

AUG 31 2015

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

1 STATE BAR OF CALIFORNIA
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STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

13 In the Matter of:) Case Nos. 14-O-06116 [14-O-06441]
14 WALTER LEE DAVIS,)
No. 98513,) NOTICE OF DISCIPLINARY CHARGES
15)
16 A Member of the State Bar)

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
AND THE DEFAULT IS SET ASIDE, AND;
- 24 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
25 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
26 **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 The State Bar of California alleges:

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JURISDICTION

1. Walter Lee Davis ("respondent") was admitted to the practice of law in the State of California on January 12, 1981, 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-06441
Business and Professions Code, section 6106
[Moral Turpitude – Signing Client’s Name to Release
Without Knowledge or Authority of Client]

2. On or about August 4, 2014, respondent signed a Release of Bodily Injury Claims against Integon National Insurance Company, a member company of National General Insurance, on behalf of respondent’s client Eric Cook without Cook’s knowledge or authorization when respondent knew or was grossly negligent in not knowing that respondent did not have Cook’s authorization to sign Cook’s name on the release, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

COUNT TWO

Case No. 14-O-06441
Rules of Professional Conduct, rule 4-100(B)(1)
[Failure to Notify of Receipt of Client Funds]

3. On or about August 12, 2014, respondent received on behalf of respondent’s client, Eric Cook, a settlement check from National General Insurance made payable to respondent and Cook in the sum of \$9,000. Respondent failed to notify the client of respondent’s receipt of funds on the client’s behalf until in or about November 2014, in willful violation of Rules of Professional Conduct, rule 4-100(B)(1).

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COUNT THREE

Case No. 14-O-06441
Business and Professions Code, section 6106
[Moral Turpitude – Signing Client’s Name to Check
Without Knowledge or Authority of Client]

4. On or about August 12, 2014, respondent received on behalf of respondent’s client, Eric Cook, a settlement check from National General Insurance made payable to respondent and Cook in the sum of \$9,000. Respondent endorsed the settlement check “Eric Cook by Walter Davis by his atty of record” without Cook’s knowledge or authorization when respondent knew or was grossly negligent in not knowing that respondent did not have Cook’s authorization to sign Cook’s name on the check, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

COUNT FOUR

Case No. 14-O-06441
Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

5. On or about August 12, 2014, respondent received on behalf of respondent’s client, Eric Cook, a settlement check from National General Insurance made payable to respondent and Cook in the sum of \$9,000. On or about August 12, 2014, respondent deposited the \$9,000 check into respondent’s client trust account at Mechanics Bank, account number 04169XXXX (“CTA”) on behalf of the client. Of this sum, the client and/or his medical care provider was entitled to at least \$6,000. Respondent failed to maintain a balance of \$6,000 on behalf of the client and the medical care provider in respondent’s CTA, in willful violation of Rules of Professional Conduct, rule 4-100(A).

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COUNT FIVE

Case No. 14-O-06441
Business and Professions Code, section 6106
[Moral Turpitude - Misappropriation]

6. On or about August 12, 2014, respondent received on behalf of respondent's client, Eric Cook, a settlement check from National General Insurance made payable to respondent and Moody in the sum of \$9,000. On or about August 12, 2014, respondent deposited the \$9,000 check into respondent's CTA on behalf of the client. Between on or about October 7, 2014, and on or about November 3, 2014, respondent had dishonestly or grossly negligently misappropriated for respondent's own purposes \$6,000 that respondent's client and/or his medical care provider 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.

COUNT SIX

Case No. 14-O-06441
Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentations]

7. In or about mid-October 2014, respondent stated to Eric Cook that he had not received any settlement funds from National General Insurance on behalf of Cook, and, that the settlement check had been mailed by National General Insurance to an incorrect address, and, thereafter, claimed that his secretary had misappropriated the funds when respondent knew or was grossly negligent in not knowing the statements were false, and thereby committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

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COUNT SEVEN

Case No. 14-O-06116
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

8. On or about August 12, 2014, respondent received on behalf of respondent's client, Eric Cook, a settlement check from National General Insurance made payable to respondent and Cook in the sum of \$9,000. Respondent thereafter failed to render an appropriate accounting to the client regarding those funds, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

COUNT EIGHT

Case No. 14-O-06116
Rules of Professional Conduct, rule 4-100(B)(1)
[Failure to Notify of Receipt of Client Funds]

9. On or about September 19, 2014, respondent received on behalf of respondent's client, Frank Moody III, a settlement check from Nationwide Mutual Insurance Company made payable to respondent and Moody in the sum of \$7,800. Respondent failed to notify the client of respondent's receipt of funds on the client's behalf until in or about November 2014, in willful violation of Rules of Professional Conduct, rule 4-100(B)(1).

