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STATE BAR COURT CLERK'S OFFICE
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11 STATE BAR COURT

12 HEARING DEPARTMENT - SAN FRANCISCO

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14 In the Matter of:) Case Nos. 12-O-15990; 12-O-17155
15 DANIEL BURT HALPERN,)
No. 189336,) NOTICE OF DISCIPLINARY CHARGES
16)
17 A Member of the State Bar)

18 **NOTICE - FAILURE TO RESPOND!**

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

- 21 (1) **YOUR DEFAULT WILL BE ENTERED;**
22 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
WILL NOT BE PERMITTED TO PRACTICE LAW;
23 (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;
24 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
25 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
26 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**
27 **ORDER RECOMMENDING YOUR DISBARMENT WITHOUT**
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
28 **RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**



1 The State Bar of California alleges:

2 JURISDICTION

3 1. DANIEL BURT HALPERN ("respondent") was admitted to the practice of law in the
4 State of California on June 22, 1997, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 12-O-17155
8 Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

9 2. 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 3. On or about June 22, 2010, Charles Jok ("Mr. Jok") hired respondent to represent him
14 in pending dissolution proceedings, *In re Marriage of Jok*, Santa Clara County Superior Court
15 Case No. 1-10-FL-153306. Respondent and Mr. Jok signed a written fee agreement that same
16 day.

17 4. Mr. Jok's wife, Angela Jok ("Mrs. Jok"), was represented in the dissolution
18 proceedings by Marilyn E. Moreno ("Moreno").

19 5. In or about April 2011, Mr. and Mrs. Jok's family home was sold as part of the
20 dissolution proceedings. The net proceeds from the sale was \$860,071.41.

21 6. The parties agreed to temporarily entrust the sale proceeds from the family home in
22 the amount of \$860,071.41, to respondent.

23 7. On or about April 15, 2011, and on or about April 19, 2011, respectively, respondent
24 and Moreno prepared escrow instructions to Chicago Title Company, directing escrow proceeds
25 to be paid to respondent as trustee for Angela and Charles Jok. Moreno additionally directed that
26 the proceeds were not to be disbursed without a written agreement or court Order.

1 8. On or about April 22, 2011, Chicago Title Company issued a check in the amount of
2 \$858,315.15, payable to "Daniel B. Halpern as Trustee for Charles Jok and Angela Jok."

3 9. On or about June 7, 2011, Chicago Title Company issued a check in the amount of
4 \$1,756.26, payable to "Daniel B. Halpern as Trustee for Charles Jok and Angela Jok."

5 10. Respondent received both checks prior to on or about July 21, 2011.

6 11. On or about July 21, 2011, respondent deposited both checks, a total of \$860,071.41,
7 into respondent's client trust account no. XXXXX62549¹ at JPMorgan Chase Bank ("Chase
8 CTA XXXXX62549"). Respondent did not disburse any of Mr. and Mrs. Jok's funds from
9 Chase CTA XXXXX62549 to, or on behalf of, Mr. or Mrs. Jok.

10 12. Respondent was required to maintain \$860,071.41 of Mr. and Mrs. Jok's funds in his
11 client trust account.

12 13. On or about July 27, 2011, the balance in Chase CTA XXXXX62549 fell below
13 \$860,071.41 and thereafter progressively decreased. By on or about July 17, 2012, the balance in
14 Chase CTA XXXXX62549 was -\$1,543.81.

15 14. By not maintaining at least \$860,071.41 received on behalf of Mr. and Mrs. Jok, in
16 Chase CTA XXXXX62549, respondent failed to maintain the balance of funds received for the
17 benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds
18 Account" or words of similar import.

19 COUNT TWO

20 Case No. 12-O-17155
21 Business and Professions Code, section 6106
22 [Moral Turpitude]

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

25 16. The allegations of Count One are incorporated by reference herein.

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28 ¹ The account number has been partially hidden to protect the account from identity theft.

