

# PUBLIC MATTER

**FILED**

**OCT 27 2014**

1 STATE BAR OF CALIFORNIA  
 OFFICE OF THE CHIEF TRIAL COUNSEL  
 2 JAYNE KIM, No. 174614  
 CHIEF TRIAL COUNSEL  
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STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

12 In the Matter of: ) Case No. 13-O-16798  
 13 FERNANDO VARGAS HERNANDEZ, ) NOTICE OF DISCIPLINARY CHARGES  
 No. 40498, )  
 14 )  
 15 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.

27 ///  
28 ///



1 The State Bar of California alleges:

2 JURISDICTION

3 1. Fernando Vargas Hernandez ("respondent") was admitted to the practice of law in the  
4 State of California on June 13, 1967, 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-16798  
8 Rules of Professional Conduct, rule 4-100(A)  
9 [Commingling Personal Funds in Client Trust Account]

10 2. Beginning on or about March 22, 2013, and continuing through on or about October  
11 7, 2013, respondent deposited or commingled funds belonging to respondent into respondent's  
12 client trust account at Bank of America, account number xxxxxxxx1877, as follows in willful  
13 violation Rules of Professional Conduct, rule 4-100(A):

<u>DATE OF DEPOSIT</u>	<u>AMT. DEPOSITED</u>	<u>FORM OF DEPOSIT</u>
03/22/13	\$100.00	Cash
04/02/13	\$2,000.00	Cash
05/23/13	\$1,305.00	Cash
07/22/13	\$400.00	Cash
08/13/13	\$40.00	Cash
10/07/13	\$1,200.00	Cash

22 COUNT TWO

23 Case No. 13-O-16798  
24 Rules of Professional Conduct, rule 4-100(A)  
25 [Commingling Personal Funds in Client Trust Account]

26 3. Beginning on or about March 25, 2013, and continuing through on or about October  
27 7, 2013, respondent issued the following checks (and/or made cash withdrawals) from  
28 respondent's funds commingled in respondent's client trust account at Bank of America, account  
number xxxxxxxx1877, in willful violation Rules of Professional Conduct, rule 4-100(A):

1	<u>DATE</u>	<u>Check #</u>	<u>\$ AMT/ DEBIT</u>	<u>CREDIT</u>	<u>PAYEE/PAYOR</u>	<u>MEMO LINE NOTES</u>
2						
3	03/25/13		\$40.00			Cash Withdrawal
4	03/25/13		\$30.00			Cash Withdrawal
5	03/25/13		\$20.00			Cash Withdrawal
6						
7	04/01/13		\$300.00			Cash Withdrawal
8	04/02/13	3882	\$280.00		Respondent	
9						
10	04/02/13	3883	\$1,350.00		Respondent	
11	04/03/13	3885	\$150.00		Respondent	
12	04/05/13	3887	\$300.00		Respondent	
13	04/05/13		\$30.00			Cash Withdrawal
14						
15	04/08/13		\$15.00			Cash Withdrawal
16	05/23/13	3889	\$1,305.00		Respondent	
17	05/23/13	3890	\$400.00		Respondent	
18						
19	05/24/13	3891	\$450.00		Respondent	
20	05/24/13	3892	\$430.00		Respondent	
21	05/29/13	3893	\$200.00		Respondent	
22						
23	05/29/13	3894	\$300.00		Respondent	
24	05/31/13	3895	\$400.00		Respondent	
25	06/04/13		\$50.00			Cash Withdrawal
26						
27	06/05/13	3898	\$320.00		Respondent	
28						

	<u>DATE</u>	<u>Check #</u>	<u>\$ AMT/ DEBIT</u>	<u>CREDIT</u>	<u>PAYEE/PAYOR</u>	<u>MEMO LINE NOTES</u>
1						
2						
3	06/06/13	3897	\$250.00		Respondent	
4	06/06/13	3899	\$200.00		Respondent	
5	06/07/13	3900	\$500.00		Respondent	
6	06/07/13	3901	\$300.00		Respondent	
7	06/10/13	3902	\$200.00		Respondent	
8	06/11/13		\$50.00			Cash Withdrawal
9	06/12/13		\$40.00			Cash Withdrawal
10	06/14/13	3903	\$60.00		Respondent	
11	06/17/13		\$30.00			Cash Withdrawal
12	06/17/13		\$15.00			Cash Withdrawal
13	06/18/13	3904	\$500.00		Respondent	
14	06/18/13	3905	\$200.00		Respondent	
15	06/19/13	3906	\$250.00		Respondent	
16	06/21/13		\$150.00			Cash Withdrawal
17	06/24/13	3907	\$300.00		Respondent	
18	06/26/13	3908	\$100.00		Respondent	
19	06/28/13	3910	\$100.00		Respondent	
20	07/01/13	3911	\$100.00		Respondent	
21	07/02/13	3912	\$60.00		Respondent	
22						
23						
24						
25						
26						
27						
28						

