

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
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FILED

SEP 19 2013

STATE BAR COURT
 CLERK'S OFFICE
 LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

12 In the Matter of:) Case No. 13-O-10597
 13 A. EDWARD EZOR,)
 No. 50469,) NOTICE OF DISCIPLINARY CHARGES
 14)
 15 A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

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

- 19 (1) YOUR DEFAULT WILL BE ENTERED;
- 20 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
 WILL NOT BE PERMITTED TO PRACTICE LAW;
- 21 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
 THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
 22 AND THE DEFAULT IS SET ASIDE, AND;
- 23 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
 24 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
 ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
 25 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. A. Edward Ezor ("Respondent") was admitted to the practice of law in the State of
4 California on January 5, 1972, 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. 13-O-10597
8 Business and Professions Code, section 6106
9 [Moral Turpitude-Misappropriation]

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

12 3. Between in or about 1986 and in or about December 2012, Respondent was the
13 trustee of the Bennett J. Hymes Trust (the "Hymes Trust").

14 4. In or about May 2011, the assets of the Hymes Trust consisted primarily of cash and
15 two commercial properties which generated rental income.

16 5. In or about May 2011, Respondent, in his capacity as the trustee of the Hymes Trust,
17 maintained approximately eight separate checking and savings accounts for the Hymes Trust.

18 6. On or about May 31, 2011, the cumulative balance in the Hymes Trust bank accounts
19 was \$954,070.14, of which approximately \$900,000 was principal and the balance included
20 interest, rental income from the commercial properties, and royalty income from oil leases
21 owned by the Hymes Trust. On or about May 31, 2011, the eight Hymes Trust bank accounts
22 maintained the following individual balances:

<u>Hymes Trust Bank Account¹</u>	<u>Balance</u>
Pacific Western, xxx2902	\$ 42,684.74
Pacific Western, xxx6769	\$ 235,000.20
Community Bank, xxxxxx0144	\$ 188,870.05
Community Bank, xxxxxx0241	\$ 188,717.31
Community Bank, xxxxxx1368	\$ 142,665.47

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

<u>Hymes Trust Bank Account</u>	<u>Balance</u>
Union Bank, xxxxxxx7651	\$ 41,038.94
Union Bank, xxxxxxx7643	\$ 100.00
State Farm, xxxxxxx8993	<u>\$ 114,993.43</u> = \$ 954,070.14

7. Pursuant to the terms of the Hymes Trust, Respondent was obligated to maintain the cumulative principal balance of at least \$900,000 in the Hymes Trust bank accounts.

8. Between on or about June 16, 2011, and on or about September 24, 2012, Respondent withdrew from the Hymes Trust bank accounts funds totaling \$441,039.61, and deposited the funds in his client trust account at Pacific Western Bank, account no. xxxxx7961 ("CTA"), as follows:

<u>Hymes Trust Bank Account</u>	<u>Date of Withdrawal & Deposit</u>	<u>Amount of Withdrawal</u>
Union Bank, xxxxxxx7651	06/16/11	\$ 40,000
Pacific Western, xxx6769	07/11/11	\$ 100,000
Community Bank, xxxxxxx0144	08/09/11	\$ 50,000
Community Bank, xxxxxxx0241	08/09/11	\$ 50,000
Union Bank, xxxxxxx7651	10/31/11	\$ 1,039.61
Community Bank, xxxxxxx0241	03/05/12	\$ 100,000
State Farm, xxxxxxx8993	06/18/12	\$ 50,000
State Farm, xxxxxxx8993	09/24/12	<u>\$ 50,000</u>
		\$ 441,039.61

9. Between on or about August 9, 2011, and July 6, 2012, Respondent withdrew a total of \$291,039.61 from his CTA or his business account at Pacific Western Bank, account no. xxx6889 ("BA"), and deposited the funds in the Hymes Trust bank accounts identified below, as follows:

<u>Origin of Deposit</u>	<u>Hymes Trust Bank Account</u>	<u>Date of Deposit</u>	<u>Amount of Deposit</u>
CTA	Luther Bank, xxx-xx676-2	08/09/11	\$ 100,000
CTA	State Farm, xxxxxxx8993	12/14/11	\$ 1,039.61
BA	Bank of Internet, xxxxxxx4428	02/13/12	\$ 40,000

