

PUBLIC MATTER

FILED

AUG 13 2014

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
JAYNE KIM, No. 174614
CHIEF TRIAL COUNSEL
JOSEPH R. CARLUCCI, No. 172309
DEPUTY CHIEF TRIAL COUNSEL
MELANIE J. LAWRENCE, No. 230102
ASSISTANT CHIEF TRIAL COUNSEL
TIMOTHY G. BYER, No. 172472
DEPUTY TRIAL COUNSEL
845 South Figueroa Street
Los Angeles, California 90017-2515
Telephone: (213) 765-1325

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case Nos. 14-O-00731, 14-O-01306,
JOHN VARGAS,) 14-O-01965
No. 270181,) NOTICE OF DISCIPLINARY CHARGES
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.**

kwiktag® 183 821 012



1 The State Bar of California alleges:

2 JURISDICTION

3 1. JOHN VARGAS ("Respondent") was admitted to the practice of law in the State
4 of California on June 1, 2010, 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. 14-O-00731
8 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

9 2. On or about December 13, 2013, Minsheng Zhang employed Respondent to
10 perform legal services, namely to draft and file for Zhang a First Amended Verified Complaint
11 and to refile a Temporary Restraining Order ("TRO") or a request for reconsideration of the
12 originally filed TRO before December 21, 2013, to file a Chapter 11 Bankruptcy by December
13 16, 2013, and to mail to Mission Oaks National Bank and its attorney notice of the bankruptcy
14 filing on December 16, 2013, which Respondent intentionally, recklessly, or repeatedly failed
15 to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-
16 110(A), by the following:

- 17 a) Respondent prepared a Chapter 11 bankruptcy petition which was riddled with
18 numerous errors and omissions which rendered it useless for filing;
19 b) Respondent did not draft a First Amended Verified Complaint;
20 c) Respondent did not refile a TRO or a request for reconsideration of the
21 originally filed TRO;
22 d) Respondent did not mail notice of Zhang's bankruptcy to Mission Oaks
23 National Bank.

24 COUNT TWO

25 Case No. 14-O-00731
26 Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

27 3. Respondent failed to respond promptly to nine text messages and numerous voice
28 mail messages communicating reasonable status inquiries made by Respondent's client,

1 Minsheng Zhang, between on or about December 16, 2013, and on or about December 21,
2 2013, that Respondent received in a matter in which Respondent had agreed to provide legal
3 services, in willful violation of Business and Professions Code, section 6068(m).

4 COUNT THREE

5 Case No. 14-O-00731
6 Rules of Professional Conduct, rule 3-700(A)(2)
[Improper Withdrawal from Employment]

7 4. Respondent failed, upon termination of employment, to take reasonable steps to
8 avoid reasonably foreseeable prejudice to Respondent's client, Minsheng Zhang, by
9 constructively withdrawing from Zhang's representation on or about December 16, 2013, by
10 failing to take any action on the client's behalf after Zhang employed him on December 13,
11 2013, and thereafter failing to inform the client that Respondent was withdrawing from
12 employment, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

13 COUNT FOUR

14 Case No. 14-O-00731
15 Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

16 5. On or about December 13, 2013, Respondent received advanced fees of \$2,000
17 from a client, Minsheng Zhang, to draft and file for Zhang a First Amended Verified
18 Complaint and to refile a Temporary Restraining Order ("TRO") or a request for
19 reconsideration of the originally filed TRO before December 21, 2013, to file a Chapter 11
20 Bankruptcy petition by December 16, 2013, and to mail to Mission Oaks National Bank and its
21 attorney notice of the bankruptcy filing on December 16, 2013. Respondent performed no
22 services of value on behalf of Zhang and therefore earned none of the advanced fees paid.
23 Respondent failed to refund promptly, upon Respondent's termination of employment on or
24 about December 16, 2013, any part of the \$2,000 advanced fee, in willful violation of Rules of
25 Professional Conduct, rule 3-700(D)(2).

