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**PUBLIC MATTER**  
**FILED**

**DEC 23 2014**

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

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STATE BAR COURT  
HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of: ) Case No. 13-O-12150  
FERNANDO FABELA CHAVEZ, ) NOTICE OF DISCIPLINARY CHARGES  
No. 86902, )  
A Member of the State Bar )

**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.**

The State Bar of California alleges:

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1 the balance of the CTA fell below \$130,500. Respondent failed to maintain the full \$130,500 in  
2 his CTA, in willful violation of Rules of Professional Conduct, rule 4-100(A).

3  
4 COUNT THREE

5 Case No. 13-O-12150  
6 Rules of Professional Conduct, rule 4-100(A)  
[Commingling Personal Funds in Client Trust Account]

7 4. On or about December 15, 2010, respondent did not promptly remove funds which  
8 respondent had earned as fees from respondent's CTA, and thereafter issued the following  
9 checks from those funds in his CTA for the payment of personal expenses, in wilful violation of  
10 Rules of Professional Conduct, rule 4-100(A):

| <u>CHECK #</u> | <u>PAYEE</u>  | <u>\$ AMOUNT OF CHECK</u> |
|----------------|---------------|---------------------------|
| 1063           | Beatriz Novoa | \$30,000                  |
| 1113           | Beatriz Novoa | \$25,000                  |
| 1118           | Beatriz Novoa | \$15,000                  |
| 1114           | Adriana Novoa | \$15,000                  |
| 1120           | Beatriz Novoa | \$50,000                  |
| 1177           | Beatriz Novoa | \$9,875                   |

18  
19 COUNT FOUR

20 Case No. 13-O-12150  
21 Rules of Professional Conduct, rule 4-100(B)(4)  
[Failure to Pay Client Funds Promptly]

22 5. On or about December 6, 2010, respondent as attorney for Juan Antonio Barajas  
23 ("Juan Antonio"), received \$750,000 from the defendants in *Cornelio Sanchez et al. v. Cooper*  
24 *Tire & Rubber Co. et al.* on behalf of Juan Antonio, then a minor, and other plaintiffs, including  
25 Noemi who was named as guardian ad litem for Juan Antonio. The \$750,000 was deposited into  
26 respondent's CTA. Pursuant to court order, respondent was obligated to establish and maintain  
27 \$10,000 in trust in an interest-bearing account until Juan Antonio became 18 years of age. Upon  
28

1 turning 18 on December 27, 2011, and continuing until March 7, 2012, Juan Antonio requested  
2 that respondent pay him the \$10,000 to which he was entitled. Not until March 7, 2012, did  
3 respondent pay Juan Antonio, as requested by Juan Antonio, \$10,000 to which he was entitled  
4 and which was in respondent's possession, in willful violation of Rules of Professional Conduct,  
5 rule 4-100(B)(4).

6  
7 COUNT FIVE

8 Case No. 13-O-12150  
9 Business and Professions Code, section 6103  
[Failure to Obey a Court Order]

10 6. Respondent disobeyed or violated an order of the court requiring respondent to do an  
11 act connected with or in the course of respondent's profession which respondent in good faith  
12 ought to have done by failing to comply with the court order in *Cornelio Sanchez et al. v. Cooper*  
13 *Tire & Rubber Co. et al.* to establish and maintain \$10,000 in trust in an interest-bearing bank  
14 account until Juan Antonio Barajas became 18 years of age on December 27, 2011, in willful  
15 violation of Business and Professions Code, section 6103.

16  
17 COUNT SIX

18 Case No. 13-O-12150  
19 Rules of Professional Conduct, rule 4-100(A)  
[Failure to Maintain Client Funds in Trust Account]

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21 7. On or about December 6, 2010, respondent as attorney for Noemi and other plaintiffs  
22 in *Cornelio Sanchez et al. v. Cooper Tire & Rubber Co. et al.*, received \$750,000 from  
23 defendants on behalf of the plaintiffs, which was deposited into respondent's CTA. Pursuant to  
24 court order, respondent was obligated to establish and maintain \$10,000 in trust in an interest-  
25 bearing account until Juan Antonio became 18 on December 27, 2011. Respondent did not  
26 establish such an account, nor did respondent continuously maintain a balance of at least \$10,000  
27 in his CTA until December 27, 2011, in willful violation of Rules of Professional Conduct, rule  
28 4-100(A).

COUNT SEVEN

Case No. 13-O-12150  
Business and Professions Code, section 6106  
[Moral Turpitude -- Misappropriation]

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4           8. On or about December 6, 2010, respondent as attorney for Noemi and other plaintiffs  
5 in *Cornelio Sanchez et al. v. Cooper Tire & Rubber Co. et al.*, received \$750,000 from  
6 defendants on behalf of the plaintiffs, which was deposited into respondent's CTA. Pursuant to  
7 court order, respondent was obligated to establish and maintain \$10,000 in trust in an interest-  
8 bearing account until Juan Antonio became 18 on December 27, 2011. Respondent did not  
9 establish such an account, nor did respondent continuously maintain a balance of at least \$10,000  
10 in his CTA until December 27, 2011. The balance of respondent's CTA fell below \$10,000 on  
11 or about the following periods:

- 12       • March 11, 2011, through March 18, 2011
- 13       • March 21, 2011, through March 22, 2011
- 14       • March 28, 2011, through April 6, 2011
- 15       • April 11, 2011, through April 15, 2011
- 16       • May 2, 2011
- 17       • May 4, 2011, through May 6, 2011
- 18       • May 25, 2011
- 19       • July 28, 2011, through August 2, 2011
- 20       • August 3, 2011, through August 15, 2011
- 21       • August 19, 2011, through September 30, 2011
- 22       • October 28, 2011, through October 31, 2011
- 23       • November 8, 2011, through November 22, 2011
- 24       • December 8, 2011, through December 14, 2011
- 25       • January 13, 2012, through February 16, 2012
- 26       • February 24, 2012, through February 29, 2012

1 By failing to maintain at least \$10,000 in trust for Juan Antonio, respondent dishonestly or  
2 grossly negligently misappropriated \$10,000, and thereby committed an act involving moral  
3 turpitude, dishonesty or corruption in wilful violation of Business and Professions Code, section  
4 6106.

5  
6 **NOTICE - INACTIVE ENROLLMENT!**

7 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR  
8 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE  
9 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL  
10 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO  
11 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN  
12 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE  
13 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE  
14 RECOMMENDED BY THE COURT.**

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16 **NOTICE - COST ASSESSMENT!**

17 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC  
18 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS  
19 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING  
20 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND  
21 PROFESSIONS CODE SECTION 6086.10.**

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28  
29 Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: December 23, 2014

By: Sherrie B. McLetchie  
Sherrie B. McLetchie  
Senior Trial Counsel

DECLARATION OF SERVICE

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

CASE NUMBER(s): 13-O-12150

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))

- 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 San Francisco.



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)

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 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.: 7160 3901 9845 1536 1720 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, Courtesy Copy sent via U.S. First-Class Mail. Row 1: Fernando Fabela Chavez, Respondent; 1530 The Alameda #301 San Jose, CA 95126; Electronic Address; Scott Drexel 5195 Hampsted Village Center Way, #238 New Albany, Ohio 43054

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 San Francisco, California, on the date shown below.

DATED: December 23, 2014

SIGNED:

Handwritten signature of Megan McGowan, Declarant