1 17. Between on or about July 27, 2011, and on or about July 17, 2012, respondent caused
2 more than \$860,071.41 in Chase CTA XXXXX62549 to be transferred, debited and paid to
3 himself and others. None of the distributions were authorized by the court, or Mr. or Mrs. Jok.

4 18. All of Mr. and Mrs. Jok's funds were used for the benefit of respondent and others.
5 None of Mr. and Mrs. Jok's funds were used for their benefit.

6 19. Respondent dishonestly or with gross negligence misappropriated all \$860,071.41 of
7 Mr. and Mrs. Jok's funds.

8 20. By misappropriating all \$860,071.41 of Mr. and Mrs. Jok's funds, respondent
9 committed an act involving moral turpitude, dishonesty or corruption.

10 COUNT THREE

11 Case No. 12-O-17155
12 Rules of Professional Conduct, rule 4-100(B)(3)
13 [Failure to Render Accounts of Client Funds]

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

17 22. The allegations of Counts One and Two are incorporated by reference herein.

18 23. Respondent owed Mrs. Jok a fiduciary duty with regards to the entrusted funds.

19 24. Between on or about July 1, 2011, through on or about August 7, 2012, Moreno sent
20 respondent five letters dated July 1, 2011, September 19, 2011, October 7, 2011, June 20, 2012,
21 and August 7, 2012, requesting copies of "bank statements for the account holding the house
22 sales proceeds that [respondent held] in trust on behalf of both parties." Respondent received
23 each letter shortly after it was sent. Respondent never provided the requested statements.

24 25. By failing to provide Moreno with bank statements as requested on July 1, 2011, on
25 September 19, 2011, on October 7, 2011, on June 20, 2012, and on August 7, 2012, respondent
26 failed to render appropriate accounts to a client regarding all funds coming into respondent's
27 possession.

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COUNT FOUR

Case No. 12-O-17155
Business and Professions Code, section 6106
[Moral Turpitude]

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

27. The allegations of Counts One through Three are incorporated by reference herein.

28. On or about September 19, 2011, and on or about October 7, 2011, Moreno, on behalf of Mrs. Jok, requested a preliminary distribution from the sale proceeds.

29. On or about October 25, 2011, respondent sent a letter to Moreno which stated that he would send a global settlement proposal. At the time that respondent sent the letter, respondent had misappropriated \$593,689.41 of Mr. and Mrs. Jok's funds.

30. Respondent knew that a global settlement could not be achieved in light of his misappropriation and his statement was made for the purpose of misleading Moreno regarding the status of Mr. and Mrs. Jok's funds.

31. Respondent never sent a global settlement proposal to Moreno.

32. By misrepresenting to Moreno that a global settlement was possible when he knew or should have known that he had misappropriated \$593,689.41 of the entrusted funds, and thereby misleading her as to the status of Mr. and Mrs. Jok's funds, respondent committed an act involving moral turpitude, dishonesty or corruption.

COUNT FIVE

Case No. 12-O-17155
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

33. Respondent wilfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent, as follows:

34. The allegations of Count One are incorporated by reference herein.

1 35. On or about October 19, 2012, the State Bar opened an investigation, case no. 12-O-
2 17155, concerning respondent's handling of the entrusted funds in *In re Marriage of Jok*, Santa
3 Clara County Superior Court Case No. 1-10-FL-153306 ("entrusted funds matter").

4 36. On or about November 1, 2012, State Bar investigator Laura Sharek ("the
5 investigator") wrote to respondent regarding the entrusted funds matter. The investigator's letter
6 was placed in a sealed envelope addressed to respondent at his State Bar of California
7 membership records address. The letter was mailed by first class mail, postage prepaid, by
8 depositing for collection by the United States Postal Service in the ordinary course of business.
9 The United States Postal Service did not return the investigator's letter as undeliverable or for
10 any other reason.

11 37. The investigator's letter requested that respondent respond in writing in the entrusted
12 funds matter. Respondent did not respond to the investigator's letter or otherwise communicate
13 with the investigator.

