

PUBLIC MATTER

FILED

DEC 18 2015

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

1 STATE BAR OF CALIFORNIA
 2 OFFICE OF CHIEF TRIAL COUNSEL
 3 JAYNE KIM, No. 174614
 4 CHIEF TRIAL COUNSEL
 5 JOSEPH R. CARLUCCI, No. 172309
 6 DEPUTY CHIEF TRIAL COUNSEL
 7 MELANIE J. LAWRENCE, No. 230102
 8 ASSISTANT CHIEF TRIAL COUNSEL
 9 ANTHONY J. GARCIA, No. 171419
 10 SUPERVISING SENIOR TRIAL COUNSEL
 11 CHARLES T. CALIX, No. 146853
 12 SENIOR TRIAL COUNSEL
 13 845 South Figueroa Street
 14 Los Angeles, California 90017-2515
 15 Telephone: (213) 765-1255

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of:) Case No. 15-O-12224
 14 GERALD I. SUGARMAN,)
 15 No. 84730,) NOTICE OF DISCIPLINARY CHARGES
 16 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:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
- (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;
- (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.



1 The State Bar of California alleges:

2 JURISDICTION

3 1. Gerald I. Sugarman ("Respondent") was admitted to the practice of law in the State of
4 California on December 12, 1978, 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-12224
8 Business and Professions Code section 6104
9 [Appearing for Party without Authority]

10 2. Between on or about February 16, 2011 and on or about May 13, 2011, Respondent
11 corruptly, willfully, and without authority, appeared as attorney for his client, Jean Shir, in an
12 action or proceeding, namely in *Jean Shir v. Rosita Tan, M.D.*, LASC Case No. SC 106235, by
13 (A) filing a "Motion to Enforce Settlement" on or about February 16, 2011; (B) arranging for an
14 appearance attorney to appear on his behalf for the hearing on the Motion on or about April 19,
15 2011; and (C) filing a Request for Dismissal with Prejudice of the matter on or about May 13,
16 2011, when he knew that his client did not want to enforce the settlement or dismiss the matter,
17 in willful violation of Business and Professions Code section 6104.

18 COUNT TWO

19 Case No. 15-O-12224
20 Rules of Professional Conduct, rule 4-100(A)
21 [Commingling Personal Funds in Client Trust Account]

22 3. On or about June 15, 2011, Respondent received on behalf of his client, Jean Shir, a
23 settlement check from the Medical Protective Company made payable to Respondent in the sum
24 of \$25,000. On or about June 15, 2011, Respondent deposited the \$25,000 into his client trust
25 account at Saint Lucia Bank, Account No. xxx0757,¹ on behalf of his client. Of these funds,
26 Respondent was entitled to contingency fees of \$6,477.13 and costs of the approximate sum of
27 \$8,807.17. Respondent did not promptly remove the contingency fees he had earned and costs
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¹ The account number has been redacted to protect the account and account holder.

1 from his client trust account and instead, left his fees and costs in his client trust account to be
2 withdrawn as needed, in willful violation of Rules of Professional Conduct, rule 4-100(A).

3 COUNT THREE

4 Case No. 15-O-12224
5 Rules of Professional Conduct, rule 4-100(A)
6 [Failure to Maintain Client Funds in Trust Account]

7 4. On or about June 15, 2011, Respondent received on behalf of his client, Jean Shir, a
8 settlement check from the Medical Protective Company made payable to Respondent in the sum
9 of \$25,000. On or about June 15, 2011, Respondent deposited the \$25,000 into his client trust
10 account at Saint Lucia Bank, Account No. xxx0757,² on behalf of his client. Of this sum, the
11 client was entitled to \$9,715.70. Respondent failed to maintain a balance of \$9,715.70 on behalf
12 of his client in any of his client trust accounts, in willful violation of Rules of Professional
13 Conduct, rule 4-100(A).