COUNT NINE

Case No. 14-O-06116
Business and Professions Code, section 6106
[Moral Turpitude – Signing Client's Name to Check
Without Knowledge or Authority of Client]

10. On or about September 19, 2014, respondent received on behalf of respondent's client, Frank Moody III, a settlement check from Nationwide Mutual Insurance Company made payable to respondent and Moody in the sum of \$7,800. Respondent endorsed the settlement check "Frank Moody III by Walter Davis by his atty of record" without Moody's knowledge or authorization when respondent knew or was grossly negligent in not knowing that respondent did

1 not have Moody's authorization to sign Moody's name on the check, and thereby committed an
2 act involving moral turpitude, dishonesty or corruption in willful violation of Business and
3 Professions Code, section 6106.

4 COUNT TEN

5 Case No. 14-O-06116
6 Rules of Professional Conduct, rule 4-100(A)
7 [Failure to Maintain Client Funds in Trust Account]

8 11. On or about September 19, 2014, respondent received on behalf of respondent's
9 client, Frank Moody III, a settlement check from Nationwide Mutual Insurance Company made
10 payable to respondent and Moody in the sum of \$7,800. On or about September 19, 2014,
11 respondent deposited the \$7,800 check into respondent's CTA on behalf of the client. Of this
12 sum, the client and/or his medical care provider were entitled to \$5,200. Respondent failed to
13 maintain a balance of \$5,200 on behalf of the client and the medical care provider in
14 respondent's CTA, in willful violation of Rules of Professional Conduct, rule 4-100(A).

15 COUNT ELEVEN

16 Case No. 14-O-06116
17 Business and Professions Code, section 6106
18 [Moral Turpitude - Misrepresentations]

19
20 12. On or about October 22, 2014, respondent stated to Frank Moody III that he had not
21 received any settlement funds from Nationwide Mutual Insurance Company on behalf of Moody,
22 and, thereafter, claimed that his secretary had misappropriated the funds when respondent knew
23 or was grossly negligent in not knowing the statements were false, and thereby committed acts
24 involving moral turpitude, dishonesty or corruption in willful violation of Business and
25 Professions Code, section 6106.

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COUNT TWELVE

Case No. 14-O-06116
Business and Professions Code, section 6106
[Moral Turpitude - Misappropriation]

13. On or about September 19, 2014, respondent received on behalf of respondent's client, Frank Moody III, a settlement check from Nationwide Mutual Insurance Company made payable to respondent and Moody in the sum of \$7,800. On or about September 19, 2014, respondent deposited the \$7,800 check into respondent's CTA on behalf of the client. Between on or about January 16, 2015, and on or about January 26, 2015, respondent had dishonestly or grossly negligently misappropriated for respondent's own purposes \$5,200 that respondent's client and the client's medical care provider 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.

COUNT THIRTEEN

Case No. 14-O-06116
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

14. On or about September 19, 2014, respondent received on behalf of respondent's client, Frank Moody III, a settlement check from Nationwide Mutual Insurance Company made payable to respondent and Moody in the sum of \$7,800. Respondent did not render any accounting to the client regarding those funds until on or about April 10, 2015, following the client's request for an accounting in or about late October 2014, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

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

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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: August 31, 2015

By: Sherrie B. McLetchie
Sherrie B. McLetchie
Senior Trial Counsel

DECLARATION OF SERVICE

by
U.S. CERTIFIED MAIL and U.S. FIRST-CLASS MAIL

CASE NUMBER(s): 14-O-06116 [14-O-06441]

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; and RESIGNATION PACKET

- 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 9762 70 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 to:
Walter Davis, Respondent; 1999 Harrison Street, Suite 1350 Oakland, CA 94612; 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 San Francisco, California, on the date shown below.

DATED: August 31, 2015

SIGNED: Meagan McGowan Declarant