

# PUBLIC MATTER

FILED

JAN 25 2016

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

1 STATE BAR OF CALIFORNIA  
 2 OFFICE OF CHIEF TRIAL COUNSEL  
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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of: ) Case No. 15-O-13056, 15-O-13443,  
 14 DARYL LYNN BINKLEY, ) 15-O-13755  
 15 No. 254326, ) 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. Daryl Lynn Binkley ("respondent") was admitted to the practice of law in the State of  
4 California on December 4, 2007, 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-13056  
8 Rules of Professional Conduct, rule 3-110(A)  
9 [Failure to Perform with Competence]

10 2. On or about April 4, 2011, Marilyn Sabens employed Respondent to perform legal  
11 services, namely to represent Marilyn Sabens and Arthur Medore in their capacity as executors  
12 in *Estate of Dorothy W. Medore*, Hemet Superior Court case no. MCP1100423, which  
13 Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful  
14 violation of Rules of Professional Conduct, rule 3-110(A), by the following:

- 15 A) failing to file a status report or accounting on behalf of Marilyn Sabens and  
16 Arthur Medore with the Hemet Superior Court by on or about July 9, 2014;
- 17 B) failing to appear at a July 9, 2014, order to show cause hearing for failure to  
18 file an accounting or status report on behalf of Marilyn Sabens and Arthur  
19 Medore by on or about July 9, 2014;
- 20 C) failing to file a status report or accounting on behalf of Marilyn Sabens with  
21 the Hemet Superior Court by on or about August 14, 2014;
- 22 D) failing to file a status report or accounting on behalf of Marilyn Sabens with  
23 the Hemet Superior Court by on or about September 15, 2014;
- 24 E) failing to appear at a September 15, 2014, order to show cause hearing for  
25 failure to file an accounting or status report on behalf of Marilyn Sabens by on  
26 or about September 15, 2014;

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- 1 F) failing to appear at a December 18, 2014, hearing on subsequent  
2 miscellaneous petition on behalf of Marilyn Sabens; and  
3 G) failing to sign and return a substitution of attorney form substituting Scott  
4 Grossman as counsel for Marilyn Sabens on or before February 5, 2015.

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6 COUNT TWO

7 Case No. 15-O-13056  
8 Rules of Professional Conduct, rule 3-700(A)(2)  
9 [Improper Withdrawal from Employment]

10 3. Respondent failed, upon termination of employment, to take reasonable steps to avoid  
11 reasonably foreseeable prejudice to Respondent's client, Marilyn Sabens, by constructively  
12 terminating Respondent's employment on or about August 14, 2014, by failing to take any action  
13 on the client's behalf after appearing at the order to show cause hearing for failure to file an  
14 accounting or status report on behalf of Marilyn Sabens in *Estate of Dorothy W. Medore*, Hemet  
15 Superior Court case no. MCP1100423 on or about August 14, 2014, and thereafter failing to  
16 inform the client that Respondent was withdrawing from employment, in willful violation of  
17 Rules of Professional Conduct, rule 3-700(A)(2).

18 COUNT THREE

19 Case No. 15-O-13056  
20 Rules of Professional Conduct, rule 3-700(D)(1)  
21 [Failure to Release File]

22 4. Respondent failed to release promptly, after constructive termination of Respondent's  
23 employment on or about August 14, 2014, to Respondent's client, Marilyn Sabens, all of the  
24 client's papers and property following the client's request for the client's file on March 5, 2015  
25 and August 31, 2015, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

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COUNT FOUR

Case No. 15-O-13056  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

5. 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 of August 3, 2015 and August 21, 2015, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 15-O-13056, in willful violation of Business and Professions Code, section 6068(i).

COUNT FIVE

Case No. 15-O-13056  
Business and Professions Code, section 6068(m)  
[Failure to Respond to Client Inquiries]

6. Respondent failed to respond promptly to multiple telephonic reasonable status inquiries made by Respondent's client, Marilyn Sabens, between in or about January 2014 and in or about July 2014 that Respondent received in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

COUNT SIX

Case No. 15-O-13056  
Business and Professions Code, section 6068(m)  
[Failure to Inform Client of Significant Development]

7. Respondent failed to keep Respondent's client, Marilyn Sabens, reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m), by failing to inform the client of the following: that Respondent failed to appear at a July 9, 2014, order to show cause for failure to file an accounting or status report on behalf of Marilyn Sabens and Arthur Medore by on or about July 9, 2014, and that sanctions in the amount of \$250 were imposed upon Respondent, Marilyn Sabens, and Arthur Medore on or about July 9, 2014, to be paid on or before July 21, 2014.

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COUNT SEVEN

Case No. 15-O-13056  
Business and Professions Code, section 6103  
[Failure to Obey a Court Order]

8. Respondent disobeyed or violated an order of the court requiring Respondent to do or forbear an act connected with, or in the course of Respondent's profession which Respondent ought in good faith do or forbear, by failing to comply with the July 9, 2014, order to pay \$250 in monetary sanctions issued against him in *Estate of Dorothy W. Medore*, Hemet Superior Court case no. MCP1100423, in willful violation of Business and Professions Code, section 6103.

