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STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

PUBLIC MATTER

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STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

13 In the Matter of:) Case No. 08-O-10547 [10-O-10965]
 14)
 15 FRANK REYNOSO,) NOTICE OF DISCIPLINARY CHARGES
 16 No. 41035,)
 17 A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.



1 The State Bar of California alleges:

2 JURISDICTION

3 1. Frank Reynoso ("respondent") was admitted to the practice of law in the State of
4 California on December 21, 1967, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California ("State Bar").

6 BACKGROUND

7 2. By letter dated July 8, 1994, respondent was personally advised by the Office of
8 Intake of the Office of the Chief Trial Counsel that

9 When you sign a lien on behalf of a health care provider for treatment for your
10 client, you assume a fiduciary relationship to assure the health care provider
11 receives payment should you obtain monies on behalf of your client. When the
12 case is resolved, and you receive a settlement draft and there is no dispute what
13 sum the health care provider is owed, you must withhold that sum in your client
14 trust account and pay it to the provider. (See *Johnstone v. State Bar* (1966) 64
15 Cal.2d 153, *In the Matter of Mapps* (1990) 1 Cal. State Bar Ct. Rptr. 1 and *In the
Matter of Kizer* (1990) 1 Cal. State Bar Ct. Rptr. 87). Delay in payment or a drop
in your client trust account below the sum owed to the health care provider may
be a violation of California Business and Professions Code Section 6106, as well
as Rules 3-110(A) and 4-100(B)(4) of the Rules of Professional Conduct.

16 If there is a dispute between the client and the health care provider as to what is
17 owed, then you must maintain the entire disputed [Rule 4-100(A)(2)] sum in your
18 client trust account while the dispute is resolved. You should not simply give
19 monies either to the client or to the health care provider while there is a dispute.
20 If the dispute cannot be resolved between the health care provider and the client,
21 then the best practice is to interplead the sums in court and seek direction. It is
essential that you and your client discuss this aspect of your obligations at the
beginning of the representation so that the client fully understands that you might
not be able to simply turn over the monies.

22 Attorneys often assume that if they have not signed a lien there are no ethical or
23 practical implications in simply providing the monies representing the bill of the
24 health care provider to the client. In that case, while the attorney is not required
25 to hold monies in trust for the provider, the issue may still be one of competent
26 performance for the client pursuant to Rule 3-110(A) of the Rules of Professional
27 Conduct. The client needs to be fully informed that the health care provider will
28 look to the client to be paid, to advise the client in writing of this liability, and to
secure the written acknowledgment from the client. In this situation you are
encouraged to resolve any billing differences between the health care provider
and the client before providing the monies to the client.

1 12. Pursuant to instruction from respondent, Cammack retained the amount of \$6,357
2 from the *Cisneros v. Leo* settlement proceeds in Cammack's client trust account for future
3 payment of Cisneros' medical liens in both cases.

4 13. By letter dated March 30, 2001, respondent advised opposing counsel in Cisneros'
5 second case, *Cisneros v. Spanos*, Sacramento Superior Court case number 00ASO2790, that
6 Cisneros' medical bills to date totaled \$13,667.

7 14. In or about April 2001, *Cisneros v. Spanos* settled. On or about April 24, 2001,
8 Western United Insurance Company issued a settlement check in the amount of \$14,500.

9 15. Respondent informed Cisneros that because Cisneros' medical bills exceeded
10 Cisneros' share of the settlement proceeds in *Cisneros v. Spanos* Cisneros would not receive any
11 funds from the settlement. Respondent also told Cisneros that because respondent had referred
12 Cisneros to health care providers who treated Cisneros, respondent would try to get the health
13 care providers to accept less than their billed amounts, and, thereafter, if there were any
14 settlement funds remaining, respondent would pay those funds to Cisneros. Respondent did not
15 provide Cisneros with any form of distribution statement or accounting.

16 16. In or about mid-2003 Cisneros became aware that one of his medical care providers,
17 Fuqua Physical Therapy ("Fuqua"), had not been paid \$1,635.47 for Cisneros' treatment despite
18 a lien against settlement proceeds. On or about June 17, 2003, Fuqua's bill was assigned for
19 collection to Placer Creditors Bureau.

20 17. By letter faxed to respondent on July 21, 2003, Cisneros requested that respondent
21 pay Cisneros' medical bills.

22 18. Shortly thereafter, respondent paid Placer Creditors Bureau \$2,100 on Fuqua's bill
23 (\$1,635.47 principal; \$464.53 accrued interest).

