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FILED

JUL 24 2014

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

8
9 STATE BAR COURT

10 HEARING DEPARTMENT - LOS ANGELES

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12 In the Matter of:) Case Nos.: 12-O-17175; 13-O-12680;
13 KIMBERLY RENAE BURKE,) 13-O-14526; 13-O-17375;
No. 248051,) 14-N-03376;
14)
15 A Member of the State Bar.) **FIRST AMENDED NOTICE OF
DISCIPLINARY CHARGES**

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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**
21 **THE STATE BAR COURT TRIAL:**

- 22 (1) **YOUR DEFAULT WILL BE ENTERED;**
23 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
24 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
25 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
26 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**
27 **AND THE DEFAULT IS SET ASIDE, AND;**
28 (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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1 The State Bar of California alleges:

2 JURISDICTION

3 1. KIMBERLY RENAE BURKE ("Respondent") was admitted to the practice of law
4 in the State of California on January 4, 2007, was a member at all times pertinent to these
5 charges, and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 12-O-17175
8 Business and Professions Code, section 6106
[Moral Turpitude]

9 2. Respondent, without the consent, knowledge or authorization of her client Jen Liu,
10 repeatedly charged Mr. Liu's American Express credit card on multiple occasions including but
11 not limited to the following: 1) \$3,000 on or about September 14, 2011; 2) \$2,000 on or about
12 October 3, 2011; 3) \$2,500 on or about October 6, 2011; 4) \$2,000 on or about October 21,
13 2011; and 5) \$10,000 on or about October 31, 2011. By unilaterally and repeatedly charging
14 \$19,500 from Mr. Liu's American Express credit card without Mr. Liu's consent, knowledge or
15 authorization and for Respondent's own purposes, Respondent intentionally, dishonestly or with
16 gross negligence committed an act or acts involving moral turpitude, dishonesty or corruption in
17 willful violation of Business and Professions Code, section 6106.

18 COUNT TWO

19 Case No. 12-O-17175
20 Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentation]

21 3. Between in about November 2011 and in or about January 2012, in response to the
22 dispute regarding \$19,500 in charges made against her client Jen Liu's American Express credit
23 card, Respondent caused written statements and documents to be submitted to American
24 Express that claimed and represented that \$19,500 in charges made against Mr. Liu's American
25 Express credit card between on or about September 14, 2011 and on or about October 31, 2011
26 were authorized when Respondent knew or was grossly negligent in not knowing that the
27 charges were not authorized and the submitted written statements and documents were false
28 and thereby committed an act involving moral turpitude, dishonesty or corruption in willful

1 violation of Business and Professions Code, section 6106.

2 COUNT THREE

3 Case No. 12-O-17175

4 Business and Professions Code, section 6106
[Moral Turpitude – Misrepresentation to the State Bar]

5 4. On or about December 14, 2012 and on or about February 8, 2013, Respondent
6 caused written statements and documents to be submitted to the State Bar that claimed and
7 represented that \$19,500 in charges made against Mr. Liu's American Express credit card
8 between on or about September 14, 2011 and on or about October 31, 2011 were authorized
9 when Respondent knew or was grossly negligent in not knowing that the charges were not
10 authorized and the submitted written statements and documents were false and thereby
11 committed an act involving moral turpitude, dishonesty or corruption in willful violation of
12 Business and Professions Code, section 6106.

13 COUNT FOUR

14 Case No. 13-O-12680

15 Business and Professions Code, section 6103
[Failure to Obey a Court Order]

16 5. Respondent disobeyed or violated an order of the court requiring Respondent to do
17 or forbear an act connected with or in the course of Respondent's profession, which Respondent
18 ought in good faith to do or forbear by failing to comply with the March 4, 2011 minute order
19 requiring Respondent to appear for trial in Orange County Superior Court for a matter entitled,
20 *In re Marriage of Augustinus*, case number 10D008044, on behalf of Ray J. Augustinus, in
21 willful violation of Business and Professions Code, section 6103.

22 COUNT FIVE

23 Case No. 13-O-12680

24 Business and Professions Code, section 6068(o)(3)
[Failure to Report Judicial Sanctions]

25 6. Respondent failed to report to the agency charged with attorney discipline, in
26 writing, within 30 days of the time Respondent had knowledge of the imposition of any judicial
27 sanctions against Respondent by failing to report to the State Bar the \$1,001 in sanctions the
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1 court imposed on Respondent on or about March 4, 2011 in connection with *In re Marriage of*
2 *Augustinus*, Orange County Superior Court, case number 10DO08044, in willful violation of
3 Business and Professions Code section, 6068(o)(3).

4 COUNT SIX

5 Case No. 13-O-12680
6 Business and Professions Code, section 6068(i)
7 [Failure to Cooperate in State Bar Investigation]

8 7. Respondent failed to cooperate and participate in a disciplinary investigation
9 pending against Respondent by failing to provide a substantive response to the State Bar's
10 letters of February 5, 2014 and February 21, 2014, which Respondent received, that requested
11 Respondent's response to the allegations of misconduct being investigated in case no. 13-O-
12 12680, in willful violation of Business and Professions Code, section 6068(i).