14 COUNT FOUR

15 Case No. 15-O-12224
16 Rules of Professional Conduct, rule 4-100(B)(4)
17 [Failure to Pay Client Funds Promptly]

18 5. On or about June 15, 2011, Respondent received on behalf of his client, Jean Shir, a
19 settlement check from the Medical Protective Company made payable to Respondent in the sum
20 of \$25,000. On or about June 15, 2011, Respondent deposited the \$25,000 into his client trust
21 account at Saint Lucia Bank, Account No. xxx0757,³ on behalf of his client. Of this sum, the
22 client was entitled to \$9,715.70. Between on or about June 15, 2011 and on or about April 20,
23 2015, Respondent took no action to pay any portion of the \$9,715.70 to the client despite the
24 client's requests for the funds on or about January 25, 2013, July 16, 2013, January 31, 2014, and
25 June 25, 2014, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

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28 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.

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COUNT FIVE

Case No. 15-O-12224
Business and Professions Code section 6106
[Moral Turpitude - Misappropriation]

6. On or about June 15, 2011, Respondent received on behalf of his client, Jean Shir, a settlement check from the Medical Protective Company made payable to Respondent in the sum of \$25,000. On or about June 15, 2011, Respondent deposited the \$25,000 into his client trust account at Saint Lucia Bank, Account No. xxx0757,⁴ on behalf of his client. Of this sum, the client was entitled to \$9,715.70. Between on or about May 23, 2013 and on or about March 25, 2015, Respondent dishonestly or grossly negligently misappropriated for his own-purposes the approximate sum of \$8,485.83 that his client was 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. 15-O-12224
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

7. On or about June 15, 2011, Respondent received on behalf of his client, Jean Shir, a settlement check from the Medical Protective Company made payable to Respondent in the sum of \$25,000. On or about June 15, 2011, Respondent deposited the \$25,000 into his client trust account at Saint Lucia Bank, Account No. xxx0757,⁵ on behalf of his client. Respondent thereafter failed to prepare and maintain appropriate records concerning those funds and his client trust account, including but not limited to the client ledger for the client, the written journal for the client trust account, and the monthly reconciliation for the client trust account, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

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⁴ The account number has been redacted to protect the account and account holder.
⁵ The account number has been redacted to protect the account and account holder.

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COUNT SEVEN

Case No. 15-O-12224
Rules of Professional Conduct, rule 4-200(A)
[Illegal Fee]

8. Between on or about January 5, 2011 and on or about April 20, 2015, Respondent charged and collected from his client, Jean Shir, a contingency fee of \$10,000 for performing legal services in a medical malpractice matter, which was an illegal fee because Business and Professions Code section 6146(a)(1) and (c)(1) limited his contingency fee to \$6,477.13, in willful violation of Rules of Professional Conduct, rule 4-200(A).

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.

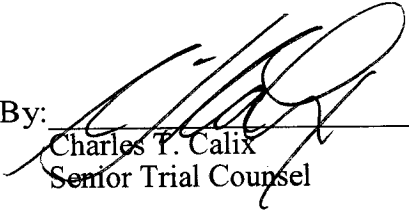
NOTICE - COST ASSESSMENT!

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: December 18, 2015

By: 
Charles F. Calix
Senior 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-12224

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))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").

By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

(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.: 7196 9008 9111 1007 8455 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)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
Gerald I. Sugarman	1136 Grand Ave Arroyo Grande, CA 93420	Electronic Address	Gerald I. Sugarman 1136 Grand Ave Arroyo Grande, CA 93420 Linda Somers Smith P.O. Box 3835 San Luis Obispo, CA 93403-3835

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

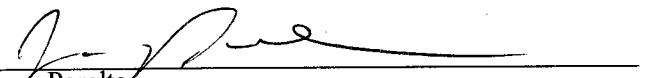
I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

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: December 18, 2015

SIGNED:


Jason Peralta
Declarant