

FILED

DEC 15 2015

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

14 STATE BAR COURT
 15 HEARING DEPARTMENT - SAN FRANCISCO

16 In the Matter of:) Case No. 15-O-11512
 17 MICHAEL WHITCOMB SGANGA,)
 18 No. 227179,) NOTICE OF DISCIPLINARY CHARGES
 19 A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

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

- 20 (1) **YOUR DEFAULT WILL BE ENTERED;**
- 21 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;**
- 22 (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;**
- 23 (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 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. Michael Whitcomb Sganga ("respondent") was admitted to the practice of law in the
4 State of California on December 1, 2003, was a member at all times pertinent to these charges,
5 and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 15-O-11512
8 Rules of Professional Conduct, rule 4-100(A)
9 [Commingling – Payment of Personal Expenses from Client Trust Account]

10 2. On or about October 1, 2014, respondent issued check no. 1013 from funds in
11 respondent's client trust account at US Bank, account no. XXXXXXXXX9957¹, for the payment
12 of personal expenses, in willful violation of Rules of Professional Conduct, rule 4-100(A):

<u>CHECK No.</u>	<u>PAYEE</u>	<u>AMOUNT OF CHECK/WITHDRAWAL</u>
13 1013	Kathrin O'Sullivan	\$15,000

14 COUNT TWO

15 Case No. 15-O-11512
16 Rules of Professional Conduct, rule 4-100(A)(2)
17 [Failure to Withdraw Attorney Funds Timely]

18 3. On or about the following dates, respondent deposited on behalf of respondent's
19 clients, Amar Amarnath ("Amarnath") and Jay Velagapudi ("Velagapudi"), settlement checks
20 from SAI Technology Inc. made payable to Amarnath and Velagapudi care of Michael Sganga in
21 the following amounts, which were deposited into respondent's client trust account at US Bank,
22 account no. XXXXXXXXX9957:
23

<u>DATE</u>	<u>AMOUNT OF CHECK</u>
24 January 21, 2014	\$20,000
25 April 10, 2014	\$25,000

26
27 ¹ The full account number is not shown to protect the security of the account. The account
28 information is available to the court upon request.

1 August 27, 2014 \$25,000
2 October 6, 2014 \$25,000
3 January 14, 2015 \$25,000

4 As of on or about the date of deposit, respondent's percentage share interest of the settlement
5 funds became fixed. Thereafter, respondent withdrew the funds as needed on the following dates
6 and amounts:

<u>DATE</u>	<u>AMOUNT OF CHECK</u>
7 January 28, 2014	\$4,000
8 February 5, 2014	\$900
9 February 14, 2014	\$5,000
10 February 24, 2014	\$5,000
11 April 1, 2014	\$2,000
12 April 10, 2014	\$3,100
13 May 13, 2014	\$5,000
14 May 13, 2014	\$5,000
15 August 15, 2014	\$5,000
16 September 2, 2014	\$5,000
17 October 1, 2014	\$15,000
18 October 2, 2014	\$5,000
19 November 26, 2014	\$5,000
20 February 2, 2015	\$10,000

21 and respondent thereby failed to withdraw funds formerly belonging in part to the client and in
22 part presently or potentially to respondent from a client trust account at the earliest reasonable
23 time after respondent's interest in the funds became fixed, in willful violation of Rules of
24 Professional Conduct, rule 4-100(A)(2).

25 COUNT THREE

26 Case No. 15-O-11512
27 Rules of Professional Conduct, rule 4-100(A)(2)
28 [Withdrawal of Disputed Client Funds]

4. On or about the following dates, respondent deposited on behalf of respondent's
clients Amar Amarnath ("Amarnath") and Jay Velagapudi ("Velagapudi"), settlement checks
from SAI Technology Inc. made payable to Amarnath and Velagapudi care of Michael Sganga in
respondent's client trust account at US Bank, account no. XXXXXXXXXX9957:

<u>DATE</u>	<u>AMOUNT OF CHECK</u>
January 21, 2014	\$20,000
April 10, 2014	\$25,000
August 27, 2014	\$25,000
October 6, 2014	\$25,000
January 14, 2015	\$25,000

On or about the following dates, respondent withdrew the following amounts of those funds from respondent's trust account:

<u>DATE</u>	<u>AMOUNT OF CHECK</u>
January 28, 2014	\$4,000
February 5, 2014	\$900
February 14, 2014	\$5,000
February 24, 2014	\$5,000
April 1, 2014	\$2,000
April 10, 2014	\$3,100
May 13, 2014	\$5,000
May 13, 2014	\$5,000
August 15, 2014	\$5,000
September 2, 2014	\$5,000
October 1, 2014	\$15,000
October 2, 2014	\$5,000
November 26, 2014	\$5,000
February 2, 2015	\$10,000

at a time when the client disputed respondent's right to receive at least that portion of the funds, in willful violation of the Rules of Professional Conduct, rule 4-100(A)(2).

