

FILED

1 STATE BAR OF CALIFORNIA
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AUG 24 2016
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

8 STATE BAR OF CALIFORNIA
9 HEARING DEPARTMENT - LOS ANGELES

11 In the Matter of:
12 BERJ BOYAJIAN,
13 State Bar No. 60631
14 A Member of the State Bar

CASE NOS. 12-O-17778; 15-O-15098;
15-O-15691
NOTICE OF DISCIPLINARY
CHARGES

15 NOTICE—FAILURE TO RESPOND!

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

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



CASE NOS. 12-O-17778; 15-O-15098; 15-O-15691

1 The State Bar of California alleges:

2 **JURISDICTION**

3 1. Berj Boyajian ("Respondent") was admitted to the practice of law in the State of
4 California on December 20, 1974, 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 Nos. 12-O-127778; 15-O-15098 & 15-O-15691
8 Violation of Rule of Professional Conduct 4-100(A)
9 [Misappropriation of Funds]

10 2. Class actions were brought on behalf of the heirs and descendants of persons who
11 had purchased life insurance policies that New York Life Insurance Company and AXA, S.A. had
12 sold throughout the Ottoman Empire, and who had been killed during the Armenian Genocide of
13 1915-1918.

14 3. Class actions brought in the United States District Court for the Central District of
15 California arising from those insurance policies included: *Marootian, et al. v. New York Live*
16 *Insurance Company*, 99-cv-12073 (NYLIC class action); and *Kyurkjian, et al. v. AXA, S.A., et al.*,
17 02-cv-1750; *Ouzounian, et al. v. AXA, S.A. et al.*, 05-cv-2596 (AXA class actions).

18 4. Those actions were all assigned to the Honorable Christine A. Snyder, District
19 Judge.

20 5. Respondent was not counsel of record in any of these class actions, nor did he
21 have any court-approved role in them.

22 **AXA Class Action Settlement**

23 6. On May 15, 2006, the district court approved the AXA class actions settlement
24 (the court's final order and judgment).

25 7. The AXA \$17,500,000 settlement was divided among a Claims Fund
26 (\$11,350,000), a Community Fund (\$3 million, and a Cost Fund (\$3,150,000)—to implement the
27 settlement and pay attorneys fees and costs.

28 8. Any part of the Cost Fund remaining after payment of expenses and attorneys fees,
costs and expenses was to be added to the Community Fund and distributed as Community Fund

1 proceeds.

2 9. The Community Fund "shall be contributed to a charitable foundation, based in
3 France and approved by AXA, S.A., whose activities advance the interests of the Armenian
4 community ... for the benefit of the needy, or for educational purposes, and not for political
5 purposes."

6 10. Respondent had no official or court-approved role in the administration of the
7 AXA settlement.

8 11. On April 10, 2003, Respondent opened account no. 1131109132 in the name of
9 Berj Boyajian DBA Boyajian & Associates at Union Bank of California.

10 12. Respondent endorsed and deposited check no. 10078, dated December 25, 2009,
11 drawn on the AXA Insurance Settlement Fund account, payable to Iveta Kalantaryan, in the
12 amount of \$41,400, into Boyajian & Associates account no. 1131109132.

13 13. Respondent endorsed and deposited check no. 10089, dated December 25, 2009,
14 drawn on the AXA Insurance Settlement Fund account, payable to Khachatur Kazazyan, in the
15 amount of \$20,700, into Boyajian & Associates account no. 1131109132.

16 14. Respondent endorsed and deposited check no. 10090, dated December 25, 2009,
17 drawn on the AXA Insurance Settlement Fund account, payable to Khachatur Kazazyan, in the
18 amount of \$4,761, into Boyajian & Associates account no. 1131109132.

19 15. Respondent endorsed and deposited check no. 10091, dated December 25, 2009,
20 drawn on the AXA Insurance Settlement Fund account, payable to Khachatur Kazazyan, in the
21 amount of \$23,805, into Boyajian & Associates account no. 1131109132.