26 \\\

27 \\\

1 COUNT EIGHT

2 Case No. 14-O-01306
3 Rules of Professional Conduct, rule 3-110(A)
4 [Failure to Perform with Competence]

5 9. On or about November 13, 2013, Gloria Bonokoski employed Respondent to
6 perform legal services, namely to draft and file an Amended Petition to disallow the 2010 Will
7 and Trust in the matter described as *Frederick F. Sautter Revocable Trust*, Riverside County
8 Superior Court case number RIP 1300815, and to draft and serve subpoenas to four banks and
9 a physician by November 15, 2013, which Respondent intentionally, recklessly, or repeatedly
10 failed to perform with competence, in willful violation of Rules of Professional Conduct, rule
11 3-110(A), by the following:

- 12 a) Failing to draft an Amended Petition to disallow the 2010 Will and Trust;
13 b) Drafting subpoenas to the banks in which the banks were ordered to produce
14 business records:
15 a. to their own "bank manager" (instead of to Respondent);
16 b. on a date 11 months prior to the issuance of the subpoena;
17 c. and on which Respondent had misspelled the name of the party whose
18 records were being subpoenaed; and
19 c) Failing to serve subpoenas by November 15, 2013 or on any subsequent date.

20 COUNT NINE

21 Case No. 14-O-01306
22 Business and Professions Code, section 6106
23 [Moral Turpitude - Misrepresentation]

24 10. On or about November 17, 2013, Respondent stated to his client, Gloria
25 Bonokoski, that he had served five subpoenas on her behalf when Respondent knew or was
26 grossly negligent in not knowing the statement(s) were false, and thereby committed an act
27 involving moral turpitude, dishonesty or corruption in willful violation of Business and
28 Professions Code, section 6106.

\\\

\\\

1 COUNT TEN

2 Case No. 14-O-01306
3 Business and Professions Code, section 6068(m)
4 [Failure to Respond to Client Inquiries]

5 11. Respondent failed to appear at six appointments calendared by his office staff,
6 and failed to respond promptly to numerous emails and phone calls communicating reasonable
7 status inquiries made by Respondent's client, Gloria Bonokoski, between on or about
8 December 18, 2013, and on or about February 14, 2014, that Respondent received in a matter
9 in which Respondent had agreed to provide legal services, in willful violation of Business and
10 Professions Code, section 6068(m).

11 COUNT ELEVEN

12 Case No. 14-O-01306
13 Rules of Professional Conduct, rule 3-700(A)(2)
14 [Improper Withdrawal from Employment]

15 12. Respondent failed, upon termination of employment, to take reasonable steps to
16 avoid reasonably foreseeable prejudice to Respondent's client, Gloria Bonokoski, by
17 constructively withdrawing from Bonokoski's representation on or about December 17, 2013,
18 by failing to take any action following a telephone conversation with Bonokoski on December
19 17, 2013, and thereafter failing to inform the client that Respondent was withdrawing from
20 employment, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

21 COUNT TWELVE

22 Case No. 14-O-01306
23 Rules of Professional Conduct, rule 3-700(D)(2)
24 [Failure to Refund Unearned Fees]

25 13. On or about November 14, 2013, Respondent received advanced fees of \$700
26 from a client, Gloria Bonokoski, to draft and file for Bonokoski an Amended Petition to
27 disallow the 2010 Will and Trust in the matter described as *Frederick F. Sautter Revocable*
28 *Trust*, Riverside County Superior Court case number RIP 1300815, and to draft and serve
subpoenas to four banks and a physician by November 15, 2013. Respondent performed no
services of value on behalf of Bonokoski and therefore earned none of the advanced fees paid.
Respondent failed to refund promptly, upon Respondent's termination of employment on or

1 about December 17, 2013, any part of the \$700 advanced fee, in willful violation of Rules of
2 Professional Conduct, rule 3-700(D)(2).

3 COUNT THIRTEEN

4 Case No. 14-O-01306
5 Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

6 14. On or about November 14, 2013, Respondent received from Respondent's client,
7 Gloria Bonokoski, the sum of \$700 as advanced fees for legal services to be performed.
8 Respondent thereafter failed to render an appropriate accounting to the client regarding those
9 funds following Respondent's constructive withdrawal from Bonokoski's representation on or
10 about December 17, 2013, in willful violation of the Rules of Professional Conduct, rule 4-
11 100(B)(3).

12 COUNT FOURTEEN

13 Case No. 14-O-01306
14 Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

15 15. Respondent failed to cooperate and participate in a disciplinary investigation
16 pending against Respondent by failing to provide a substantive response to the State Bar's
17 letters of March 25, 2014, and April 16, 2014, which Respondent received, that requested
18 Respondent's response to the allegations of misconduct being investigated in case no. 14-O-
19 01306, in willful violation of Business and Professions Code, section 6068(i).

