PUBLIC MATTER

STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
JAYNE KIM, No. 174614
CHIEF TRIAL COUNSEL
JOSEPH R. CARLUCCI, No. 172309
DEPUTY CHIEF TRIAL COUNSEL
ALAN B. GORDON, No. 125642
ASSISTANT CHIEF TRIAL COUNSEL
TYRONE SANDOVAL, No. 286250
CONTRACT ATTORNEY FOR THE STATE BAR
1149 South Hill Street
Los Angeles, California 90015-2299
Telephone: (213) 765-1336

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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of: JAMES GRISWOLD, No. 207294, A Member of the State Bar	Case Nos. 12-O-17023, 13-O-11325 NOTICE OF DISCIPLINARY CHARGES

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.

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The State Bar of California alleges:

JURISDICTION

1. James Griswold ("Respondent") was admitted to the practice of law in the State of California on June 6, 2000, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE

Case No. 12-O-17023
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

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

3. On or about June 10, 2008, Diane Tellez (formerly "Diane Diaz"), Pablo Tellez (collectively "the Tellezes"), and Diane Tellez's children Anthony Diaz-Hipolito and Daniel Diaz-Hipolito (collectively "the Diazes"), employed Respondent to represent them in a civil lawsuit.

4. On January 8, 2010, Respondent filed a complaint on behalf of the Tellezes and the Diazes titled *Kevin Meadows, et al. v. Pacific Property Company*, Orange County Superior Court case no. 30-2010-00335320 in Orange County Superior Court ("the civil matter").

5. On or about February 28, 2011, the defendant in the civil matter served Respondent with discovery requests. Respondent received the discovery requests. Respondent failed to respond to the discovery requests.

6. On October 20, 2011, the defendant in the civil matter filed motions to compel responses to the discovery requests and for monetary and terminating sanctions as a result of Respondent's failure to respond to the discovery requests. The hearing on the motion was scheduled for December 13, 2011. The defendant served notice of the motions and the hearing date on Respondent. Respondent received the notice. Respondent failed to notify the Tellezes or

the Diazes of the motion or hearing date. Respondent failed to file an opposition or otherwise respond to defendant's motions.

7. On December 13, 2011, Respondent failed to appear at the hearing on the defendant's motions. At the hearing, the court in the civil matter granted defendant's motions, in part, and ordered the Tellezes and the Diazes to provide responses to all discovery requests within 20 days. The court sanctioned the Tellezes and the Diazes $380 each.

8. On January 26, 2012, the court in the civil matter signed an order memorializing its orders of December 13, 2011. The order was served on Respondent and Respondent received the order. Respondent failed to notify the Tellezes or the Diazes of the order.

9. On or about February 22, 2012, the defendant in the civil matter filed a second motion for terminating sanctions seeking dismissal of the complaint based on Respondent's continuing failure to respond to discovery requests. The hearing on the motion was scheduled for April 17, 2012. The defendant served notice of the motion and hearing date on Respondent. Respondent received the notice. Respondent failed to notify the Tellezes or the Diazes of defendant's second motion for terminating sanctions. Respondent failed to file an opposition to defendant's second motion for terminating sanctions or otherwise respond to the motion.

10. On or about April 17, 2012, Respondent failed to appear for the hearing. At the hearing, the court in the civil matter granted defendant's second motion for terminating sanctions against the Tellezes and the Diazes, dismissed the complaint with prejudice with regards to the Tellezes and the Diazes, and imposed a $373 sanction against each of the Tellezes and the Diazes.

11. On or about May 3, 2012, the defendant in the civil matter filed a notice of ruling regarding the court's April 17, 2012 dismissal of the complaint. Defendant served the notice on Respondent and Respondent received the notice. Respondent failed to notify the Tellezes or the Diazes of the April 17, 2012 sanctions or the dismissal of their complaint. Respondent failed to contest the court's ruling in the civil matter or otherwise take any other action to vacate the dismissal.

12. By failing to respond to the defendant's discovery requests, to file an opposition or otherwise to respond to defendant's October 20, 2011 motions to compel responses to discovery requests and for monetary and terminating sanctions, to appear at the December 13, 2011 hearing, to file an opposition or otherwise to respond to defendant's February 22, 2012 motion for terminating sanctions, to appear at the April 17, 2012 hearing, and by failing to move to set aside the dismissal of the complaint, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence

COUNT TWO

12-O-17023
Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

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

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

15. By not informing the Tellezes and the Diazes of defendant's October 20, 2011 motions, the December 13, 2011 sanctions, defendant's February 22, 2012 motion for terminating sanctions, the April 17, 2012 sanctions, and that their complaint was dismissed on April 17, 2012, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services.

COUNT THREE

Case No. 12-O-17023
Rules of Professional Conduct, rule 3-700(A)(2)
[Improper Withdrawal from Employment]

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

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

18. Between in or about November 2011, and in or about March 2012, the Tellezes and the Diazes repeatedly made phone calls to Respondent's law office and left voice messages asking for updates on the status of their case. Respondent received the voice messages and did not respond. The Tellezes and the Diazes additionally sent Respondent text messages and e-mails requesting status updates on their case. Respondent received the text messages and e-mails and did not respond. The Tellezes and the Diazes also attempted to contact Respondent by appearing at his law office during business hours. Respondent was not present.