	<u>DATE</u>	<u>Check #</u>	<u>\$ AMT/ DEBIT</u>	<u>CREDIT</u>	<u>PAYEE/PAYOR</u>	<u>MEMO LINE NOTES</u>
1						
2						
3	07/05/13		\$140.00			Cash Withdrawal
4	07/09/13		\$40.00			Cash Withdrawal
5	07/10/13		\$30.00			Cash Withdrawal
6						
7	07/17/13		\$50.00			Cash Withdrawal
8	07/18/13	3914	\$100.00		Respondent	
9	07/18/13	3915	\$100.00		Respondent	
10						
11	07/19/13		\$160.00			Cash Withdrawal
12	07/22/13	3916	\$200.00		Respondent	
13	07/22/13		\$85.00			Cash Withdrawal
14						
15	07/23/13	3917	\$100.00		Respondent	
16	07/24/13		\$100.00			Cash Withdrawal
17	07/25/13		\$20.00			Cash Withdrawal
18						
19	07/26/13	3920	\$110.00		Respondent	
20	07/29/13		\$60.00			Cash Withdrawal
21	07/29/13		\$50.00			Cash Withdrawal
22						
23	07/30/13		\$50.00			Cash Withdrawal
24	07/31/13	3921	\$100.00		Respondent	
25	07/31/13	3922	\$1,010.00		Respondent	
26						
27	08/01/13	3923	\$480.00		Respondent	
28						

	<u>DATE</u>	<u>Check #</u>	<u>\$ AMT/ DEBIT</u>	<u>CREDIT</u>	<u>PAYEE/PAYOR</u>	<u>MEMO LINE NOTES</u>
1						
2						
3	08/01/13	3924	\$510.00		Respondent	
4	08/02/13	3926	\$100.00		Respondent	
5	08/02/13		\$100.00			Cash Withdrawal
6						
7	08/05/13		\$170.00			Cash Withdrawal
8	08/05/13		\$30.00			Cash Withdrawal
9	08/06/13	3927	\$65.00		Respondent	
10						
11	08/06/13		\$35.00			Cash Withdrawal
12	08/07/13		\$50.00			Cash Withdrawal
13	08/07/13		\$30.00			Cash Withdrawal
14						
15	08/08/13	3928	\$500.00		Respondent	
16	08/08/13	3930	\$410.00		Respondent	
17	08/12/13		\$30.00			Cash Withdrawal
18						
19	08/12/13		\$10.00			Cash Withdrawal
20	08/14/13		\$15.00			Cash Withdrawal
21	08/19/13		\$15.00			Cash Withdrawal
22						
23	08/22/13		\$50.00			Cash Withdrawal
24	08/26/13		\$230.00			Cash Withdrawal
25	08/27/13		\$50.00			Cash Withdrawal
26						
27	08/29/13		\$200.00			Cash Withdrawal
28						

1	<u>DATE</u>	<u>Check #</u>	<u>\$ AMT/ DEBIT</u>	<u>CREDIT</u>	<u>PAYEE/PAYOR</u>	<u>MEMO LINE NOTES</u>
2						
3	10/18/13		\$20.00			Cash Withdrawal
4	10/22/13		\$15.00			Cash Withdrawal

6 **NOTICE - INACTIVE ENROLLMENT!**

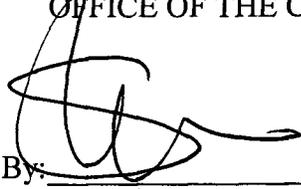
7 YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR  
8 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE  
9 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL  
10 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO  
11 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN  
12 INACTIVE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

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.

17 Respectfully submitted,

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



21 DATED: October 27, 2014

21 By: \_\_\_\_\_  
22 Susan I. Kagan  
23 Senior Trial Counsel

**DECLARATION OF SERVICE BY CERTIFIED AND REGULAR MAIL**

**RE: FERNANDO VARGAS HERNANDEZ  
CASE NO. 13-O-16798**

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. 7196 9008 9111 2393 0757**

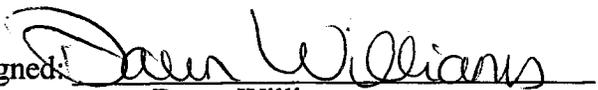
**JUSTIN DAIN HEIN  
SIMAS & ASSOCIATES, LTD.  
3835 N. Freeway Blvd., Ste 228  
Sacramento, CA 95834**

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: October 27, 2014

Signed:   
Dawn Williams  
Declarant