

PUBLIC MATTER

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FILED
SEP 13 2016
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of:) Case Nos. 16-O-10013, 16-O-10240,
14 GARY EDWARD MOLL,) 16-O-10776
15 No. 94172,)
16 A Member of the State Bar.) NOTICE OF DISCIPLINARY CHARGES

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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The State Bar of California alleges:

JURISDICTION

1. GARY EDWARD MOLL ("Respondent") was admitted to the practice of law in the State of California on December 16, 1980, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE

Case No. 16-O-10013
Rules of Professional Conduct, Rule 1-300(A)
[Aiding the Unauthorized Practice of Law]

2. From on or about December 18, 2013, through on or about July 7, 2014, Respondent aided Morsa Jimenez aka Morsa Figueroa, who is not licensed to practice law in California, in the unauthorized practice of law, by delegating to her client intake responsibilities, including initial case consultation and discussions of case strategy. Respondent knowingly or with gross negligence, allowed Jimenez to provide legal advice to Julio Rosales and file Rosales' bankruptcy petition. Respondent thereby willfully violated the Rules of Professional Conduct, rule 1-300(A).

COUNT TWO

Case No. 16-O-10013
Rules of Professional Conduct, Rule 3-110(A)
[Failure to Perform with Competence – Failure to Supervise]

3. Between on or about December 18, 2013, through on or about July 7, 2014, Julio Rosales employed Respondent to perform legal services, namely to act as Rosales' bankruptcy attorney from filing to discharge and to help Rosales protect the properties he wanted to protect and sell the properties he wanted to sell through the bankruptcy process. Respondent failed to supervise his non-attorney staff, Morsa Jimenez aka Morsa Figueroa and allowed her to provide bankruptcy services, including providing legal advice to Rosales regarding the appropriate Chapter under which to file and whether to appear in court. By failing to supervise Jimenez, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

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COUNT THREE

Case No. 16-O-10013
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

4 4. Between in or about December 2013, and in or about April 2014, Respondent
5 received advanced fees of \$1,500 from a client, Julio Rosales, to perform legal services, namely
6 to act as Rosales' bankruptcy attorney from filing to discharge and to help Rosales protect the
7 properties he wanted to protected and sell the properties he wanted to sell through the bankruptcy
8 process. Respondent failed supervise his non-attorney staff who executed and filed an incorrect
9 and deficient bankruptcy petition without review by Respondent or Rosales, and therefore earned
10 none of the advanced fees paid. Respondent failed to refund promptly, upon Respondent's
11 termination of employment on or about July 7, 2014, any part of the \$1,500 fee to the client, in
12 willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

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COUNT FOUR

Case No. 16-O-10240
Rules of Professional Conduct, Rule 1-300(A)
[Aiding the Unauthorized Practice of Law]

16 5. From on or about January 2, 2015, through on or about June 4, 2015, Respondent
17 aided Morsa Jimenez aka Morsa Figueroa, who is not licensed to practice law in California, in
18 the unauthorized practice of law, by delegating to her client intake responsibilities, including
19 initial case consultation and discussions of case strategy. Respondent knowingly or with gross
20 negligence, allowed Jimenez to provide legal advice to Jorge Alberto and Ana Abarca.
21 Respondent thereby willfully violated the Rules of Professional Conduct, rule 1-300(A).

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COUNT FIVE

Case No. 16-O-10240
Rules of Professional Conduct, Rule 3-110(A)
[Failure to Perform with Competence – Failure to Supervise]

25 6. Between on or about January 2, 2015, through on or about June 4, 2015, Jorge
26 Alberto and Ana Abarca, employed Respondent to perform legal services, namely to assist them
27 with an unlawful detainer action which was pending against them. Respondent failed to
28

1 supervise his non-attorney staff, Morsa Jimenez aka Morsa Figueroa and allowed her to provide
2 legal services, including providing legal advice to Alberto and Abarca regarding the need to file
3 bankruptcy and the filing of their bankruptcy petition. By failing to supervise Jimenez,
4 Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful
5 violation of Rules of Professional Conduct, rule 3-110(A).

6 COUNT SIX

7 Case No. 16-O-10240
8 Business and Professions Code, section 6103
9 [Failure to Obey a Court Order]

10 7. Respondent disobeyed or violated an order of the court requiring Respondent to do or
11 forbear an act connected with or in the course of Respondent's profession which Respondent
12 ought in good faith to do or forbear by failing to comply with the March 19, 2015, Order
13 Approving the Stipulation to Disgorge Fees in *In the Matter of Jorge Anguiano, Ana Abarca*,
14 case number 2:15-bk-10204-DS. Respondent thereby willfully violated Business and Professions
15 Code, section 6103.