COUNT FOUR

Case No. 15-O-11512
 Rules of Professional Conduct, rule 4-100(A)
 [Failure to Maintain Client Funds in Trust Account]

5. On or about the following dates, respondent received and deposited into respondent's client trust account at US Bank, account no. XXXXXXXXX9957, on behalf of respondent's clients, Amar Amarnath ("Amarnath") and Jay Velagapudi ("Velagapudi"), settlement checks from SAI Technology Inc. made payable to Amarnath and Velagapudi care of Michael Sganga in the following amounts:

<u>DATE</u>	<u>AMOUNT OF CHECK</u>
January 21, 2014	\$20,000
April 10, 2014	\$25,000
August 27, 2014	\$25,000
October 6, 2014	\$25,000
January 14, 2015	\$25,000

Of this sum, the clients were entitled to receive between \$72,000 to \$96,000. Respondent failed to maintain a balance of \$72,000 to \$96,000 on behalf of the client in respondent's client trust account, in willful violation of Rules of Professional Conduct, rule 4-100(A).

COUNT FIVE

Case No. 15-O-11512
 Business and Professions Code, section 6106
 [Moral Turpitude - Misappropriation]

6. On or about the following dates, respondent received on behalf of respondent's clients, Amar Amarnath ("Amarnath") and Jay Velagapudi ("Velagapudi"), settlement checks from SAI Technology Inc. made payable to Amarnath and Velagapudi care of Michael Sganga in the following amounts, which were thereafter deposited into respondent's client trust account at US Bank, account no. XXXXXXXXX9957 on behalf of the clients:

<u>DATE</u>	<u>AMOUNT OF CHECK</u>
January 21, 2014	\$20,000
April 10, 2014	\$25,000
August 27, 2014	\$25,000
October 6, 2014	\$25,000
January 14, 2015	\$25,000

Of the amount deposited, the clients were entitled to between 60% and 80%. On or about the following dates, respondent dishonestly or grossly negligently misappropriated for respondent's own purposes:

<u>DATE</u>	<u>AMOUNT OF CHECK</u>	<u>AMOUNT MISAPPROPRIATED</u>
January 28, 2014	\$4,000	\$2,400 - \$3,200
February 5, 2014	\$900	\$540 - \$720
February 14, 2014	\$5,000	\$3,000 - \$4,000
February 24, 2014	\$5,000	\$3,000 - \$4,000
April 1, 2014	\$2,000	\$1,200 - \$1,600

1	April 10, 2014	\$3,100	\$1,860 – \$2,480
	May 13, 2014	\$5,000	\$3,000 – \$4,000
2	May 13, 2014	\$5,000	\$3,000 – \$4,000
	August 15, 2014	\$5,000	\$3,000 – \$4,000
3	September 2, 2014	\$5,000	\$3,000 – \$4,000
	October 1, 2014	\$15,000	\$9,000 – \$12,000
4	October 2, 2014	\$5,000	\$3,000 – \$4,000
	November 26, 2014	\$5,000	\$3,000 – \$4,000
5	February 2, 2015	\$10,000	\$6,000 – \$8,000

6 that respondent’s clients, were entitled to receive, and thereby committed an act involving moral
7 turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section
8 6106.

9 COUNT SIX

10 Case No. 15-O-11512
11 Business and Professions Code, section 6103
12 [Failure to Obey a Court Order]

13 7. Respondent disobeyed or violated an order of the court requiring respondent to do or
14 forbear an act connected with or in the course of respondent's profession which respondent ought
15 in good faith to do or forbear by failing to comply with the May 13, 2015 order granting
16 Preliminary Injunction, requiring respondent to: “(1). . . return all funds paid to himself from his
17 attorney client trust account in violation of Rules of Professional Conduct, Rule 4-100; (2). . .
18 pay into this Court, or as directed by this Court, all funds in his attorney client trust account that
19 were received from the settlement in the case of Amarnath v. SAI Technology, Santa Clara
20 County Superior Court case number 1-12-CV-238703; . . .” filed in *Amarnath et al. v. Sganga*,
21 San Mateo County Superior Court, case no. CIV530202, in willful violation of Business and
22 Professions Code, section 6103.

23 NOTICE - INACTIVE ENROLLMENT!

24 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
25 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
26 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
27 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
28 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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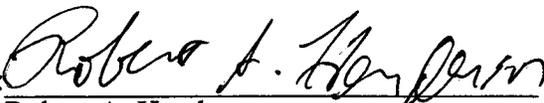
NOTICE - COST ASSESSMENT!

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: December 15, 2015

By: 
Robert A. Henderson
Supervising Senior Trial Counsel