24 19. On or about October 16, 2003, Cammack issued respondent a client trust account
25 check in the amount of \$6,357 which represented the funds withheld from the *Cisneros v. Leo*
26 settlement proceeds.

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1 20. Shortly thereafter, respondent deposited Cammack's client trust account check in the
2 amount of \$6,357 into respondent's Bank of America client trust account number 16640-11685.

3 21. On or about June 11, 2004, respondent closed Bank of America client trust account
4 number 16640-11685 by withdrawing \$440,732.53 and opened a new Bank of America client
5 trust account 16645-06884 ("CTA") with a deposit of the same amount.

6 22. Not until in or about early April 2007, when Cisneros' application for a mortgage was
7 rejected due to an unpaid medical lien, did Cisneros discover that Dr. Hoffman dba
8 Prosthodontic Dental Group, another of his medical care providers had not been paid out of
9 liened settlement proceeds by respondent and that it had also been assigned to Placer Creditors
10 Bureau.

11 23. Between April 11, 2007, and November 1, 2007, Cisneros made 17 telephone calls to
12 respondent requesting that respondent pay Cisneros' medical care providers and/or their
13 assignees and requesting that respondent return his calls and/or give Cisneros an appointment to
14 discuss the unpaid medical liens. Respondent never arranged an appointment with Cisneros.

15 24. On July 19, 2007, after several unsuccessful attempts to speak with respondent on the
16 telephone, Cisneros visited respondent's law office without an appointment and requested an
17 accounting/statement of settlement distribution and details of payments to his medical care
18 providers. Respondent told Cisneros that he still held the funds to pay Cisneros' medical liens,
19 would take care of them, and asked Cisneros not to come to his office without an appointment.

20 25. By letter dated August 17, 2007, sent by certified mail to respondent, Cisneros
21 requested in writing that all his medical care providers be paid, explained to respondent that his
22 credit rating was being ruined by the nonpayment of the medical liens, and specifically requested
23 "an accounting of such disbursements". Respondent received Cisneros' August 17, 2007 letter
24 on August 20, 2007. Respondent did not respond in any way to Cisneros' August 17, 2007
25 letter.

26 26. On or about January 4, 2008, the State Bar received a complaint against respondent
27 submitted by Cisneros.

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1 27. On or about January 7, 2008, Dr. Samaan, one of Cisneros' medical care providers,
2 sued respondent for unpaid medical liens for 13 of respondent's clients treated between 1998 and
3 2000, including Cisneros (*Samaan v. Reynoso*, Sacramento County Superior Court case number
4 2008-00000238). The *Samaan v. Reynoso* complaint alleged that Cisneros' unpaid bill was in
5 the amount of \$3,209.98, and that the total principal amount owing for the 13 clients/patients was
6 \$20,535.46.

7 28. By letter dated February 25, 2008, State Bar Investigator Syed Majid ("Majid")
8 notified respondent of Cisneros' complaint and requested respondent to provide explanation,
9 information, and documents no later than March 11, 2008.

10 29. By letter dated March 10, 2008, respondent confirmed his telephonic request for an
11 extension of time until March 25, 2008, to respond to Majid's February 25, 2008 letter, and
12 Majid's grant of such an extension. Respondent stated that his request was based, in part, on the
13 fact that "most of the documents requested by your office were in storage and have been ordered
14 by me."

15 30. On or about March 27, 2008, respondent settled Dr. Hoffman's bill which had been
16 assigned to Placer Creditors Bureau for \$2,400.

17 31. On April 3, 2008, respondent and Cisneros met in person to go over the settlement
18 distribution and payments to medical care providers. For the first time Cisneros learned that Dr.
19 Samaan had not been paid. Respondent did not tell Cisneros that respondent had already been
20 sued by Dr. Samaan. Cisneros agreed that respondent could make a final attempt to settle Dr.
21 Samaan's lien for \$3,150.

22 32. On or about April 23, 2008, Cisneros telephoned respondent to find out whether Dr.
23 Samaan had been paid. Respondent told Cisneros that Dr. Samaan had not yet been paid, and
24 that respondent would contact Cisneros when Dr. Samaan was paid.

25 33. On or about May 1, 2008, Cisneros telephoned respondent and again asked whether
26 Dr. Samaan has been paid. Respondent told Cisneros that Dr. Samaan had not yet been paid.

1 43. The allegations of Count One are incorporated by reference.

