

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
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 DEC 18 2014
 STATE BAR COURT
 CLERK'S OFFICE
 LOS ANGELES

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STATE BAR COURT
 HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case No. 13-O-16236
)
 SHERMAN L. LISTER,) NOTICE OF DISCIPLINARY CHARGES
 No. 38616,)
)
 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. SHERMAN L. LISTER ("respondent") was admitted to the practice of law in the
4 State of California on June 21, 1966, was a member at all times pertinent to these charges, and
5 is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 13-O-16236
8 Rules of Professional Conduct, rule 1-300(A)
[Aiding the Unauthorized Practice of Law]

9 2. From on or about May 1, 2006 through June 11, 2013, respondent aided Carol
10 Wood, who is not licensed to practice law in California, in the unauthorized practice of law, by
11 knowingly allowing Ms. Wood to provide legal advice to Gina Georgianna and by delegating
12 full decision-making authority on Ms. Georgianna's legal matter to Ms. Wood, in wilful
13 violation of Rules of Professional Conduct, rule 1-300(A).

14 COUNT TWO

15 Case No. 13-O-16236
16 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

17 3. On or about May 1, 2006, Gina Georgiana employed respondent to perform legal
18 services, namely to represent her in a dissolution of marriage proceeding titled *Blackmer v.*
19 *Blackmer*, Ventura County Superior Court case number SD 034200, and an unrelated personal
20 injury matter, which respondent intentionally, recklessly, or repeatedly failed to perform with
21 competence in willful violation of Rules of Professional Conduct, rule 3-110(A), by the
22 following:

23 A) failing to properly supervise Carol Wood, a non-attorney and independent
24 paralegal utilized by respondent;

25 B) assigning the dissolution matter to Carol Wood, a non-attorney, in March
26 2013 and allowing the non-attorney to be the sole decision-maker in the
27 matter;

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- 1 C) allowing Carol Wood, a non-attorney, to sign or cause to be signed Ms.
2 Georgianna's name on documents without the client's consent and then filing
3 or allowing the non-attorney to file or cause to be filed the documents with
4 the court in the dissolution matter;
- 5 D) allowing Carol Wood, a non-attorney, to give legal advice to Ms.
6 Georgianna; and
- 7 E) accepting representation of a personal injury matter for Ms. Georgianna in
8 June 2007 and failing to prosecute such matter until after the statute of
9 limitations had expired.

10 COUNT THREE

11 Case No. 13-O-16236
12 Rules of Professional Conduct, rule 4-100(B)(3)
13 [Failure to Render an Accounting]

14 4. Or about May 25, 2006, respondent's client, Gina Georgianna, provided advanced
15 legal fees in the amount of \$5,000 to respondent. On or about September 28, 2006, Ms.
16 Georgianna provided additional advanced legal fees in the amount of \$7,500 to respondent. On
17 or about each of April 12, 2011, May 7, 2011, June 5, 2011, May 26, 2012, July 30, 2012,
18 September 17, 2012, September 21, 2102, and October 4, 2012, Ms. Georgianna requested a
19 billing statement and accounting from respondent. Respondent did not provide an accounting
20 until on or after February 4, 2013. Respondent failed to respond to the client's requests and
21 failed to render an appropriate accounting to the client in willful violation of the Rules of
22 Professional Conduct, rule 4-100(B)(3).

23 COUNT FOUR

24 Case No. 13-O-16236
25 Rules of Professional Conduct, rule 1-320(A)
26 [Sharing Legal Fees with a Non-Lawyer]

27 5. In or about May 2006 through June 2013, respondent shared legal fees with a person
28 who is not a lawyer, namely Carol Wood, in relation to *Blackmer v. Blackmer*, Ventura County
Superior Court case number SD 034200, in willful violation of Rules of Professional Conduct,
rule 1-320(A).

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COUNT FIVE

Case No. 13-O-16236
Business and Professions Code section 6106
[Moral Turpitude – Misrepresentation to the Court]

6. On or about August 28, 2008, in *Blackmer v. Blackmer*, Ventura County Superior Court case number SD 034200, respondent filed or allowed opposing counsel to file a document titled “Revised Stipulation and Order for Vocational Examination and Appointment of Susan Miller as Evidence Code §730 Expert” which purported to include client Gina Georgianna’s signature but which, in fact, was not signed by Ms. Georgianna, when respondent knew or was grossly negligent in not knowing the signature was false, and thereby committed an act involving moral turpitude, dishonesty, or corruption in willful violation of Business and Professions Code section 6106.