19. On or about March 10, 2012, Respondent sent an e-mail to the Tellezes and the Diazes stating that Respondent had not been at his office regularly since September 2011, that he had not been at his office at all in the month of December 2011, that he intended to search for substitution counsel for the Tellezes and the Diazes, and that he would not be able to represent them at the trial in the civil matter.

20. Diane Tellez and Respondent scheduled a meeting for March 17, 2012 at Respondent's office to discuss the civil matter and his representation of the Tellezes and the Diazes going forward. Respondent failed to appear at the March 17, 2012 meeting with Diane Tellez.

21. Respondent did not communicate with the Tellezes or the Diazes after March 10, 2012. By failing to communicate with the Tellezes and the Diazes after March 10, 2012, Respondent constructively terminated his employment with them. Before terminating his employment with them, Respondent did not take reasonable steps to avoid reasonably foreseeable prejudice to the Tellezes and the Diazes.

22. Between in or about March 2012, and in or about July 2012, the Tellezes and the Diazes repeatedly made phone calls to Respondent's telephone number and left voice messages asking for updates on the status of their case. Respondent received the voice messages and did not respond. The Tellezes and the Diazes additionally sent Respondent text messages and e-mails requesting status updates on their case. Respondent received the text messages and e-mails

and did not respond. The Tellezes and the Diazes also attempted to contact Respondent by appearing at Respondent's law office. Respondent was not present. To date, Respondent has not responded to any of these attempts and has had no contact with the Tellezes or the Diazes.

23. By constructively terminating his employment on March 10, 2012, Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client.

COUNT FOUR

Case No. 12-O-17023
Rules of Professional Conduct, rule 3-700(D)(1)
[Failure to Release File]

24. Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1), by failing to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, as follows:

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

26. On or about August 4, 2012, Diane Tellez sent a letter to Respondent's membership address on behalf of the Tellezes and the Diazes requesting that Respondent return the Tellezs' and the Diazes' client files and Respondent received the letter. Respondent did not respond to Tellez's letter.

27. On or about September 7, 2012, the Tellezes and the Diazes employed attorney Paul Sink ("Sink") to represent them in the civil matter. Between September 2012 and November 2012, Sink and his office staff, on behalf of the Tellezes and the Diazes, sent numerous letters to Respondent's law office requesting that Respondent return the Tellezes' and the Diazes' client files and Respondent received the letters. Respondent did not respond to the letters sent by Sink and his office staff. Additionally, Sink and his office staff requested that Respondent return the Tellezes' and the Diazes' client files via telephone calls to Respondent's telephone number, faxes, and e-mails to Respondent and Respondent received the requests. Respondent did not respond to any of the requests.

28. To date, Respondent has not released the Tellezes' or the Diazes' files to the Tellezes or the Diazes, nor has he communicated to the Tellezes or the Diazes how they could obtain their files.

29. By not releasing client files to the Tellezes or the Diazes, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property.

COUNT FIVE

Case No. 12-O-17023
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

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

31. On or about August 31, 2012, the Tellezes and the Diazes made a complaint to the State Bar regarding Respondent.

32. On or about October 30, 2012 and November 15, 2012, a State Bar Investigator mailed letters to Respondent addressed to his official membership records address regarding the complaint from the Tellezes and the Diazes. The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar raised in the Tellezes' and the Diazes' complaint by no later than November 14, 2012, and November 30, 2012, respectively. Respondent received the letters. Respondent did not respond to the letters or otherwise cooperate in the State Bar's investigation.

33. By not providing a written response to the investigator's letters, or otherwise cooperating in the investigation of the Tellezes and the Diazes matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent.

COUNT SIX

Case No. 13-O-11325
Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

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

35. On or about October 1, 2004, Rebecca Perez ("Perez") and Valerie Perez-Akin ("Perez-Akin") (formerly known as "Valerie Perez") employed Respondent to prosecute their personal injury claims arising out of an airplane accident occurring on or about September 25, 2004 and involving Trimotor Air Tours.

36. On or about October 1, 2004, Respondent filed a complaint on behalf of Perez and Perez-Akin titled *Perez, et al. v. Trimotor Air Tours*, Orange County Superior Court case no. 06CC10325 ("the civil matter").

37. On or about October 10, 2007, Respondent settled the civil matter. On or about October 15, 2007, Respondent received $125,000 in settlement funds on behalf of Perez and Perez-Akin ("settlement funds").

38. On or about October 15, 2007, Respondent deposited the $125,000 received on behalf of Perez and Perez-Akin into Respondent's client trust account, no. xxxxxx3191, at Union Bank of California ("Respondent's CTA").[1]

39. On or about November 2, 2007, after subtracting his fee of $20,000, disbursing a total of $52,645.95 to Perez and Perez-Akin, disbursing $34,914.47 to PS Finance, LLC on behalf of Perez and Perez-Akin, and disbursing $300 to Dr. Kristin Platt on behalf of Perez and Perez-Akin, Respondent was required to maintain a minimum balance of $17,139.58 ($125,000 – $20,000 – $34,914.47 – $52,645.95 – $300 = $17,139.58) in trust on behalf of Perez and Perez-Akin.