22 16. Respondent endorsed and deposited check no. 10280, dated December 26, 2009,
23 drawn on the AXA Insurance Settlement Fund account, payable to Sana Atamian, in the amount
24 of \$16,560, into Boyajian & Associates account no. 1131109132.

25 17. Respondent endorsed and deposited check no. 10281, dated December 26, 2009,
26 drawn on the AXA Insurance Settlement Fund account, payable to Sana Atamian, in the amount
27 of \$6,210, into Boyajian & Associates account no. 1131109132.

28 18. Respondent endorsed and deposited check no. 10287, dated December 26, 2009,

1 drawn on the AXA Insurance Settlement Fund account, payable to Sana Atamian, in the amount
2 of \$7,245, into Boyajian & Associates account no. 1131109132.

3 19. Respondent endorsed and deposited check no. 10288, dated December 26, 2009,
4 drawn on the AXA Insurance Settlement Fund account, payable to Sana Atamian, in the amount
5 of \$28,566, into Boyajian & Associates account no. 1131109132.

6 20. Respondent endorsed and deposited check no. 10272, dated December 26, 2009,
7 drawn on the AXA Insurance Settlement Fund account, payable to Anahid Atamian, in the
8 amount of \$5,175, into Boyajian & Associates account no. 1131109132.

9 21. Respondent endorsed and deposited check no. 10276, dated December 26, 2009,
10 drawn on the AXA Insurance Settlement Fund account, payable to Anahid Atamian, in the
11 amount of \$5,175, into Boyajian & Associates account no. 1131109132.

12 22. Respondent endorsed and deposited check no. 10277, dated December 26, 2009,
13 drawn on the AXA Insurance Settlement Fund account, payable to Anahid Atamian, in the
14 amount of \$8,280, into Boyajian & Associates account no. 1131109132.

15 23. Respondent endorsed and deposited check no. 10279, dated December 26, 2009,
16 drawn on the AXA Insurance Settlement Fund account, payable to Anahid Atamian, in the
17 amount of \$8,280, into Boyajian & Associates account no. 1131109132.

18 24. Respondent endorsed and deposited check no. 10285, dated December 26, 2009,
19 drawn on the AXA Insurance Settlement Fund account, payable to Anahid Atamian, in the
20 amount of \$4,140, into Boyajian & Associates account no. 1131109132.

21 25. Respondent endorsed and deposited check no. 10285 dated December 26, 2009,
22 drawn on the AXA Insurance Settlement Fund account, payable to Anahid Atamian, in the
23 amount of \$4,140, into Boyajian & Associates account no. 1131109132.

24 26. Respondent endorsed and deposited check no. 10581, dated December 26, 2009,
25 drawn on the AXA Insurance Settlement Fund account, payable to Patficia Jean Karabian Vartan,
26 in the amount of \$23,805, into Boyajian & Associates account no. 1131109132.

27 27. Respondent endorsed and deposited check no. 10694, dated December 26, 2009,
28 drawn on the AXA Insurance Settlement Fund account, payable to Ashot Mkhitarian, in the

1 amount of \$51,750. into Boyajian & Associates account no. 1131109132.

2 28. Respondent endorsed and deposited check no. 10695, dated December 26, 2009,
3 drawn on the AXA Insurance Settlement Fund account, payable to Ashot Mkhitarian, in the
4 amount of \$51,750. into Boyajian & Associates account no. 1131109132.

5 29. Thus, Respondent endorsed and deposited into Boyajian & Associates account no.
6 1131109132 seventeen checks, in the total amount of \$311,742. each check drawn on the AXA
7 Insurance Settlement Fund account. each made payable to a person other than Respondent.

8 30. The State Bar is informed and believes that Respondent did not have an attorney-
9 client relationship with any of the individuals identified above; that he was not authorized to take
10 AXA settlement funds payable to them; and that the payees of the checks had not authorized
11 Respondent to endorse the checks as he did and deposit them into the Boyajian & Associates
12 account.

