

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
2 OFFICE OF THE CHIEF TRIAL COUNSEL
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FILED

MAR 20 2015

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

11 In the Matter of:) Case No. 13-O-15952
12 DENNIS M. CARR,) NOTICE OF DISCIPLINARY CHARGES
13 No. 100464,)
14 A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

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

- 19 (1) YOUR DEFAULT WILL BE ENTERED;
20 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
21 WILL NOT BE PERMITTED TO PRACTICE LAW;
22 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
23 THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
24 AND THE DEFAULT IS SET ASIDE, AND;
25 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
26 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
27 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
28 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. Dennis M. Carr ("respondent") was admitted to the practice of law in the State of
4 California on December 1, 1981, 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-15952
8 Rules of Professional Conduct, rule 4-100(A)(2)
[Failure to Withdraw Attorney Funds Timely]

9 2. On or about October 18, 2011, respondent deposited on behalf of respondent's client,
10 Gerard Hood ("Hood"), a settlement check from Fireman's Fund Insurance Company made
11 payable to respondent and Hood in the sum of \$230,000 in respondent's client trust account at
12 Wells Fargo Bank, account number 7606XXXX¹. As of on or about October 18, 2011,
13 respondent's total fees as a portion of Hood's settlement became fixed at \$122,000. Thereafter,
14 between on or about November 2, 2011 and on or about July 16, 2012, respondent withdrew in
15 27 transactions a total of \$98,833.89 as attorney's fees and thereby failed to withdraw funds
16 formerly belonging in part to the client and in part presently or potentially to respondent from a
17 client trust account at the earliest reasonable time after respondent's interest in the funds became
18 fixed, in willful violation of Rules of Professional Conduct, rule 4-100(A)(2).

19 COUNT TWO

20 Case No. 13-O-15952
21 Rules of Professional Conduct, rule 4-100(B)(4)
[Failure to Pay Client Funds Promptly]

22 3. On or about October 18, 2011, respondent received on behalf of respondent's client,
23 Gerard Hood ("Hood"), a settlement check from Fireman's Fund Insurance Company made
24 payable to respondent and Hood in the sum of \$230,000. On or about January 31, 2013,
25 respondent received on behalf of respondent's client, Hood, a settlement check from Fireman's
26 Fund Insurance Company in the sum of \$75,000 made payable to respondent, Client, and
27

28 ¹ The complete account number is redacted to protect against identity theft.

1 Medicare. Of the total sum received, \$305,000, Hood was entitled to at least \$183,000. In or
2 about May 2013, Hood requested payment of his funds to him. To date, respondent has failed to
3 pay promptly, as requested by respondent's client, at least \$98,254.59 in respondent's possession
4 in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

5 COUNT THREE

6 Case No. 13-O-15952
7 Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

8 4. Prior to on or about October 18, 2011, respondent received on behalf of respondent's
9 client, Gerard Hood ("Hood"), a settlement check from Fireman's Fund Insurance Company
10 made payable to respondent and Hood in the sum of \$230,000. On or about October 18, 2011,
11 respondent deposited the \$230,000 into respondent's client trust account ("CTA") at Wells Fargo
12 Bank, account number 7606XXXX on behalf of Hood. Prior to depositing the \$230,000
13 settlement check on or about October 18, 2011, respondent's CTA contained funds belonging to
14 clients other than Hood. Prior to on or about October 18, 2011, on or about October 16 and
15 October 17, 2011, respondent disbursed \$700 and \$5,000 respectively to himself as "partial
16 attorney fees" in the Hood matter. Respondent failed to maintain funds belonging to a client in
17 willful violation of Rules of Professional Conduct, rule 4-100(A).

18 COUNT FOUR

19 Case No. 13-O-15952
20 Rules of Professional Conduct, rule 4-100(A)(2)
[Failure to Withdraw Attorney Funds Timely]

21 5. On or about October 18, 2011, respondent deposited on behalf of respondent's client,
22 Gerard Hood ("Hood"), a settlement check from Fireman's Fund Insurance Company made
23 payable to respondent and Hood in the sum of \$230,000 in respondent's client trust account at
24 Wells Fargo Bank, account number 7606XXXX. Prior to depositing the \$230,000 settlement
25 check on or about October 18, 2011, respondent's CTA contained funds belonging to clients
26 other than Hood and to respondent as fees from other cases in which respondent's interest had
27 become fixed. Prior to on or about October 18, 2011, on or about October 16 and October 17,
28

1 2011, respondent disbursed \$700 and \$5,000 respectively to himself as attorney fees and thereby
2 failed to withdraw funds formerly belonging in part to the client and in part presently or
3 potentially to respondent from a client trust account at the earliest reasonable time after
4 respondent's interest in the funds became fixed, in willful violation of Rules of Professional
5 Conduct, rule 4-100(A)(2).