[1] The complete account number has been omitted due to privacy concerns.

40. On or about March 31, 2008, before Respondent had disbursed any additional funds to Perez and Perez-Akin or on behalf of Perez and Perez-Akin, Respondent's CTA balance fell to $12,382.48.

41. By not maintaining at least $17,139.58 on behalf of Perez and Perez-Akin in Respondent's CTA, Respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import.

COUNT SEVEN

Case No. 13-O-11325
Business and Professions Code, section 6106
[Moral Turpitude]

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

43. The allegations of Count Six are incorporated by reference.

44. Respondent dishonestly or with gross negligence misappropriated $4,757.10 ($17,139.58 – $12,382.48 = $4,757.10) of the settlement funds received on behalf of Perez and Perez-Akin.

45. By misappropriating $4,757.10 of the settlement funds received on behalf of Perez and Perez-Akin, Respondent committed an act involving moral turpitude, dishonesty or corruption.

COUNT EIGHT

Case No. 13-O-11325
Rules of Professional Conduct, rule 4-100(B)(4)
[Failure to Pay Client Funds Promptly]

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

47. The allegations of Counts Six and Seven are incorporated by reference.

48. Dr. Anthony Fedork ("Fedork") provided medical care to Perez and Perez-Akin after the accident which was at issue in the civil matter. Fedork did not possess a lien against any portion of the settlement funds.

49. On or about November 2, 2007, Perez and Perez-Akin requested of Respondent and Respondent agreed to: (1) negotiate a reduction in Fedork's bill on behalf of Perez and Perez-Akin; (2) pay Fedork's bill from the $17,139.58 of settlement funds he held in trust; (3) refund any remaining portion of the $17,139.58 to Perez and Perez-Akin after paying Fedork's bill; and (4) refund the entire $17,139.58 to Perez and Perez-Akin if it were not paid out to Fedork within the statute of limitations.

50. Between on or about September 4, 2008, and on or about February 25, 2013, Perez and Perez-Akin repeatedly attempted to get into contact with Respondent about the disbursement of their settlement funds by telephone calls to Respondent's telephone number and by appearing at Respondent's law office during business hours. Respondent received Perez's and Perez-Akin's messages requesting status updates regarding the disbursement of their settlement funds.

51. Between on or about September 4, 2008, and on or about February 25, 2013, Respondent failed to respond to the inquiries by Perez and Perez-Akin about the disbursement of their settlement funds. In or about June 2012, Respondent vacated his office without notice to Perez or Perez-Akin and gave no information as to where he could be located in the future.

52. At no time did Respondent disburse any portion of the $17,139.58 of settlement funds to Fedork, as requested by Perez and Perez-Akin, and at no time did Respondent disburse any portion of the $17,139.58 of settlement funds to Perez or Perez-Akin, as requested by Perez and Perez-Akin.

53. By not paying Perez's and Perez-Akin's funds held in Respondent's CTA either to Fedork or to Perez and Perez-Akin at Perez's and Perez-Akin's request, Respondent, failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive.

COUNT NINE

Case No. 13-O-11325
Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

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

55. The allegations of Counts Six through Eight are incorporated by reference.

56. By failing to respond to Perez's and Perez-Akin's inquiries about the disbursement of their settlement funds, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services.

COUNT TEN

Case No. 13-O-11325
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

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

58. On or about January 31, 2013, Perez-Akin made a complaint against Respondent with the State Bar.

59. On or about April 5, 2013, April 20, 2013, and July 8, 2013, a State Bar Investigator mailed letters to Respondent regarding the complaint from Perez-Akin. The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar raised by Perez-Akin's complaint by no later than April 19, 2013, May 3, 2013, and July 19, 2013, respectively. Respondent received the letters. Respondent did not respond to the letters or otherwise cooperate in the State Bar's investigation.

60. By not providing a written response to the allegations described in each of the letters above, or otherwise cooperating in the investigation of the Perez-Akin matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent.

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: October 4, 2013

By: _____
Tyrone Sandoval
Contract Attorney for the State Bar

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **12-O-17023, 13-O-11325**

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, 1149 South Hill Street, Los Angeles, California 90015, 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))**

- 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.

☐ **By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').

☐ **By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

☐ **By Electronic Service: (CCP § 1010.6)**

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s_ at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ *(for U.S. First-Class Mail)* in a sealed envelope placed for collection and mailing at Los Angeles, 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 6409 7839** at Los Angeles, 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)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
James Griswold	100 Oceangate 12th Fl Ste 432 Long Beach, CA 90802	Electronic Address	

☐ 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'). 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, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

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 Los Angeles, California, on the date shown below.

DATED: October 4, 2013

SIGNED: Laura Jett
LAURA JETT
Declarant