2005. Respondent told Hearon that he did not have to be with her for that
17 appearance.

18 10. On or about November 8, 2005, Hearon, Aguilera, Fields, an attorney from DCFS
19 appeared for the hearing in *In re Gabriel*. DCFS filed: (a) an 18-page "Jurisdiction / Disposition
20 Report" concerning Gabriel ; and (b) an 11-page "Child Welfare Services Case Plan Update –
21 [Voluntary] – Case Plan Family Assessment – [Voluntary]." Hearon told the Superior Court that
22 she had retained Respondent and the Court continued the hearing to November 28, 2005.

23 11. Between on or about November 8, 2005, and on or about November 28, 2005, Hearon
24 called the Los Angeles office approximately once a weekday to discuss *In re Gabriel* and the
25 hearing set for November 28, 2005. Hearon spoke with Respondent once during that time,
26 during which Respondent told Hearon that he was in the process of moving and would call her
27 back. Hearon always left messages with her telephone number on telephone message system for
28

1 the Los Angeles office requesting that Respondent call her to discuss *In re Gabriel* and the
2 hearing set for November 28, 2005. Respondent received the messages.

3 12. Respondent did not return the messages left by Hearon or otherwise communicate
4 with Hearon.

5 13. On or about November 28, 2005, Respondent and Hearon failed to appear for the
6 hearing in *In re Gabriel*. Aguilera, Fields, and an attorney from DCFS appeared. The Superior
7 Court made orders that impacted Hearon's parental rights based on the reports from DCFS.

8 14. Between on or about November 28, 2005 and in or about the end December of 2005,
9 Hearon called the Los Angeles office approximately once a weekday to discuss *In re Gabriel*.
10 Hearon was unable to speak with anyone, and always left messages with her telephone number
11 on the telephone message system for the Los Angeles office requesting that Respondent call her
12 to discuss *In re Gabriel*. Respondent received the messages.

13 15. Respondent did not return the messages left by Hearon or otherwise communicate
14 with Hearon.

15 16. In or about November of December of 2005, Hearon drove to the Los Angeles office
16 without an appointment to meet with Respondent. On that date, she discovered that the office
17 previously occupied by Respondent had been vacated.

18 17. Respondent did not inform or provide Hearon with his new address or his new
19 telephone number.

20 18. Between in or about December of 2005 and October of 2006, Hearon called
21 Respondent at a telephone number she obtained from the State Bar approximately once a week to
22 discuss *In re Gabriel*. Hearon was unable to speak with anyone, and always left messages with
23 her telephone number on the telephone message system requesting that Respondent call her to
24 discuss *In re Gabriel*. Respondent received the messages.

25 19. Respondent did not return the messages left by Hearon or otherwise communicate
26 with Hearon.

20. At no time did Respondent: inform Hearon that he was not taking any action on *In re Gabriel*; or take any steps to avoid reasonably foreseeable prejudice to Hearon.

21. By: (a) failing to substitute into *In re Gabriel*; (b) failing to perform any work on *In re Gabriel*; (c) vacating the Los Angeles office without providing Hearon with his new address and telephone number; and (d) ceasing to communicate with Hearon after in or about November of 2005, Respondent constructively terminated his representation of Hearon on or about April 12, 2005.

22. By constructively terminating his representation of Hearon on or about April 12, 2005, without informing Hearon and without taking any steps to avoid reasonably foreseeable prejudice to Hearon, Respondent willfully failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client.

COUNT TWO

Case No. 07-O-10244
Business and Professions Code section 6068(m)
[Failure to Respond to Client Inquiries]

23. Respondent willfully violated Business and Professions Code section 6068(m), by failing to respond promptly to reasonable status inquiries of a client, as follows:

24. The allegations of paragraphs 3 through 21 are incorporated by reference.

25. By failing to respond to the messages that Hearon left for him to call her between in or about November of 2005 and in or about October of 2006 to call her to discuss *In re Gabriel*, Respondent willfully failed to respond promptly to reasonable status inquiries of a client.

COUNT THREE

Case No. 07-O-10244
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

26. Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

27. The allegations of paragraphs 3 through 21 are incorporated by reference.

1 28. Respondent did not provide legal services of any value to Hearon. At no time did
2 Respondent refund any portion of the \$2,500 in unearned advance attorney fees and costs to
3 Hearon.

4 29. By failing to refund the sum of \$2,500 to Hearon, Respondent willfully failed to
5 refund any part of a fee or cost paid in advance that has not been earned.

6 **NOTICE - INACTIVE ENROLLMENT!**

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

16 **NOTICE - COST ASSESSMENT!**

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

23 Respectfully submitted,

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

26 DATED: December 22, 2008

27 By: _____

28 Charles T. Calix
Deputy Trial Counsel

1 **DECLARATION OF SERVICE BY CERTIFIED MAIL**

2 **CASE NUMBER: 07-O-10244**

3 I, the undersigned, over the age of eighteen (18) years, whose business address and place
4 of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California
5 90015, declare that I am not a party to the within action; that I am readily familiar with the State
6 Bar of California's practice for collection and processing of correspondence for mailing with the
7 United States Postal Service; that in the ordinary course of the State Bar of California's practice,
8 correspondence collected and processed by the State Bar of California would be deposited with
9 the United States Postal Service that same day; that I am aware that on motion of party served,
10 service is presumed invalid if postal cancellation date or postage meter date on the envelope or
11 package is more than one day after date of deposit for mailing contained in the affidavit; and that
12 in accordance with the practice of the State Bar of California for collection and processing of
13 mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on
14 the date shown below, a true copy of the within

10 **NOTICE OF DISCIPLINARY CHARGES**

11 in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,
12 Article No.: 7060 3901 9848 5950 5804, at Los Angeles, on the date shown below, addressed to:

13 **Kianoosh Nassiri**
14 **5460 White Oak Ave., Unit E115**
15 **Encino, CA 91316**

15 **and a courtesy copy to**

16 **Kianoosh Nassiri**
17 **Adjoudanieh Boulevard at Fifth Street**
18 **Adjoudanieh Building Unit 93**
19 **Tehran, Iran**

19 **and via email to: ken_nassiri@yahoo.com**

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

22 DATED: December 22, 2008

23 SIGNED: 

24 Roberta L. Hernandez
25 Declarant

26 @PFDesktop\ODMA/PCDOCS/SBI/115273/I