6 COUNT FIVE

7 Case No. 13-O-15952
8 Rules of Professional Conduct, rule 4-100(A)
9 [Failure to Maintain Client Funds in Trust Account]

10 6. On or about October 4, 2011, respondent received on behalf of respondent's client,
11 Gerard Hood ("Hood"), a settlement check from Fireman's Fund Insurance Company made
12 payable to respondent and Hood in the sum of \$230,000. On or about October 18, 2011,
13 respondent deposited the \$230,000 into respondent's client trust account ("CTA") at Wells Fargo
14 Bank, account number 7606XXXX on behalf of Hood. As of on or about October 18, 2011,
15 respondent's total fees as a portion of the Hood's settlement became fixed at \$122,000. Between
16 on or about October 16, 2011 and in or about December 2014, respondent paid out \$263,103.71
17 to Hood or on Hood's behalf or to himself as attorney's fees. Respondent failed to maintain at
18 least \$33,103.71 of other clients' funds in his CTA.

19 COUNT SIX

20 Case No. 13-O-15952
21 Rules of Professional Conduct, rule 4-100(A)(2)
22 [Failure to Withdraw Attorney Funds Timely]

23 7. On or about October 18, 2011, respondent deposited on behalf of respondent's client,
24 Gerard Hood ("Hood"), a settlement check from Fireman's Fund Insurance Company made
25 payable to respondent and Hood in the sum of \$230,000 in respondent's client trust account at
26 Wells Fargo Bank, account number 7606XXXX. Prior to depositing the \$230,000 settlement
27 check on or about October 18, 2011, respondent's CTA contained funds belonging to clients
28 other than Hood and to respondent as fees from other cases in which respondent's interest had
become fixed. As of on or about October 18, 2011, respondent's total fees as a portion of the

1 Hood's settlement became fixed at \$122,000. Between on or about October 16, 2011 and in or
2 about December 2014, respondent deposited settlement checks from other clients' cases from
3 which his portion of attorney's fees became fixed in the amount of at least \$33,103.71. Between
4 on or about October 16, 2011 and in or about December 2014, respondent paid out \$263,103.71
5 to Hood or on Hood's behalf or to himself as attorney's fees and thereby failed to withdraw
6 funds formerly belonging in part to his clients and in part presently or potentially to respondent
7 from a client trust account at the earliest reasonable time after respondent's interest in the funds
8 became fixed, in willful violation of Rules of Professional Conduct, rule 4-100(A)(2).

9 COUNT SEVEN

10 Case No. 13-O-15952
11 Business and Professions Code, section 6106
12 [Moral Turpitude-Misappropriation]

13 8. Prior to on or about October 18, 2011, respondent received on behalf of respondent's
14 client, Gerard Hood ("Hood"), a settlement check from Fireman's Fund Insurance Company
15 made payable to respondent and Hood in the sum of \$230,000. On or about October 18, 2011,
16 respondent deposited the \$230,000 into respondent's client trust account ("CTA") at Wells
17 Fargo Bank, account number 7606XXXX on behalf of Hood. On or about October 18, 2011
18 prior to depositing the \$230,000 settlement check, respondent's CTA contained funds belonging
19 to clients other than Hood. Between October 16, 2011 and in or about December 2014,
20 respondent dishonestly or grossly negligently misappropriated for respondent's own purposes
21 \$33,103.71 that his clients were entitled to receive, and thereby committed an act involving
22 moral turpitude, dishonesty, or corruption in wilful violation of Business and Professions Code,
23 section 6106.

24 COUNT EIGHT

25 Case No. 13-O-15952
26 Business and Professions Code, section 6106
27 [Moral Turpitude-Misappropriation]

28 9. Prior to on or about October 18, 2011, respondent received on behalf of respondent's
client, Gerard Hood ("Hood") , a settlement check from Fireman's Fund Insurance Company

1 made payable to respondent and Hood in the sum of \$230,000. On or about October 18, 2011,
2 respondent deposited the \$230,000 into respondent's client trust account ("CTA") at Wells Fargo
3 Bank, account number 7606XXXX on behalf of the client. Between on or about October 16,
4 2011 and in or about July 2013, respondent dishonestly or grossly negligently misappropriated
5 for respondent's own purposes \$31,850 that respondent's client was entitled to receive, and
6 thereby committed an act involving moral turpitude, dishonesty, or corruption in wilful violation
7 of Business and Professions Code, section 6106.