COUNT EIGHT

Case No. 15-O-13443  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

9. On or about April 2, 2015, Yon Wells employed Respondent to perform legal services, namely to file a fictitious business name for her business and to inform the franchisor of her business, that she was leaving the company to rename the store as a stand-alone enterprise, which Respondent intentionally, recklessly, or repeatedly failed to perform with competence, by failing to file a fictitious business name for her business and failing to inform the franchisor of her business, that she was leaving the company to rename the store as a stand-alone enterprise, in willful violation of Rules of Professional Conduct, rule 3-110(A).

COUNT NINE

Case No. 15-O-13443  
Rules of Professional Conduct, rule 3-700(D)(2)  
[Failure to Refund Unearned Fees]

10. On or about April 2, 2015, Respondent received advanced fees of \$750 from a client, Yon Wells, to file a fictitious business name for her business and to inform the franchisor of her business, that she was leaving the company to rename the store as a stand-alone enterprise. Respondent failed to file a fictitious business name for her business and failed to inform the franchisor of her business, that she was leaving the company to rename the store as a stand-alone

1 enterprise, or perform any legal services for the client, and therefore earned none of the advanced  
2 fees paid. Respondent failed to refund promptly, upon Respondent's termination of employment  
3 on or about April 17, 2015, any part of the \$750 fee to the client, in willful violation of Rules of  
4 Professional Conduct, rule 3-700(D)(2).

5 COUNT TEN

6 Case No. 15-O-13443  
7 Rules of Professional Conduct, rule 4-100(B)(3)  
8 [Failure to Render Accounts of Client Funds]

9 11. On or about April 2, 2015, Respondent received from Respondent's client, Yon  
10 Wells, the sum of \$750 as advanced fees for legal services to be performed. Respondent  
11 thereafter failed to render an appropriate accounting to the client regarding those funds upon the  
12 termination of Respondent's employment on or about April 17, 2015, in willful violation of the  
13 Rules of Professional Conduct, rule 4-100(B)(3).

14 COUNT ELEVEN

15 Case No. 15-O-13443  
16 Business and Professions Code, section 6068(i)  
17 [Failure to Cooperate in State Bar Investigation]

18 12. Respondent failed to cooperate and participate in a disciplinary investigation pending  
19 against Respondent by failing to provide a substantive response to the State Bar's letters of  
20 August 7, 2015 and September 14, 2015, which Respondent received, that requested  
21 Respondent's response to the allegations of misconduct being investigated in case no. 15-O-  
22 13443 in willful violation of Business and Professions Code, section 6068(i).

23 COUNT TWELVE

24 Case No. 15-O-13755  
25 Business and Professions Code, section 6068(i)  
26 [Failure to Cooperate in State Bar Investigation]

27 13. Respondent failed to cooperate and participate in a disciplinary investigation pending  
28 against Respondent by failing to provide a substantive response to the State Bar's letters of  
September 1, 2015 and September 17, 2015, which Respondent received, that requested

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1 Respondent's response to the allegations of misconduct being investigated in case no. 15-O-  
2 13755, in willful violation of Business and Professions Code, section 6068(i).

3 COUNT THIRTEEN

4 Case No. 15-O-13755  
5 Business and Professions Code, section 6068(o)(3)  
6 [Failure to Report Judicial Sanctions]

7 14. Respondent failed to report to the agency charged with attorney discipline, in writing,  
8 within 30 days of the time Respondent had knowledge of the imposition of judicial sanctions  
9 against Respondent by failing to report to the State Bar the \$1,500 in sanctions the court imposed  
10 on Respondent on or about February 5, 2015, in connection with *Estate of Dorothy W. Medore*,  
11 Hemet Superior Court case no. MCP1100423, in willful violation of Business and Professions  
12 Code section, 6068(o)(3).

13 COUNT FOURTEEN

14 Case No. 15-O-13755  
15 Business and Professions Code, section 6103  
16 [Failure to Obey a Court Order]

17 15. Respondent disobeyed or violated an order of the court requiring Respondent to do or  
18 forbear an act connected with or in the course of Respondent's profession which Respondent  
19 ought in good faith to do or forbear by failing to comply with the February 5, 2015, order to pay  
20 \$1,500 in monetary sanctions issued against him in *Estate of Dorothy W. Medore*, Hemet  
21 Superior Court case no. MCP1100423 in willful violation of Business and Professions Code,  
22 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.**

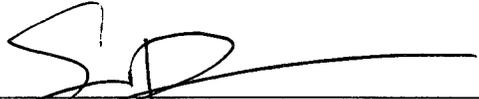
**NOTICE - COST ASSESSMENT!**

**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: January 25, 2016

By: 

Lara Bairamian  
Senior Trial Counsel

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DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 15-O-13056, 15-O-13443, 15-O-13755

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 8653 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: Daryl Lynn Binkley, 77564 Country Club Dr Ste 246 Palm Desert, CA 92211, Electronic Address

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: January 25, 2016

SIGNED:

Handwritten signature of Charles C. Bagai, Charles C. Bagai Declarant