

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
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FILED

NOV 20 2014

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

8 STATE BAR COURT

9 HEARING DEPARTMENT - LOS ANGELES

10
11 In the Matter of:) Case Nos. 14-O-01234 and 14-O-02121
12 BRENDA LYNN MCCUNE,)
No. 186945,) NOTICE OF DISCIPLINARY CHARGES
13)
14 A Member of the State Bar)

15 **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**
THE STATE BAR COURT TRIAL:

- 18 (1) **YOUR DEFAULT WILL BE ENTERED;**
19 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
WILL NOT BE PERMITTED TO PRACTICE LAW;
20 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
21 **AND THE DEFAULT IS SET ASIDE, AND;**
22 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
23 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
24 **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. 14-O-01234
8 Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

9 2. On or about October 7, 2013, Respondent received advanced fees of \$5,000 from a
10 client, James Krueger, for legal services relating to securing a marital dissolution. Respondent
11 failed to actively promote the litigation, or perform any legal services for the client other than
12 securing a trial continuance, and therefore earned none of the advanced fees paid. Respondent
13 failed to refund promptly, upon Respondent's termination of employment on or about November
14 21, 2013 any part of the \$5,000 fee to the client, in willful violation of Rules of Professional
15 Conduct, rule 3-700(D)(2).

16 COUNT TWO

17 Case No. 14-O-01234
18 Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

19 3. On or about October 7, 2013, Respondent received from Respondent's client, James
20 Krueger, the sum of \$5,000 as advanced fees for legal services to be performed. Respondent
21 thereafter failed to render an appropriate accounting to the client regarding those funds following
22 the client's request for such accounting on or about November 21, 2013, in willful violation of
23 the Rules of Professional Conduct, rule 4-100(B)(3).

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COUNT THREE

Case No. 14-O-01234
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

4. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letters of May 27, 2014, and June 25, 2014, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 14-O-01234, in willful violation of Business and Professions Code, section 6068(i).

COUNT FOUR

Case No. 14-O-02121
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

5. On or about January 9, 2009, Respondent received from Respondent's client, Miriam McGorin, the sum of \$5,000 as advanced fees for legal services to be performed. Respondent thereafter failed to render an appropriate accounting to the client regarding those funds following the client's request for such accounting on or about June 2013, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

COUNT FIVE

Case No. 14-O-02121
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

6. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letters of June 5, 2014, and June 25, 2014, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 14-O-02121, in willful violation of Business and Professions Code, section 6068(i).

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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.

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: Nov 20, 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): 14-O-01234 and 14-O-02121

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))

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.: 9414726699042010090953 & 9414726699042010090946 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. Rows include Brenda L. McCune and John W. Nelson.

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: November 20, 2014

SIGNED: [Signature] JULI FINNILA Declarant