COUNT SIX

Case No. 13-O-16236
Business and Professions Code section 6106
[Moral Turpitude – Misrepresentation to the Court]

7. On or about March 20, 2013, in *Blackmer v. Blackmer*, Ventura County Superior Court case number SD 034200, respondent filed a document titled “Stipulation and Order Regarding Modification of Spousal Support” which purported to include client Gina Georgianna’s signature but which, in fact, was not signed by Ms. Georgianna, when respondent knew or was grossly negligent in not knowing the signature was false, and thereby committed an act involving moral turpitude, dishonesty, or corruption in willful violation of Business and Professions Code section 6106.

COUNT SEVEN

Case No. 13-O-16236
Business and Professions Code section 6106
[Moral Turpitude – Misrepresentation to the Court]

8. On or about June 10, 2013, in *Blackmer v. Blackmer*, Ventura County Superior Court case number SD 034200, respondent filed an Income and Expense Declaration in which respondent made misrepresentations as to client Gina Georgianna’s income and expenses when respondent knew or was grossly negligent in not knowing such information was false, and

1 thereby committed an act involving moral turpitude, dishonesty, or corruption in willful
2 violation of Business and Professions Code section 6106.

3 COUNT EIGHT

4 Case No. 13-O-16236
5 Business and Professions Code section 6104
6 [Appearing Without Authority]

7 9. On or about June 10, 2013, respondent corruptly or willfully and without authority
8 appeared as an attorney for Gina Georgianna to an action or proceeding, namely *Blackmer v.*
9 *Blackmer*, Ventura County Superior Court case number SD 034200, by filing an Income and
10 Expense Declaration, Notice in Lieu of Subpoena, and a Notice and Request to Comply with
11 Local Rules, in willful violation of Business and Professions Code section 6104.

12 COUNT NINE

13 Case No. 13-O-16236
14 Business and Professions Code section 6068(e)
15 [Breach of Confidentiality]

16 10. On or about February 20, 2009, respondent disclosed client confidences to a third
17 party without client Gina Georgianna's consent when he wrote a letter to Craig Georgianna in
18 which respondent explained the actions he was taking on behalf of Ms. Georgianna in the matter
19 of *Blackmer v. Blackmer*, Ventura County Superior Court case number SD 034200, in willful
20 violation of Business and Professions Code section 6068(e).

21 COUNT TEN

22 Case No. 13-O-16236
23 Business and Professions Code section 6068(e)
24 [Breach of Confidentiality]

25 11. On or about September 17, 2011, respondent knowingly caused his independent
26 paralegal, Carol Wood, to disclose client confidences to a third party without client Gina
27 Georgianna's consent when Ms. Wood wrote a letter to Craig Georgianna in which Ms. Wood
28 explained the actions taken on behalf of Ms. Georgianna in the matter of *Blackmer v. Blackmer*,
Ventura County Superior Court case number SD 034200, in willful violation of Business and
Professions Code section 6068(e).

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COUNT ELEVEN

Case No. 13-O-16236
Business and Professions Code section 6068(e)
[Breach of Confidentiality]

12. On or about June 11, 2013, respondent disclosed client confidences to a third party without client Gina Georgianna's consent when respondent wrote a letter to Craig Georgianna in which respondent provided to Mr. Georgianna the "Against Legal Advice" letter he had sent or was about to send to Ms. Georgianna, in willful violation of Business and Professions Code section 6068(e).

COUNT TWELVE

Case No. 13-O-16236
Business and Professions Code section 6106
[Moral Turpitude – False Billing]

13. From on or about May 2006 through on or about February 2013, respondent provided billing statements to his client, Gina Georgianna, at irregular intervals detailing the work that had been performed on behalf of that client, in the matter of *Blackmer v. Blackmer*, Ventura County Superior Court case number SD 034200. The billing statements were false and misleading in that they included work performed by both respondent and his independent paralegal, Carol Wood, but did not identify which work was performed by which individual; listed all work as "Legal Services Rendered"; and billed all work at the same attorney rate. By providing false and misleading billing statements to his client, respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of Business and Professions Code section 6106.

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.

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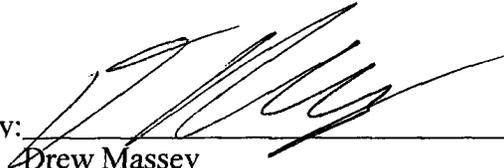
NOTICE - COST ASSESSMENT!

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: December 18, 2014

By: 

Drew Massey
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-16236

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, 845 South Figueroa Street, Los Angeles, California 90017, 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))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (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.: 9414 7266 9904 2010 0875 71 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 to:
Sherman L. Lister, 22647 Ventura Blvd., Suite 367 Woodland Hills, CA 91364, Electronic Address

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').

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: December 18, 2014

SIGNED: Jason Peralta Declarant