

FILED

MAR -8 2016

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

PUBLIC MATTER

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of:) Case Nos. 15-O-13372 and 15-O-13972
14 AL FADEL AMER,)
15 No. 197745,) NOTICE OF DISCIPLINARY CHARGES
16 A Member of the State Bar)

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. Al Fadel Amer ("Respondent") was admitted to the practice of law in the State of
4 California on November 25, 1998, 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-13372
8 Rules of Professional Conduct, rule 3-310(F)
[Accepting Fees From a Non-Client]

9 2. Between on or about April 3, 2014 and on or about January 20, 2015, Respondent
10 accepted \$10,700 from Jose Lerma aka Joe Lerma, Anna Membrere, and Jennifer Hernandez, as
11 advanced attorney's fees for representing a client, David Lerma without obtain his client's
12 informed written consent to receive such compensation from the payors, in willful violation of
13 the Rules of Professional Conduct, rule 3-310(F).

14 COUNT TWO

15 Case No. 15-O-13372
16 Business and Professions Code section 6068(m)
[Failure to Respond to Client Inquiries]

17 3. Respondent failed to respond promptly to: numerous telephonic status inquiries
18 made by Respondent's client, David Lerma, between on or about April 3, 2014 and on or about
19 December 7, 2014; two written status inquires made by his client's subsequent counsel on or
20 about January 13, 2015 and on or about January 23, 2015; and one telephonic status inquiry
21 made by his client's subsequent counsel on or about February 4, 2015, that Respondent received
22 in a matter in which Respondent had agreed to provide legal services, in willful violation of
23 Business and Professions Code section 6068(m).

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COUNT THREE

Case No. 15-O-13372
Rules of Professional Conduct, rule 3-700(A)(2)
[Improper Withdrawal from Employment]

4. Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to Respondent’s client, David Lerma, by constructively terminating Respondent’s employment on or about April 3, 2014, by failing to take any action on the client’s behalf after entering into the fee agreement on or about April 3, 2014, and thereafter failing to inform the client that Respondent was withdrawing from employment, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

COUNT FOUR

Case No. 15-O-13372
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

5. Between on or about April 3, 2014 and on or about January 20, 2015, Respondent accepted \$10,700 from Jose Lerma aka Joe Lerma, Anna Membrere, and Jennifer Hernandez, as advanced attorney’s fees for representing a client, David Lerma, in an appeal of criminal conviction. Respondent failed to file a notice of appeal, file the appeal, or perform any legal services for the client, and therefore earned none of the advanced attorney’s fees paid. Respondent failed to refund promptly, upon Respondent’s termination of employment on or about May 26, 2015, any part of the \$10,700 fee to the respective payor, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

COUNT FIVE

Case No. 15-O-13372
Business and Professions Code section 6106
[Moral Turpitude – Misrepresentation to the State Bar]

6. On or about November 13, 2015, Respondent: stated in writing to the State Bar of California that he had been hired to “prepare his writ of habeas corpus” for his client David Lerma and not to “do his direct appeal”; and attached a Flat Fee Retainer Agreement that stated that Respondent had been retained to file a “Writ of Habeas Corpus After Direct Appeal” that

1 bore the simulated signature of his client, when Respondent knew or was grossly negligent in not
2 knowing the statements and document were false and/or manufactured, and thereby committed
3 acts involving moral turpitude, dishonesty or corruption in willful violation of Business and
4 Professions Code section 6106.

5 COUNT SIX

6 Case No. 15-O-13972
7 Rules of Professional Conduct, rule 3-310(F)
8 [Accepting Fees From a Non-Client]

9 7. On or about February 13, 2015, Respondent accepted \$5,000 from Irma Nunez De
10 Gomez as advanced attorney's fees for representing a client, Omar Nunez, without obtain his
11 client's informed written consent to receive such compensation from the payor, in willful
12 violation of the Rules of Professional Conduct, rule 3-310(F).

13 COUNT SEVEN

14 Case No. 15-O-13972
15 Rules of Professional Conduct, rule 3-700(A)(2)
16 [Improper Withdrawal from Employment]

17 8. Respondent failed, upon termination of employment, to take reasonable steps to
18 avoid reasonably foreseeable prejudice to Respondent's client, Omar Nunez, by constructively
19 terminating Respondent's employment on or about July 14, 2015, by failing to take any action on
20 the client's behalf after Respondent submitted a request to the Department of Corrections and
21 Rehabilitations to meet with his client, and thereafter failing to inform the client that Respondent
22 was withdrawing from employment, in willful violation of Rules of Professional Conduct, rule 3-
23 700(A)(2).

24 COUNT EIGHT

25 Case No. 15-O-13972
26 Rules of Professional Conduct, rule 3-700(D)(2)
27 [Failure to Refund Unearned Fees]

28 9. On or about February 13, 2015, Respondent accepted \$5,000 from Irma Nunez De
Gomez as advanced attorney's fees for representing a client, Omar Nunez, to file a petition for
medical release/care and a Petition for Writ of Habeas Corpus. Respondent failed to file the

1 petition for medical release/care or the Petition for Writ of Habeas Corpus, or perform any legal
2 services for the client, and therefore earned none of the advanced attorney's fees paid.
3 Respondent failed to refund promptly, upon Respondent's termination of employment on or
4 about January 28, 2016, any part of the \$5,000 fee to the payor, in willful violation of Rules of
5 Professional Conduct, rule 3-700(D)(2).

6 **NOTICE - INACTIVE ENROLLMENT!**

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

15 **NOTICE - COST ASSESSMENT!**

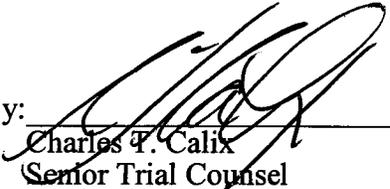
16 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
17 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
18 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
19 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
20 PROFESSIONS CODE SECTION 6086.10.**

21 Respectfully submitted,

22 THE STATE BAR OF CALIFORNIA
23 OFFICE OF CHIEF TRIAL COUNSEL

24 DATED: March 7, 2016

25 By: _____

26 
27 Charles F. Calix
28 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-13372 and 15-O-13972

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

[X] 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.

[X] 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.

[X] 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.

[X] (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)

[X] (for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 9414 7266 9904 2010 0733 38 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: AL FADEL AMER, The Amer Law Firm PO Box 90773 Long Beach, CA 90809, Electronic Address al@amerlawfirm.com, The Amer Law Firm PO Box 90773 Long Beach, CA 90809

[] 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: March 8, 2016

SIGNED: Genelle De Luca-Suarez, Genelle De Luca-Suarez, Declarant