<u>Origin of Deposit</u>	<u>Hymes Trust Bank Account</u>	<u>Date of Deposit</u>	<u>Amount of Deposit</u>
CTA	Capital Source, xxxxxx5430	03/08/12	\$ 40,000
CTA	Bank of Internet, xxxxxxxx4428	03/12/12	\$ 60,000
CTA	Capital Source, xxxxxx0782	07/06/12	<u>\$ 50,000</u> =\$291,039.61

10. Respondent did not maintain in the CTA the \$100,000 that he deposited on July 11, 2011, or the \$50,000 that he deposited on September 24, 2012. On November 30, 2012, the balance in the CTA was \$53.94. At no time did Respondent return to the Hymes Trust the \$100,000 that he withdrew on July 11, 2011 (and deposited in the CTA on the same date), or the \$50,000 that he withdrew on September 24, 2012 (and deposited in the CTA on the same date). Respondent dishonestly or with gross negligence misappropriated \$150,000 (\$441,039.61-\$291,039.61) belonging to the Hymes Trust.

11. By in or about December 2012, Respondent, in his capacity as the trustee of the Hymes Trust, maintained approximately 12 separate checking and savings accounts for the Hymes Trust.

12. On or about December 31, 2012, the cumulative balance in the Hymes Trust Bank had dropped below the required minimum of approximately \$900,000 to \$772,775.62, consisting primarily of principal, interest, and rental and royalty income. On or about December 31, 2012, the Hymes Trust bank accounts maintained the following balances:

<u>Hymes Trust Bank Account</u>	<u>Balance</u>
Pacific Western, xxx2902	\$ 3,944.73
Pacific Western, xxx6769	\$ 5,281.93
Union Bank, xxxxxx7643	\$ 100.00
State Farm, xxxxxx8993	\$ 107,717.90
Luther Bank, xxx-xx676-2	\$ 101,596.11
Bank of Internet, xxxxxxxx4428	\$ 25,770.83
Capital Source Bank, xxxxxx0782	\$ 100,491.61
American Plus Savings, xxxx5645	\$ 151,958.82
Bank of Internet, xxxxxxxx7855	\$ 25,291.08

1 18. Respondent did not maintain in the CTA the \$18,873.50 (\$6,686.75 +
2 \$6,686.75+\$5,500) that he deposited. On November 30, 2012, the balance in the CTA was
3 \$53.94.

4 19. Respondent did not maintain in the BA the \$12,186.75 (\$6,686.75+ \$5,500) that he
5 deposited. On December 7, 2012, the balance in the BA was \$11.64.

6 20. At no time did Respondent remit any portion of the \$31,060.25 to the Hymes Trust.
7 Respondent dishonestly or with gross negligence misappropriated \$31,060.25 from the Hymes
8 Trust.

9 21. The other commercial property that the Hymes Trust owned was located on York
10 Avenue in Los Angeles, California. At all times relevant to the charges herein, Mariscos
11 Sinaloa, a restaurant, leased the premises owned by the Hymes Trust on York Avenue, and owed
12 the Hymes Trust monthly rent payments.

13 22. On or about May 10, 2011, and on or about August 15,2011, Respondent deposited
14 the following two rent checks totaling \$5,300 issued by Jesus Serrano, the owner of Mariscos
15 Sinaloa, made payable to Respondent, into the BA, as follows:

<u>Check No.</u>	<u>Amount</u>
1221	\$ 2,650
1238	\$ 2,650 = \$ 5,300

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19 23. Respondent did not maintain the in the BA the \$5,300 that he deposited. On January
20 3, 2012, the balance in the BA was -\$808.50. At no time did Respondent remit any portion of
21 the \$5,300 to the Hymes Trust. Respondent dishonestly or with gross negligence
22 misappropriated \$5,300 from the Hymes Trust.

23 24. By dishonestly or with gross negligence misappropriating \$36,360.25 (\$31,060.25
24 +\$5,300) from the Hymes Trust, Respondent committed an act involving moral turpitude,
25 dishonesty or corruption.

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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: September 19, 2013

By: _____

Eli D. Morgenstern
Supervising Senior Trial Counsel

DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 13-O-10597

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)) - 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 U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

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) to: 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.: 7196-9008-9111-6409-7617 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 via US Mail to:.

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

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 Los Angeles, California, on the date shown below.

DATED: September 19, 2013

SIGNED:

Signature of Ana Botosaru Nercessian, Declarant