

PUBLIC MATTER

STATE BAR OF CALIFORNIA
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FILED

JUL 14 2014

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case No. 13-O-14806
BRENDA LYNN MCCUNE,) NOTICE OF DISCIPLINARY CHARGES
No. 186945,)
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.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Brenda Lynn McCune ("Respondent") was admitted to the practice of law in the State
4 of California on December 16, 1996, 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-14806
8 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

9 2. On or about November 15, 2012, Elvia Espinoza ("Espinoza") employed Respondent
10 to represent her in a marital dissolution matter which Respondent intentionally, recklessly, or
11 repeatedly failed to perform with competence, by failing to prepare the required stipulated
12 judgment in timely fashion, or otherwise provide any legal services of value between on or about
13 November 15, 2012, and June 17, 2013, and by failing to provide status updates and accountings
14 during that period, in willful violation of Rules of Professional Conduct, rule 3-110(A),

15 COUNT TWO

16 Case No. 13-O-14806
17 Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

18 3. On or about November 15, 2012, Respondent received advanced fees of \$2,500 from
19 a client, Elvia Espinoza, for purposes of securing a marital dissolution. Respondent performed
20 no services of value on behalf of the client and therefore earned none of the advanced fees paid.
21 Respondent failed to refund promptly, upon Respondent's termination of employment on or
22 about June 17, 2013, any part of the \$2,500 fee, in willful violation of Rules of Professional
23 Conduct, rule 3-700(D)(2).

24 COUNT THREE

25 Case No. 13-O-14806
26 Rules of Professional Conduct, rule 3-700(D)(1)
[Failure to Release File]

27 4. Respondent failed to release promptly, after termination of Respondent's employment
28 on or about June 17, 2013, to Respondent's client, Elvia Espinoza, all of the client's papers and

1 property following the client's request for the client's file on June 17, 2013, in willful violation
2 of Rules of Professional Conduct, rule 3-700(D)(1).

3 COUNT FOUR

4 Case No. 13-O-14806
5 Rules of Professional Conduct, rule 4-100(B)(3)
6 [Failure to Render Accounts of Client Funds]

7 5. On or about November 15, 2012, Respondent received from Respondent's client,
8 Elvia Espinoza, the sum of \$2,500 as advanced fees and costs for legal services to be performed.
9 Respondent thereafter failed to render an appropriate accounting to the client regarding those
10 funds following the client's request for such accounting on or about June 17, 2013, in willful
11 violation of the Rules of Professional Conduct, rule 4-100(B)(3).

12 COUNT FIVE

13 Case No. 13-O-14806
14 Business and Professions Code, section 6068(i)
15 [Failure to Cooperate in State Bar Investigation]

16 6. Respondent failed to cooperate and participate in a disciplinary investigation pending
17 against Respondent by failing to provide a substantive response to the State Bar's letters of
18 September 10, 2013, and September 16, 2013, which Respondent received, that requested
19 Respondent's response to the allegations of misconduct being investigated in case no. 13-O-
20 14806, in willful violation of Business and Professions Code, section 6068(i).

21 **NOTICE - INACTIVE ENROLLMENT!**

22 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**
23 **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**
24 **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**
25 **THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO**
26 **THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN**
27 **INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE**
28 **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 14, 2014

By: Hugh G. Radigan
Hugh G. Radigan
Deputy 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-14806

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))**
- 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 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.: 71969008911110069408 & at Los Angeles, addressed to: (see below)
71969008911110068500

☐ (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:
John W. Nelson	Weisenberg & Nelson, Inc. 12437 Lewis Street, Suite 204 Garden Grove, CA 92840	Electronic Address	
Brenda L. McCune	Law Office of Brenda McCune 4676 Lakeview Ave., Suite 103 Yorba Linda, CA 92886		

☐ 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 14, 2014

SIGNED:


JULI FINNILA
Declarant