20 COUNT FIFTEEN

21 Case No. 14-O-01965
22 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

23 16. On or about December 13, 2013, James Gates employed Respondent to perform
24 legal services, namely to draft and file an appeal for Gates to the California Public Employees
25 Retirement System ("CalPERS") and to file a motion seeking an extension for Gates's filing
26 deadline for a First Amended Complaint in the case entitled James Gates v. CalPERS,
27 Riverside County Superior Court case no. MCC 1301392, which Respondent intentionally,
28

1 recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of
2 Professional Conduct, rule 3-110(A), by the following:

- 3 a) Respondent did not draft and file an appeal for Gates to the California
4 Public Employees Retirement System ("CalPERS");
5 b) Respondent did not file a motion seeking an extension for Gates's filing
6 deadline for a First Amended Complaint.

7 COUNT SIXTEEN

8 Case No. 14-O-01965
9 Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

10 17. Respondent failed to respond promptly to over 50 telephonic reasonable status
11 inquiries made by Respondent's client, James Gates, between on or about December 18, 2013,
12 and on or about February 1, 2014, that Respondent received in a matter in which Respondent
13 had agreed to provide legal services, in willful violation of Business and Professions Code,
14 section 6068(m).

15 COUNT SEVENTEEN

16 Case No. 14-O-00731
17 Rules of Professional Conduct, rule 3-700(A)(2)
[Improper Withdrawal from Employment]

18 18. Respondent failed, upon termination of employment, to take reasonable steps to
19 avoid reasonably foreseeable prejudice to Respondent's client, James Gates, by constructively
20 withdrawing from Gates representation on or about December 13, 2013, by failing to take any
21 action on the client's behalf after Gates employed him on December 13, 2013, and thereafter
22 failing to inform the client that Respondent was withdrawing from employment, in willful
23 violation of Rules of Professional Conduct, rule 3-700(A)(2).

24 COUNT EIGHTEEN

25 Case No. 14-O-01965
26 Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

27 19. On or about December 13, 2013, Respondent received advanced fees of \$1,250
28 from a client, James Gates, to draft and file an appeal for Gates to the California Public

1 Employees Retirement System ("CalPERS") and to file a motion seeking an extension for
2 Gates's filing deadline for a First Amended Complaint in the case entitled James Gates v.
3 CalPERS, Riverside County Superior Court case no. MCC 1301392. Respondent performed
4 no services of value on behalf of Gates and therefore earned none of the advanced fees paid.
5 Respondent failed to refund promptly, upon Respondent's termination of employment on or
6 about December 13, 2013, any part of the \$1,250 advanced fee, in willful violation of Rules of
7 Professional Conduct, rule 3-700(D)(2).

8 COUNT NINETEEN

9 Case No. 14-O-00731
10 Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

11 20. On or about December 13, 2013, Respondent received from Respondent's client,
12 James Gates, the sum of \$1,250 as advanced fees for legal services to be performed.
13 Respondent thereafter failed to render an appropriate accounting to the client regarding those
14 funds following Respondent's constructive withdrawal from Gates's representation on or about
15 December 13, 2013, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

16 \\\

17 \\\

18 \\\

19 \\\

20 \\\

21 \\\

22 \\\

23 \\\

24 \\\

25 \\\

26 \\\

27 \\\

28

1 COUNT TWENTY

2 Case No. 14-O-01965
3 Business and Professions Code, section 6068(i)
4 [Failure to Cooperate in State Bar Investigation]

5 21. Respondent failed to cooperate and participate in a disciplinary investigation
6 pending against Respondent by failing to provide a substantive response to the State Bar's
7 letter of April 17, 2014, which Respondent received, that requested Respondent's response to
8 the allegations of misconduct being investigated in case no. 14-O-01965, in willful violation of
9 Business and Professions Code, section 6068(i).

10 NOTICE - INACTIVE ENROLLMENT!

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

19 NOTICE - COST ASSESSMENT!

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

25 Respectfully submitted,

26 THE STATE BAR OF CALIFORNIA
27 OFFICE OF THE CHIEF TRIAL COUNSEL

28 DATED: August 13, 2014 _____

By: _____

TIMOTHY G. BYER
Deputy Trial Counsel

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **14-O-00731, 14-O-01306, 14-O-01965**

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))

- 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))

☐

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.: 7196 9008 9111 1006 8159 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)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
John Vargas	The Law Office of John Vargas 4129 Main St Suite 202 Riverside, CA 92501	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'). 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: August 13, 2014

SIGNED:

Jason Peralta
Declarant