

FILED

JUL 14 2015

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

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10 STATE BAR COURT

11 HEARING DEPARTMENT - SAN FRANCISCO

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13 In the Matter of:) Case No. 14-O-05978
14 TAM NGUYEN,)
No. 159601,) NOTICE OF DISCIPLINARY CHARGES
15)
16 A Member of the State Bar)

17 **NOTICE - FAILURE TO RESPOND!**

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

- 21 (1) **YOUR DEFAULT WILL BE ENTERED;**
22 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
WILL NOT BE PERMITTED TO PRACTICE LAW;**
23 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
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.
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
26 ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
27 FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
28 RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

The State Bar of California alleges:



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JURISDICTION

1. TAM NGUYEN ("respondent") was admitted to the practice of law in the State of California on June 8, 1992, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE

Case No. 14-O-05978
Rules of Professional Conduct, rule 4-100(B)(1)
[Failure to Notify of Receipt of Client Funds]

2. On or about March 21, 2013, respondent received on behalf of respondent's clients, Phi Truong and Truong's minor son, Justin K., two med-pay checks from Truong's insurance company, Mercury Insurance. One check was made payable to Justin in the amount of \$1,784 and one check was made payable to Truong in the amount of \$3,294. Respondent failed to notify the clients of respondent's receipt of funds on the clients' behalf, in willful violation of Rules of Professional Conduct, rule 4-100(B)(1).

COUNT TWO

Case No. 14-O-05978
Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

3. On or about March 21, 2013, respondent received on behalf of respondent's clients, Phi Truong and Truong's minor son, Justin K., two med-pay checks from Truong's insurance company, Mercury Insurance. One check was made payable to Justin in the amount of \$1,784 and one check was made payable to Truong in the amount of \$3,294. On or about March 21, 2013, respondent deposited the two checks totaling \$5,078 into respondent's client trust account at East West Bank, Account No. xxx1130 on behalf of the clients. Of this sum, the clients were entitled to \$5,078. Respondent failed to maintain a balance of \$5,078 on behalf of the clients in respondent's client trust account, in willful violation of Rules of Professional Conduct, rule 4-100(A).

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COUNT THREE

Case No. 14-O-05978
Business and Professions Code, section 6106
[Moral Turpitude - Misappropriation]

4. On or about March 21, 2013, respondent received on behalf of respondent's clients, Phi Truong and Truong's minor son, Justin K., two med-pay checks from Truong's insurance company, Mercury Insurance. One check was made payable to Justin in the amount of \$1,784 and one check was made payable to Truong in the amount of \$3,294. On or about March 21, 2013, respondent deposited the two checks totaling \$5,078 into respondent's client trust account at East West Bank, Account No. xxx1130 on behalf of the clients. On or about March 23, 2013, respondent dishonestly or grossly negligently misappropriated for respondent's own purposes \$5,078 that respondent's clients were entitled to receive, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

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COUNT FOUR

Case No. 14-O-05978
Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

5. On or about August 15, 2013, respondent received on behalf of respondent's clients, Phi Truong and Truong's minor son, Justin K., settlement funds from Farmers Insurance, made payable to respondent and respondent's clients in the amount of \$6,700. On or about August 15, 2013, respondent deposited the \$6,700 into respondent's client trust account at East West Bank, Account No. xxx1130 on behalf of the clients. Of this sum, the client's medical provider, namely Tuantu Bui, was entitled to \$2,234 from respondent's clients' recovery. Respondent failed to maintain a balance of \$2,234 on behalf of the clients' medical provider(s) in respondent's client trust account, in willful violation of Rules of Professional Conduct, rule 4-100(A).

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COUNT SEVEN

Case No. 14-O-05978
Rules of Professional Conduct, rule 4-200(A)
[Illegal Fee]

8. Respondent entered into an agreement for, and charged and collected an illegal fee with client, Justin K., a minor, in willful violation of Rules of Professional Conduct, rule 4-200, as follows:

- A. On or about August 16, 2012, respondent entered into an oral agreement with his client, Justin K., a minor, to charge and collect a contingency fee of 33 percent from the settlement of a personal injury matter, in violation of Santa Clara County Superior Court Probate Local Rule 13, which requires court approval of fees over 25 percent in a minor's compromise; and
- B. On or about August 15, 2013, respondent charged and collected a fee of more than 25 percent from funds obtained from the settlement of a personal injury matter on behalf of respondent's client, Justin K., a minor, without court approval, in violation of Santa Clara County Superior Court Probate Local Rule 13.

COUNT EIGHT

Case No. 14-O-05978
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

9. 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 December 16, 2014, and February 19, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 14-O-05978 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: July 14, 2015

By: _____
SUSAN I. KAGAN
Senior 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-05978

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, 180 Howard Street, San Francisco, California 94105, 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 San Francisco, 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 2011 9758 22 at San Francisco, 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 via regular mail to:
Row 1: Tam Nguyen, Tam Nguyen & Associates, 1091 Woodminster Dr, San Jose, CA 95121, 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 San Francisco, California, on the date shown below.

DATED: July 14, 2015

SIGNED: Dawn Williams
Dawn Williams
Declarant