13 31. Respondent deliberately and willfully misappropriated for himself in excess of
14 \$311,000 from the AXA class action settlement.

15 32. By misusing and misappropriating settlement funds from the AXA litigation for
16 the benefit of Respondent's law practice and Respondent's own benefit. Respondent willfully
17 violated Rules of Professional Conduct rule 4-100(A).

18 **COUNT TWO**

19 Violation of Rule of Professional Conduct 4-100(A)
20 [Misappropriation of Funds]

21 33. The State Bar incorporates by this reference paragraphs 1 through 6, as set forth
22 above.

23 34. Respondent participated in opening a bank account in his own name and in the
24 name of Zaven Haleblian, according to Mr. Haleblian's deposition testimony, without Mr.
25 Haleblian's knowledge or authorization.

26 35. Respondent deposited nine AXA Settlement Fund checks drawn payable to Mr.
27 Haleblian in the total amount of \$574,425 into an account over which he had power of attorney
28 and then caused that \$574,425 to be deposited into the joint account with Mr. Haleblian,
according to Mr. Haleblian's deposition testimony, again without Mr. Haleblian's knowledge or

1 authorization.

2 36. Each check bore an endorsement that Mr. Haleblian has testified was not his. Mr.
3 Haleblian has further testified that he knew nothing about the AXA class action settlement and
4 that he did not submit any claim for payment from the AXA class action settlement funds.

5 37. During the period the \$574,425 in AXA class action settlement funds were in the
6 Haleblian bank account. Respondent had, in effect, control of the account and the funds.

7 38. Respondent, based on Mr. Haleblian's deposition testimony and the cancelled
8 AXA Settlement Fund checks, deliberately and willfully misappropriated to his control in excess
9 of an additional \$574,000 from the AXA class action settlement.

10 39. By misusing and misappropriating settlement funds from the AXA litigation for
11 Respondent's own benefit, Respondent willfully violated Rules of Professional Conduct rule 4-
12 100(A).

13 **COUNT THREE**

14 Business and Professions Code Section 6106
15 [Moral Turpitude—Misappropriation]

16 40. The State Bar incorporated by this reference paragraphs 1-6; 9 through 31; and 33
17 through 38, as set forth above.

18 41. By misappropriating settlement funds, Respondent committed multiple acts
19 involving moral turpitude, dishonesty and corruption in willful violation of Business and
20 Professions Code section 6106.

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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.

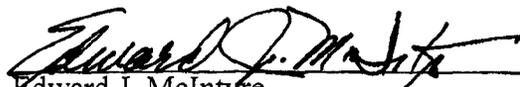
NOTICE—COST ASSESSMENT!

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.

Dated: August 22, 2016

Respectfully submitted.

STATE BAR OF CALIFORNIA


Edward J. McIntyre
Special Deputy Trial Counsel

PROOF OF SERVICE BY MAIL
C.C.P. 1013a

I declare that I am a resident of or employed in the County of San Diego, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is 750 B Street, Suite 2100, San Diego, CA 92101

I am readily familiar with the ordinary practice of the business of collecting, processing and depositing correspondence in the United States Postal Service and that the correspondence will be deposited the same day with postage thereon fully prepaid.

On August 23, 2016, I served the Notice of Disciplinary Charges in Case Nos. 12-O-17778; 15-O-15098; and 15-O-15691

on the parties listed below by placing a true copy thereof enclosed in a sealed envelope for collection and mailing in the United States Postal Service following ordinary business practices at San Diego, California addressed as follows:

By Registered Mail, Return Receipt Requested
Bert Boyajian, Esq.
556 Chalette Dr.
Beverly Hills, CA 90210

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 23, 2016, at San Diego, California.

Edward J. McIntyre
(Type or print name)


(Signature)