13 COUNT SEVEN

14 Case No. 13-O-14526
15 Rules of Professional Conduct, rule 3-110(A)
16 [Failure to Perform with Competence]

17 8. On or about August 26, 2011, Lucy Musharbash employed Respondent to perform
18 legal services, namely to file and represent her in a Chapter 7 bankruptcy matter, which
19 Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful
20 violation of Rules of Professional Conduct, rule 3-110(A), by failing to file a Chapter 7 petition
21 for bankruptcy on behalf of Ms. Musharbash.

22 COUNT EIGHT

23 Case No. 13-O-14526
24 Business and Professions Code, section 6068(m)
25 [Failure to Inform Client of Significant Development]

26 9. Respondent failed to keep Respondent's client, Lucy Musharbash, reasonably
27 informed of significant developments in a matter in which Respondent had agreed to provide
28 legal services, in willful violation of Business and Professions Code, section 6068(m), by failing
to inform the client of the following: A) That Respondent never filed a Chapter 7 petition for
bankruptcy on behalf of Ms. Musharbash; and B) That on or about January 16, 2013
Respondent had moved her law office to a new location.

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COUNT NINE

Case No. 13-O-14526
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

10. Between on or about August 26, 2011 and October 25, 2011, Respondent received advanced fees of \$1,259 from a client, Lucy Musharbash for purposes of obtaining a Chapter 7 bankruptcy. Respondent performed no services of value on behalf of the client and therefore earned none of the advanced fees paid. Respondent failed to refund promptly, upon Respondent's termination of employment on or about September 25, 2013 any part of the \$1,259 fee, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

COUNT TEN

Case No. 13-O-17375
Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

11. Respondent failed to keep Respondent's client, Andonios P. Tridiimas, reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m), by failing to inform and notify Mr. Tridiimas of the following:

- A) That on or about February 20, 2013, the court had ordered that Mr. Tridiimas personally appear for a hearing in San Bernardino Superior Court set for February 22, 2013;
- B) That on or about February 22, 2013, the court had ordered that Mr. Tridiimas personally appear for a hearing in San Bernardino Superior Court set for March 13, 2013;
- C) That on or about March 13, 2013, the court had ordered that Mr. Tridiimas personally appear for a hearing in San Bernardino Superior Court set for March 18, 2013;
- D) That on or about March 18, 2013, the court had ordered that Mr. Tridiimas personally appear for a hearing in San Bernardino Superior Court set for April 9, 2013; and
- E) That on or about April 9, 2013, the court had ordered that Mr. Tridiimas personally appear for a hearing in San Bernardino Superior Court set for May 24, 2013.

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COUNT ELEVEN

Case No. 13-O-17375
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

12. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letters of February 7, 2014 and April 1, 2014, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 13-O-17375, in willful violation of Business and Professions Code, section 6068(i).

COUNT TWELVE

Case No. 14-N-03376
California Rules of Court, rule 9.20
[Failure to Obey Rule 9.20]

13. Respondent failed to file a declaration of compliance with California Rules of Court, rule 9.20 in conformity with the requirements of rule 9.20(c) with the clerk of the State Bar Court by May 5, 2014, as required by Supreme Court order no. S215195, in willful violation of California Rules of Court, rule 9.20. (A true and correct copy of the rule 9.20 order is attached hereto as **Exhibit "1"** and is incorporated by reference.)

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.

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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: July 24, 2014

By: 
ASHOD MOORADIAN
Senior Trial Counsel

FEB 24 2014

(State Bar Court No. 12-O-14208)

S215195

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re KIMBERLY RENAE BURKE on Discipline

The court orders that Kimberly Renae Burke, State Bar Number 248051, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and she is placed on probation for three years subject to the following conditions:

1. Kimberly Renae Burke is suspended from the practice of law for the first one year of probation;
2. Kimberly Renae Burke must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on October 21, 2013; and
3. At the expiration of the period of probation, if Kimberly Renae Burke has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

Kimberly Renae Burke must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

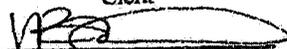
Kimberly Renae Burke must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

____ day of _____ 2014 _____ 20____
Clerk

By: 
Deputy

CANTIL-SAKAUYE

Chief Justice

RECEIVED

MAR 07 2014

CENTRAL ADMINISTRATION

DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 12-O-17175; 13-O-12680; 13-O-14526; 13-O-17375; 14-N-03376

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, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

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

FIRST AMENDED NOTICE OF DISCIPLINARY CHARGES

[] By U.S. First-Class 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.

[X] 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)

[X] (for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,
Article No.: 7196 9008 9111 1008 1509 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)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, Courtesy Copy to:
Row 1: Kimberly Renae Burke, Law Office of Kimberly R Burke, 387 N 2nd Ave, Upland, CA 91786, 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: July 24, 2014

SIGNED:

Handwritten signature of Charles C. Bagai over a horizontal line.

Charles C. Bagai
Declarant