2 44. By withholding from February 2001, until at least October 2003, the \$6,357 from the
3 *Cisneros v. Leo* settlement, and not accounting for it to date, despite Cisneros' August 17, 2007
4 request for an accounting, respondent, failed to pay promptly, as requested by a client, funds in
5 respondent's possession which the client is entitled to receive.

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COUNT THREE

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Case No. 08-O-10547
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

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10 45. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3), by
11 failing to render appropriate accounts to a client regarding all funds coming into respondent's
12 possession, as follows:

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 46. The allegations of Count One are incorporated by reference.

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 47. By never providing Cisneros with any accounting of the *Cisneros v. Spanos*
15 settlement proceeds, respondent failed to render appropriate accounts to a client regarding all
16 funds coming into respondent's possession.

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COUNT FOUR

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Case No. 08-O-10547
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

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21 48. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by
22 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
23 follows:

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 49. The allegations of Count One are incorporated by reference.

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 50. By not paying or attempting to compromise Fuqua's medical lien for more than 25
26 months after settlement proceeds had been received in *Cisneros v. Spanos*, by not paying or
27 attempting to compromise Dr. Hoffman's medical lien for almost seven years after settlement

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1 proceeds had been received in *Cisneros v. Spanos*, and by not paying Dr. Samaan's lien for more
2 than eight years after settlement proceeds had been received in *Cisneros v. Spanos*, respondent
3 recklessly and repeatedly failed to perform legal services with competence.

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5 COUNT FIVE

6 Case No. 08-O-10547
7 Business and Professions Code, section 6068(m)
8 [Failure to Respond to Client Inquiries]

9 51. Respondent wilfully violated Business and Professions Code, section 6068(m), by
10 failing to respond promptly to reasonable status inquiries of a client in a matter in which
11 respondent had agreed to provide legal services, as follows:

12 52. The allegations of Count One are incorporated by reference.

13 53. By not responding between April 11, 2007, and November 1, 2007, to 17 telephone
14 messages from Cisneros regarding nonpayment of Dr. Hoffman's medical lien which had
15 resulted in the rejection of Cisneros' mortgage application in early April 2007, and by not
16 responding to Cisneros' August 17, 2007 letter, respondent failed to respond promptly to
17 reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal
18 services.

19 COUNT SIX

20 Case No. 10-O-10965
21 Business and Professions Code, section 6106
22 [Moral Turpitude]

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

25 55. On or about January 22, 2007, Esther Forbes ("Forbes") hired respondent to represent
26 her on a contingency fee basis on a personal injury claim arising out of a hit-and-run automobile
27 accident which occurred on January 1, 2007.

28 56. Respondent signed medical liens in favor of Forbes' medical care providers.

1 57. On or about December 26, 2008, respondent filed *Forbes v. Doe*, Sacramento County
2 Superior Court case number 2008-00030349.

3 58. On or about April 22, 2009, respondent settled *Forbes v. Doe* over the telephone with
4 GEICO for Forbes' \$100,000 policy limit. GEICO faxed the release to respondent the same day.

5 59. On May 7, 2009, Forbes picked up the release from respondent's office, and on May
6 8, 2009, returned it to respondent with her notarized signature.

7 60. Between on or about May 25, 2009, and or about October 23, 2009, GEICO left
8 several telephone messages inquiring regarding the status of the settlement, and, specifically, the
9 release. Respondent did not respond to GEICO in any way.

10 61. By letter dated November 20, 2009, a GEICO representative asked respondent to
11 contact him.

12 62. On or about December 15, 2009, GEICO issued the \$100,000 settlement check.

13 63. On or about December 21, 2009, GEICO's \$100,000 settlement check cleared
14 respondent's CTA.

15 64. On or about February 13, 2010, respondent issued CTA checks in the amount of
16 \$28,585.30 to Forbes, \$33,903 to himself for fees and costs, and \$300 to respondent's paralegal
17 Dolores Velazquez. Respondent retained \$37,211.70 (\$22,211.70 for "total medical bills and
18 Medi-Care set aside" and \$15,000 "funds to be held in client trust account now").

19 65. Also on or about February 13, 2010, Forbes signed the "Settlement Accounting",
20 "Addendum to Settlement Accounting", and an "Authorization to Compromise Liens and
21 Attorney's Fees Therefore" which authorized respondent to attempt to compromise Forbes'
22 medical liens at an hourly rate of \$150, plus "administrative costs" of no more than \$300.