8 COUNT NINE

9 Case No. 13-O-15952

10 Rules of Professional Conduct, rule 4-100(A)

11 [Failure to Deposit Client Funds in Trust Account]

12 1. On or about January 31, 2013, respondent received on behalf of respondent's client,
13 Gerard Hood ("Hood") a settlement check from Fireman's Fund Insurance Company made
14 payable to respondent, Hood, and Medicare in the sum of \$75,000. Respondent failed to deposit
15 \$75,000 in funds received for the benefit of Hood in a bank account labeled "Trust Account,"
16 "Client's Funds Account" or words of similar import, in wilful violation Rules of Professional
17 Conduct, rule 4-100(A).

18 COUNT TEN

19 Case No. 13-O-15952

20 Rules of Professional Conduct, rule 4-100(A)

21 [Commingling Personal Funds in Client Trust Account]

22 2. Between on or about April 3, 2012 and in or about July 2013, respondent deposited
23 or commingled funds belonging to respondent into respondent's client trust account at Wells
24 Fargo Bank, account number 7606XXXX, as follows in wilful violation Rules of Professional
25 Conduct, rule 4-100(A):

<u>DATE OF DEPOSIT</u>	<u>AMT. DEPOSITED</u>	<u>FORM OF DEPOSIT</u>	<u>MEMO/NOTES</u>
April 3, 2012	\$287	check	Rent/April 2012
May 25, 2012	\$287	check	Rent/May 2012
June 5, 2012	\$287	check	Rent/June 2012
June 13, 2012	\$1200	check	Checking Acct

<u>DATE OF DEPOSIT</u>	<u>AMT. DEPOSITED</u>	<u>FORM OF DEPOSIT</u>	<u>MEMO/NOTES</u>
July 9, 2012	\$200	check	Rent
July 9, 2012	\$267	Money gram	(MoneyGram)
July 16, 2012	\$1200	check	Transfer to Checking
July 20, 2012	\$493.76	check	Rent 7/15-8/15
August 9, 2012	\$307	check	Rent/Aug 2012
August 14, 2012	\$1200	check	Checking Acct
August 16, 2012	\$404.37	check	Rent 8/1/12-8/15/12
September 4, 2012	\$307	check	Rent/Sept 2012
September 4, 2012	\$270.36	check	for rent 8/15/12-8/31/12
September 12, 2012	\$1200	check	
September 18, 2012	\$468.67	check for rent	Rent 9/1-9/15
October 5, 2012	\$500	check	
October 17, 2012	\$358	check	Rent 10/15-10/31
October 17, 2012	\$1200	check	Checking Acct
November 5, 2012	\$500	check	Rent 11/1/12-11/15/12
November 5, 2012	\$307	check	Rent for Nov. 2012
November 8, 2012	\$1200	check	Checking Acct
December 6, 2012	\$307	check	Rent/Dec 2012
December 13, 2012	\$1200	check	Checking Acct
January 4, 2013	\$307	check	Rent/Jan 2013
January 11, 2013	\$1200	check	Checking Acct

COUNT ELEVEN

Case No. 13-O-15952
 Rules of Professional Conduct, rule 3-110(A)
 [Failure to Perform with Competence]

3. On or about April 14, 2008, Gerard Hood (“Hood”) employed respondent to perform legal services, namely represent him in a personal injury matter arising out of an automobile accident that occurred on or about April 14, 2008, which respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by the following:

(A) Failing to compromise, pay, or otherwise resolve Hood’s Medicare lien as well as other medical bills and liens amounting to \$86,354.59; and

1 (B) Failing to supervise his legal assistant/ paralegal Victor Ngo's disbursement of
2 Hood's settlement funds.

3 **NOTICE - INACTIVE ENROLLMENT!**

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

12 **NOTICE - COST ASSESSMENT!**

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

18 Respectfully submitted,

19 THE STATE BAR OF CALIFORNIA
20 OFFICE OF THE CHIEF TRIAL COUNSEL

21 DATED: March 20, 2015

22 By: Erica L. M. Dennings
23 Erica L. M. Dennings
24 Senior Trial Counsel
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DECLARATION OF SERVICE
BY CERTIFIED AND REGULAR MAIL

CASE NO.: 13-O-15952

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that 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; that 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; that I am aware that on motion of 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; and that 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, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as *certified mail, return receipt requested*, and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

Article No.: 9414 7266 9904 2011 9751 81
E-mail: dennismcarr@yahoo.com
Dennis Michael Carr
825 Van Ness Ave., #407
San Francisco, CA 94109

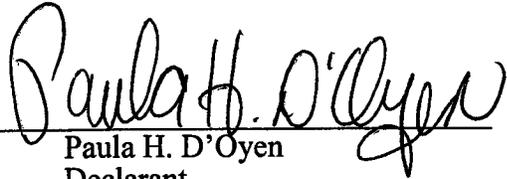
in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

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: March 20, 2015

Signed: _____


Paula H. D'Oyen
Declarant