

1 STATE BAR OF CALIFORNIA
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FILED

SEP 14 2015

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

9
10 STATE BAR COURT
11 HEARING DEPARTMENT - LOS ANGELES

12
13 In the Matter of:) Case Nos. 15-O-10512 and 15-O-10860
14 LEE HUMPHREY DURST,)
No. 69704,) 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.

1 The State Bar of California alleges:

2 JURISDICTION

3 1. Lee Humphrey Durst (“Respondent”) was admitted to the practice of law in the State
4 of California on September 13, 1976, 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. 15-O-10512
8 Rules of Professional Conduct, rule 4-100(B)(1)
[Failure to Notify of Receipt of Client Funds]

9 2. On or about September 12, 2014, Respondent received on behalf of his client,
10 Karinna Malia Briseno, a settlement check from Mercury Insurance Company made payable to
11 Respondent’s law office and his client in the sum of \$5,000. Respondent never notified the
12 client of Respondent’s receipt of funds on the client’s behalf, in willful violation of Rules of
13 Professional Conduct, rule 4-100(B)(1).

14 COUNT TWO

15 Case No. 15-O-10512
16 Rules of Professional Conduct, rule 4-100(A)
[Failure to Deposit Client Funds in Trust Account]

17 3. On or about September 12, 2104 and on or about October 24, 2014, Respondent
18 received on behalf of Respondent’s client, Karinna Malia Briseno, a settlement check from
19 Mercury Insurance Company made payable to Respondent and Client in the sum of \$5,000, and
20 a settlement check from Western General Insurance Company made payable to Respondent and
21 Client in the sum of \$3,400, respectively. Respondent failed to deposit the checks received for
22 the benefit of the client in a bank account labeled “Trust Account,” “Client’s Funds Account” or
23 words of similar import, in wilful violation Rules of Professional Conduct, rule 4-100(A).

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COUNT THREE

Case No. 15-O-10512
Business and Professions Code section 6106
[Moral Turpitude - Misrepresentation]

4. On or about October 14, 2014, Respondent settled his client Karinna Malia Briseno's claim with Western General Insurance Company without her knowledge or authority, stated in a letter to Western General Insurance Company that his client had accepted the insurance carrier's settlement offer of \$3,400, simulated the signature of his client on a "Bodily Injury Release," and sent the release to the insurance carrier to receive the settlement funds, when Respondent knew or was grossly negligent in not knowing that his client had not accepted the settlement offer or signed the release, and thereby committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

COUNT FOUR

Case No. 15-O-10512
Rules of Professional Conduct, rule 4-100(B)(4)
[Failure to Pay Client Funds Promptly]

5. On or about October 24, 2014, Respondent received on behalf of Respondent's client, Karinna Malia Briseno, a settlement check from Western General Insurance Company made payable to Respondent and client in the sum of \$3,400. Of this sum, the client or her health care providers were entitled to receive \$2,278. Between on or about November 5, 2014 and on or about March 25, 2015, the client requested that Respondent pay up to \$1,020 to her health care providers. Between on or about November 5, 2014 and on or about April 6, 2015, Respondent failed to pay promptly, as requested by the client, any portion of the \$2,278 in his possession to his client's health care provider Beverly Radiology Medical Group to resolve its claim for \$387.87 in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

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COUNT FIVE

Case No. 15-O-10512
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

6. On or about September 12, 2014 and on or about October 24, 2014, Respondent received on behalf of Respondent's client, Karinna Malia Briseno, a settlement check from Mercury Insurance Company made payable to Respondent and Client in the sum of \$5,000, and a settlement check from Western General Insurance Company made payable to Respondent and Client in the sum of \$3,400, respectively. Respondent thereafter failed to render an appropriate accounting to the client regarding those funds following the client's email requesting such accounting sent on or about December 19, 2014, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

COUNT SIX

Case No. 15-O-10512
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 a substantive response to the State Bar's letters dated on or about July 16, 2015 and on or about August 21, 2015, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 15-O-10512, including but not limited to evidence of where the checks received on behalf of his client Karinna Malia Briseno were deposited and proof of payment to the client's health care providers, in willful violation of Business and Professions Code section 6068(i).