23 66. Between on or about February 13, 2010, and on or about March 19, 2010, respondent
24 took no action to pay any of Forbes' medical care providers or to compromise any medical liens.

25 67. By letter dated March 19, 2010, Forbes terminated respondent's representation, and
26 requested all funds held by respondent on her behalf, and her client file by April 15, 2010.

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1 68. Although respondent received Forbes' March 19, 2010 letter shortly after March 19,
2 2010, he did not provide Forbes with her file or funds.

3 69. Between on or about March 20, 2010, and on or about August 3, 2010, respondent
4 took no action to pay any of Forbes' medical care providers, compromise medical liens, or to
5 interplead the entrusted funds.

6 70. On or about March 31, 2010, Forbes hired attorney Ognian Gavrilov ("Gavrilov") to
7 obtain her funds from respondent and sort out the medical liens.

8 71. By letters dated April 2, 2010, and April 12, 2010, Gavrilov requested that respondent
9 release Forbes' funds so the medical liens could be paid without further interest or penalties
10 accruing. Although respondent received both letters shortly after April 2, 2010, and April 12,
11 2010, respectively, he did not respond to them in any way.

12 72. On or about June 25, 2010, Gavrilov filed suit on behalf of Forbes against respondent
13 (*Forbes v. Reynoso*, Sacramento Superior Court case number 2010-00081274). In settlement, on
14 August 3, 2010, respondent issued a CTA check in the amount of \$37,211.70 payable to
15 Gavrilov's client trust account. *Forbes v. Reynoso* was dismissed on August 24, 2010.

16 73. On or about September 2, 2010, respondent provided Gavrilov with a portion of
17 Forbes' file.

18 74. On or about September 30, 2010, the State Bar received a complaint against
19 respondent submitted by Forbes.

20 75. By letter dated November 22, 2010, the Office of Intake notified respondent of
21 Forbes' complaint and requested a response to a summary of Forbes' allegations, including
22 whether he had returned Forbes' file to her, and copies of respondent's client trust account
23 statement, an accounting, and fronts and backs of all cancelled checks.

24 76. To date, Forbes has not received her complete client file.

25 77. By withholding \$37,211.70 of Forbes' settlement proceeds between on or about April
26 15, 2010, and on or about August 3, 2010, under the guise of compromising medical liens
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1 without taking any or no action to do so, respondent committed an act involving moral turpitude,
2 dishonesty or corruption.

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4 COUNT SEVEN

5 Case No. 10-O-10965
6 Rules of Professional Conduct, rule 4-100(B)(4)
7 [Failure to Pay Client Funds Promptly]

8 78. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(4), by
9 failing to pay promptly, as requested by a client, any funds in respondent's possession which the
10 client is entitled to receive, as follows:

11 79. The allegations of Count Six are incorporated by reference.

12 80. By taking no action to pay and little or no action to compromise Forbes' medical liens
13 or to interplead the \$37,211.70 withheld from Forbes' settlement proceeds between on or about
14 April 15, 2010, and on or about August 3, 2010, after Forbes' written demand of March 19,
15 2010, respondent, failed to pay promptly, as requested by a client, any funds in respondent's
16 possession which the client is entitled to receive.

17 COUNT EIGHT

18 Case No. 10-O-10965
19 Rules of Professional Conduct, rule 3-110(A)
20 [Failure to Perform with Competence]

21 81. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by
22 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
23 follows:

24 82. The allegations of Count Six are incorporated by reference.

25 83. By delaying receipt of settlement funds by Forbes by his inaction between on or about
26 May 8, 2009, through on or about February 13, 2010, respondent recklessly failed to perform
27 legal services with competence.

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NOTICE - INACTIVE ENROLLMENT!

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.

NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: November 28, 2011

By: Sherrie B. McLetchie
Sherrie B. McLetchie
Deputy Trial Counsel

DECLARATION OF SERVICE BY CERTIFIED AND REGULAR MAIL

CASE NUMBER: 08-O-10547 [10-O-10965]

I, the undersigned, am over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, 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 San Francisco, 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 9849 1845 9871** and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

**Frank Reynoso
1100 Perkins Way
Sacramento CA 95818**

Courtesy copy to:

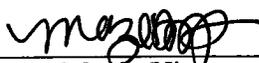
**Michael E. Wine
301 N. Lake Ave., Suite 800
Pasadena CA 91101**

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 San Francisco, California, on the date shown below.

DATED: November 28, 2011

Signed: 
Mazie Yip
Declarant