14 38. On or about November 16, 2012, the investigator wrote to respondent regarding the
15 entrusted funds matter. The investigator's letter was placed in a sealed envelope addressed to
16 respondent at his State Bar of California membership records address. The letter was mailed by
17 first class mail, postage prepaid, by depositing for collection by the United States Postal Service
18 in the ordinary course of business. The United States Postal Service did not return the
19 investigator's letter as undeliverable or for any other reason.

20 39. The investigator's letter requested that respondent respond in writing in the entrusted
21 funds matter. Respondent did not respond to the investigator's letter or otherwise communicate
22 with the investigator.

23 40. On November 21, 2012, respondent wrote a letter to the State Bar wherein he stated
24 that he would not participate in the pending State Bar matters. Respondent has provided no
25 further response.

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1 41. By not providing a written response or otherwise cooperating in the investigation of
2 the entrusted funds matter, respondent failed to cooperate and participate in a disciplinary
3 investigation pending against respondent.

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5 COUNT SIX

6 Case Nos. 12-O-15990
7 Business and Professions Code, section 6068(i)
8 [Failure to Cooperate in State Bar Investigation]

9 42. Respondent wilfully violated Business and Professions Code, section 6068(i), by
10 failing to cooperate and participate in a disciplinary investigation pending against Respondent, as
11 follows:

12 43. On or about August 27, 2012, the State Bar opened an investigation, case no. 12-O-
13 15990, concerning respondent's issuance of insufficient funds checks ("NSF checks matter").

14 44. On or about September 18, 2012, the investigator wrote to respondent regarding the
15 NSF checks matter. The investigator's letter was placed in a sealed envelope addressed to
16 respondent at his State Bar of California membership records address. The letter was mailed by
17 first class mail, postage prepaid, by depositing for collection by the United States Postal Service
18 in the ordinary course of business. The United States Postal Service did not return the
19 investigator's letter as undeliverable or for any other reason.

20 45. The investigator's letter requested that respondent respond in writing in the NSF
21 checks matter. Respondent did not respond to the investigator's letter or otherwise communicate
22 with the investigator.

23 46. On or about October 3, 2012, the investigator wrote to respondent regarding the NSF
24 checks matter. The investigator's letter was placed in a sealed envelope addressed to respondent
25 at his State Bar of California membership records address. The letter was mailed by first class
26 mail, postage prepaid, by depositing for collection by the United States Postal Service in the
27 ordinary course of business. The United States Postal Service did not return the investigator's
28 letter as undeliverable or for any other reason.

1 47. The investigator's letter requested that respondent respond in writing in the NSF
2 checks matter. Respondent did not respond to the investigator's letter or otherwise communicate
3 with the investigator.

4 48. On or about October 16, 2012, the investigator wrote to respondent regarding the
5 NSF checks matter. The investigator's letter was placed in a sealed envelope addressed to
6 respondent at his State Bar of California membership records address. The letter was mailed by
7 first class mail, postage prepaid, by depositing for collection by the United States Postal Service
8 in the ordinary course of business. The United States Postal Service did not return the
9 investigator's letter as undeliverable or for any other reason.

10 49. The investigator's letter requested that respondent respond in writing in the NSF
11 checks matter. Respondent did not respond to the investigator's letter or otherwise communicate
12 with the investigator.

13 50. By not providing a written response to the allegations, or otherwise cooperating in the
14 investigation in the NSF checks matter, respondent failed to cooperate and participate in a
15 disciplinary investigation pending against respondent.

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17 **NOTICE - INACTIVE ENROLLMENT!**

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

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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: April 2, 2013

By: 
TREVA R. STEWART
Deputy Trial Counsel

DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL and CERTIFIED MAIL

CASE NUMBER(s): 12-O-15990; 12-O-17155

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)
(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7196 9008 9111 6240 0433 at San Francisco, addressed to: (see below)
(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: addressed to: (see below)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, and Courtesy Copy via regular mail to:.

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

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, and overnight delivery by the United Parcel Service (UPS).

I am aware that on motion of the 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.

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: April 2, 2013

SIGNED: [Signature] ANNA REA DUNGO Declarant