

**PUBLIC MATTER
FILED**

SEP 26 2016

1 STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL
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STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

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9 STATE BAR COURT
10 HEARING DEPARTMENT - SAN FRANCISCO

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12 In the Matter of:) Case No. 14-O-06420 [15-O-12810;
13 DANIEL SANFORD WEISS,) 15-O-14691]
No. 91930,)
14) NOTICE OF DISCIPLINARY CHARGES
15 A Member of the State Bar)

16 **NOTICE - FAILURE TO RESPOND!**

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

- 20 (1) **YOUR DEFAULT WILL BE ENTERED;**
21 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
22 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
23 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
24 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**
25 **AND THE DEFAULT IS SET ASIDE, AND;**
26 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
27 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
28 **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.

The State Bar of California alleges:



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JURISDICTION

1. Daniel Sanford Weiss ("respondent") was admitted to the practice of law in the State of California on May 30, 1980, 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. 15-O-12810
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

2. On or about October 1, 2012, Alberto and Norma Hurtado ("the Hurtados") employed respondent to perform legal services, namely, to obtain Chapter 13 bankruptcy relief, which respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by the following:

- (A) filing an incomplete petition on or about October 1, 2012;
- (B) failing to file all necessary documents by October 30, 2012, after obtaining an extension of time to do so;
- (C) failing to inform the Hurtados that they needed to appear at a Meeting of Creditors on January 17, 2013, and failing to appear at the Meeting of Creditors himself;
- (D) failing to properly serve on or about February 25, 2013, a motion to value collateral;
- (E) failing to respond to the Trustee's October 16, 2013 motion to dismiss;
- (F) failing after November 14, 2013, to move to vacate the dismissal of the Hurtados' Chapter 13 case or file a new Chapter 13 case, as he promised the Hurtados he would do.

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COUNT TWO

Case No. 15-O-12810
Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

3. Respondent failed to respond promptly to numerous telephone messages and notes delivered to his office by respondent's clients, the Hurtados, whose messages respondent received between late November 2013, and October 2014, and which were the clients' reasonable status inquiries, in willful violation of Business and Professions Code, section 6068(m).

COUNT THREE

Case No. 15-O-12810
Rules of Professional Conduct, rule 3-700(A)(2)
[Improper Withdrawal from Employment]

4. Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's clients, the Hurtados, by constructively terminating respondent's employment by failing to take any action on their behalf after late November 2013, when he agreed to file a new Chapter 13 petition, and thereafter failing to inform the Hurtados that he was in fact withdrawing from employment, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

COUNT FOUR

Case No. 15-O-12810
Rules of Professional Conduct, rule 3-700(D)(1)
[Failure to Release File]

5. Respondent failed to release promptly, after termination of respondent's employment in October 2014, to respondent's clients, the Hurtados, all of the clients' papers and property following the clients' request for the clients' file in October 2014, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

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COUNT FIVE

Case No. 15-O-12810
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

6. On or about October 1, 2012, respondent received from respondent's clients, the Hurtados, the sum of \$500 as advanced fees for legal services to be performed. Respondent thereafter failed to render an appropriate accounting to the clients regarding those funds upon the termination of respondent's employment in or about October 2014, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

COUNT SIX

Case No. 15-O-12810
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

7. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to provide any response to the State Bar's letters of July 25, 2015, and October 1, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case number 15-O-12810, in willful violation of Business and Professions Code, section 6068(i).

COUNT SEVEN

Case No. 14-O-06420
Business and Professions Code, section 6106
[Moral Turpitude – NSF Transaction]

8. On or about September 3, 2014, respondent issued check #1320 in the amount of \$3,800 from respondent's Wells Fargo Bank attorney client trust account #34005XXXX ("CTA") when respondent knew or was grossly negligent in not knowing that there was insufficient funds in his CTA to pay the check, and thereby committed an act involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code, section 6106.

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COUNT EIGHT

Case No. 14-O-06420
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 any response to the State Bar's letters of March 20, 2015, August 18, 2015, and September 16, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case number 14-O-06420, in willful violation of Business and Professions Code, section 6068(i).

COUNT NINE

Case No. 15-O-14691
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

10. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to provide any response to the State Bar's letters of November 4, 2015, and April 28, 2016, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case number 15-O-14691, in willful violation of Business and Professions Code, section 6068(i).

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.

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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 CHIEF TRIAL COUNSEL

DATED: September 26, 2016 By: Sherrie B. McLetchie
Sherrie B. McLetchie
Senior Trial Counsel

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STATE BAR COURT
HEARING DEPARTMENT -- SAN FRANCISCO

In the Matter of:) Case No. 14-O-06420 [15-O-12810;
DANIEL SANFORD WEISS,) 15-O-14691]
No. 91930,)
A Member of the State Bar) DECLARATION OF PERSONAL SERVICE

I, Sherrie B. McLetchie, hereby declare:

1. I am over eighteen years of age and not a party to the above-entitled action. All statements made herein are true and correct, and, if necessary, I would competently testify hereto.

2. I am employed by the State Bar of California. My business address is 180 Howard Street, San Francisco, California 94105.

3. On September 26, 2012, I personally served the Notice of Disciplinary Charges

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herein by handing a copy of the attached to respondent Daniel Sanford Weiss at 180 Howard,
San Francisco CA 94105.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

Executed this 26th day of September 2016, at San Francisco, California.

Sherrie B. McLetchie
Sherrie B. McLetchie