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PUBLIC MATTER

FILED

MAR 02 2016

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

9
10 STATE BAR COURT

11 HEARING DEPARTMENT - LOS ANGELES

12
13 In the Matter of:) Case Nos. 14-O-04475; 13-O-11575
14 JOHN E. SWEENEY, JR.,)
No. 37042,) 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**
23 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
24 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
25 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**
26 **AND THE DEFAULT IS SET ASIDE, AND;**
27 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
28 **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.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. John E. Sweeney, Jr. ("Respondent") was admitted to the practice of law in the State
4 of California on June 7, 1965, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6
7 COUNT ONE

8 Case No. 14-O-04475
9 Rule of Professional Conduct, rule 3-700(D)(1)
[Failure to Release File]

10 2. Respondent failed to release promptly, after termination of Respondent's
11 employment on or about December 2012, to Respondent's client's new attorney, Ai Woodward,
12 all of the client's papers and property following the client's, George Nelson's, request for the
13 client's file on July 2, 2013, in willful violation of Rules of Professional Conduct, rule 3-
14 700(D)(1).

15
16 COUNT TWO

17 Case No. 14-O-04475
18 Rule of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

19 3. On or about February 10, 2011, February 25, 2011, and March 9, 2011, Respondent
20 received on behalf of Respondent's former clients, George Nelson and Salubrious
21 Pharmaceutical, LLC, a total of \$200,000 for payment of an ownership interest in Salubrious
22 Pharmaceutical, LLC. Respondent thereafter failed to render an appropriate accounting to the
23 client regarding those funds following the client's request for such accounting made through his
24 new attorney on or about July 2, 2013, in willful violation of the Rules of Professional Conduct,
25 rule 4-100(B)(3).

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COUNT THREE

Case No. 13-O-11575
Rule of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

4. On or about July 1, 2010, August 17, 2010, and July 14, 2011, Respondent received advanced fees totaling \$15,000 from a client, Lisa Paduano, for the purposes of representation in a legal malpractice action. The retainer agreement indicated that Respondent would charge \$60 per hour in fees. Respondent spent 118.9 hours on Ms. Paduano's matter earning \$7,134. Respondent also incurred \$1,968 in costs for a total charge of \$9,102. Respondent failed to refund promptly, upon Respondent's termination of employment in or about December 2012 any part of the remaining \$5,898 advanced fee, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

COUNT FOUR

Case No. 13-O-11575
Rule 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 or about December 2012, to Respondent's client, Lisa Paduano, all of the client's papers and property following the client's request for the client's file on January 25, 2013 and February 2, 2013, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

COUNT FIVE

Case No. 13-O-11575
Rule of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

6. On or about July 1, 2010, August 17, 2010, and July 14, 2011, Respondent received on behalf of Respondent's client, Lisa Paduano, a total of \$15,000 in advanced fees for the prosecution of a legal malpractice matter. Respondent hereafter failed to render an appropriate accounting to the client regarding those funds following the client's request for such accounting

1 on or about December 13, 2012 and December 15, 2012, in willful violation of the Rules of
2 Professional Conduct, rule 4-100(B)(3).

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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.

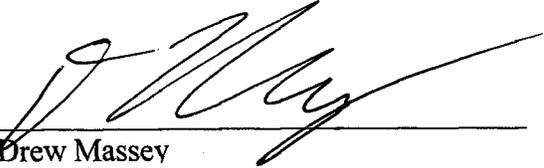
NOTICE - COST ASSESSMENT!

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 CHIEF TRIAL COUNSEL

DATED: 3-2-16

By: 
Drew Massey
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-04475; 13-O-11575

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))
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 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.: 9414 7266 9904 2010 0734 68 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:
Row 1: Robert Baker, Baker Keener & Nahra LLP, 633 W 5th St # 4900, Los Angeles, CA 90071, Courtesy Copy to: Electronic Address, rbaker@bknlawyers.com

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: March 2, 2016

SIGNED:

Charles C. Bagai
Declarant