16 COUNT SEVEN

17 Case No. 16-O-10240
18 Rules of Professional Conduct, rule 3-700(D)(2)
19 [Failure to Refund Unearned Fees]

20 8. Between in or about January 2015, and in or about February 2015, Respondent
21 received advanced fees of \$1,550 from clients, Jorge Anguiano and Ana Abarca, to assist them
22 with an unlawful detainer action which was pending against them. Respondent failed to
23 supervise his non-attorney staff who prepared and filed a bankruptcy petition on behalf of the
24 clients without the supervision of Respondent. The bankruptcy petition prepared by the non-
25 attorney staff was inaccurate and was dismissed for a failure to prosecute and therefore
26 Respondent earned none of the advanced fees paid. Respondent failed to refund promptly, upon
27 Respondent's termination of employment on or about February 27, 2015, any part of the \$1,550
28 fee to the client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

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COUNT EIGHT

Case No. 16-O-10776
Rules of Professional Conduct, rule 4-100(A)
[Commingling Personal Funds in Client Trust Account]

9. From on or about November 27, 2015 through on or about February 19, 2016, Respondent deposited or commingled funds belonging to Respondent into Respondent's client trust account at Wells Fargo Bank, account number xxxxxx9337, as follows in wilful violation Rules of Professional Conduct, rule 4-100(A):

<u>DATE OF DEPOSIT</u>	<u>AMT. DEPOSITED</u>	<u>FORM OF DEPOSIT</u>
11/27/15	\$2,000.00	Personal loan from mother
12/10/15	\$1,300.00	Personal loan from mother
02/05/16	\$1,000.00	Personal loan from mother
02/19/16	\$1,100.00	Personal loan from mother

COUNT NINE

Case No. 16-O-10776
Rules of Professional Conduct, rule 4-100(A)
[Commingling – Payment of Personal Expenses from Client Trust Account]

10. Between on or about November 3, 2015, to on or about February 12, 2016, Respondent issued the following checks and electronic withdrawals from funds in Respondent's client trust account at Wells Fargo Bank, account number xxxxxx9337, for the payment of personal expenses, in willful violation of Rules of Professional Conduct, rule 4-100(A):

<u>CHECK #</u>	<u>PAYEE</u>	<u>AMOUNT</u>
11/03/15	electronic payment to Dish Network	125.77
11/05/15	electronic payment to Prog Select Ins Prem	238.83
11/09/15	check number 5962 to Sally Aranda	600.00
11/17/15	check number 5967 to Sally Aranda	300.00
12/01/15	check number 5969 to Sally Aranda	800.00
12/03/15	electronic payment to Dish Network	125.77
12/18/15	check number 5975 to Sally Aranda	900.00
12/21/15	check number 5974 to Morsa Jimenez	336.00
01/11/16	check number 5977 to Sally Aranda	600.00

1	01/20/16	check number 5980 to Ilyse Klavir	441.00
	01/22/16	check number 5983 to Sally Aranda	500.00
2	01/22/16	check number 5982 to Morsa Jimenez	252.00
	01/25/16	electronic payment to Time Warner Cable	514.76
3	02/10/16	check number 5993 to Morsa Jimenez	406.00
4	02/12/16	check number 5994 to Sally Aranda	350.00

5 COUNT TEN

6 Case No. 16-O-10776
7 Business and Professions Code, section 6106
8 [Moral Turpitude – Intentional Misuse of Client Trust Account]

9 11. From in or about November 3, 2015, to in or about February 19, 2016, Respondent
10 repeatedly misused Respondent’s client trust account at Wells Fargo Bank, account number
11 xxxxxx9337, for personal business transaction of all kinds when Respondent knew that it was an
12 impermissible use of his Client Trust Account, and thereby committed an act involving moral
13 turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section
14 6106.

15 **NOTICE - INACTIVE ENROLLMENT!**

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

24 **NOTICE - COST ASSESSMENT!**

25 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
26 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
27 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
28 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

26 DATED: September 15, 2016 By: 
27 KIM KASRELIOVICH
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): 16-O-10013, 16-O-10240, 16-O-10776

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.: 9414 7266 9904 2010 0666 82 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: GARY EDWARD MOLL, Gary E. Moll & Associates, 41758 12th St W Ste G, Palmdale, CA 93551, 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: September 13, 2016

SIGNED: Charles C. Bagai
Charles C. Bagai
Declarant