COUNT SEVEN

Case No. 15-O-10860
Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

8. On or about April 22, 2014, Respondent received on behalf of Respondent's client, Theodora Reynolds a settlement check from Mercury Insurance Group made payable to Respondent and his client in the sum of \$15,000. On or about April 23, 2014, Respondent

1 deposited the \$15,000 into Respondent's client trust account at Wells Fargo, Account No.
2 xxxx0715¹ on behalf of the client. Of this sum, the client was entitled to \$10,500. Respondent
3 failed to maintain a balance of \$10,050 on behalf of the client in Respondent's client trust
4 account, in willful violation of Rules of Professional Conduct, rule 4-100(A).

5 COUNT EIGHT

6 Case No. 15-O-10860
7 Business and Professions Code section 6106
8 [Moral Turpitude – Misappropriation]

9 9. On or about April 22, 2014, Respondent received on behalf of Respondent's client,
10 Theodora Reynolds a settlement check from Mercury Insurance Group made payable to
11 Respondent and his client in the sum of \$15,000. On or about April 23, 2014, Respondent
12 deposited the \$15,000 into Respondent's client trust account at Wells Fargo, Account No.
13 xxxx0715² on behalf of the client. Between on or about April 23, 2014 and on or about May 14,
14 2014, Respondent dishonestly or grossly negligently misappropriated for his own purposes at
15 least \$10,049.55 that his client was entitled to receive, and thereby committed an act involving
16 moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code
17 section 6106.

18 COUNT NINE

19 Case No. 15-O-10860
20 Rules of Professional Conduct, rule 4-100(B)(3)
21 [Failure to Render Accounts of Client Funds]

22 10. On or about April 22, 2014, Respondent received on behalf of Respondent's client,
23 Theodora Reynolds a settlement check from Mercury Insurance Group made payable to
24 Respondent and his client in the sum of \$15,000. On or about April 23, 2014, Respondent
25 deposited the \$15,000 into Respondent's client trust account at Wells Fargo, Account No.
26 xxxx0715³ on behalf of the client. Respondent thereafter failed to prepare and maintain a written
27 ledger for the client, a written journal for the client trust account, and the monthly reconciliation

28 ¹ The account number has been redacted to protect the account and account holder.

² The account number has been redacted to protect the account and account holder.

³ The account number has been redacted to protect the account and account holder.

1 for the written ledger, written journal, and bank statement, in willful violation of the Rules of
2 Professional Conduct, rule 4-100(B)(3).

3 COUNT TEN

4 Case No. 15-O-10860
5 Business and Professions Code section 6068(i)
6 [Failure to Cooperate in State Bar Investigation]

7 11. Respondent failed to cooperate and participate in a disciplinary investigation pending
8 against Respondent by failing to provide a substantive response to the State Bar's letters dated on
9 or about July 16, 2015 and on or about August 21, 2015, which Respondent received, that
10 requested Respondent's response to the allegations of misconduct being investigated in case no.
11 15-O-10860 in willful violation of Business and Professions Code section 6068(i).

12 NOTICE - INACTIVE ENROLLMENT!

13 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
14 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
15 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
16 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
17 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
18 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
19 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
20 RECOMMENDED BY THE COURT.**

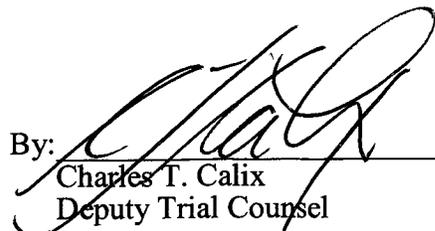
21 NOTICE - COST ASSESSMENT!

22 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
23 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
24 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
25 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
26 PROFESSIONS CODE SECTION 6086.10.**

27 Respectfully submitted,

28 THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: September 14, 2015

By: 
Charles T. Calix
Deputy Trial Counsel

DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 15-O-10512 and 15-O-10860

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 0689 21 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, and Courtesy Copy to. Row 1: Lee Humphrey Durst, THE JUSTICE LAW CENTER, 637 Albertoni St Ste 108, Carson, CA 90746, (714) 242-2096, lee.durst@gmail.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: September 14, 2015

SIGNED:

Handwritten signature of Jason Peralta, Jason Peralta Declarant