

FILED

DEC 14 2018

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

1 STATE BAR OF CALIFORNIA  
2 OFFICE OF CHIEF TRIAL COUNSEL  
3 MELANIE J. LAWRENCE, No. 230102  
4 INTERIM CHIEF TRIAL COUNSEL  
5 SUSAN CHAN, No. 233229  
6 ASSISTANT CHIEF TRIAL COUNSEL  
7 SUSAN I. KAGAN, No. 214209  
8 SUPERVISING ATTORNEY  
9 RACHEL S. GRUNBERG, No. 197080  
10 SENIOR TRIAL COUNSEL  
11 180 Howard Street  
12 San Francisco, California 94105-1639  
13 Telephone: (415) 538-2443

STATE BAR COURT  
HEARING DEPARTMENT - SAN FRANCISCO

11 In the Matter of: ) Case Nos. 17-O-04346; 18-O-14985  
12 DAVID LU, )  
13 No. 288864, ) NOTICE OF DISCIPLINARY CHARGES  
14 )  
15 A Member of the State Bar )

**NOTICE - FAILURE TO RESPOND!**

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

- 20 (1) YOUR DEFAULT WILL BE ENTERED;
- 21 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
22 WILL NOT BE PERMITTED TO PRACTICE LAW;
- 23 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
24 THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
25 AND THE DEFAULT IS SET ASIDE, AND;
- 26 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
27 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
28 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. David Lu ("respondent") was admitted to the practice of law in the State of California  
4 on February 5, 2013, was a member at all times pertinent to these charges, and is currently a  
5 member of the State Bar of California.

6 COUNT ONE

7 (The Wang Matter)  
8 Case No. 17-O-04346  
9 Former Rules of Professional Conduct, Rule 3-110(A)  
[Failure to Perform with Competence]

10 2. On or about June 7, 2016, Ke-Ruo Wang employed respondent to perform legal  
11 services, namely to represent her and obtain a default judgment in *Wang v. Huynh*, Santa Clara  
12 County Superior Court case number 15FL172965, which respondent intentionally, recklessly, or  
13 repeatedly failed to perform with competence, in willful violation of the former Rules of  
14 Professional Conduct, rule 3-110(A), by failing to take the necessary steps to obtain a default  
15 judgment before effectively withdrawing from employment on or about April 26, 2017.

16 COUNT TWO

17 (The Wang Matter)  
18 Case No. 17-O-04346  
19 Business and Professions Code, section 6068(m)  
[Failure to Respond to Client Inquiries]

20 3. Respondent failed to respond promptly to approximately three written and two  
21 telephonic reasonable status inquiries made by respondent's client, Ke-Ruo Wang, between on or  
22 about May 9, 2017, and on or about May 30, 2017, which respondent received, in a matter in  
23 which respondent had agreed to provide legal services, in willful violation of Business and  
24 Professions Code, section 6068(m).

25 ///  
26 ///  
27 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

COUNT THREE

(The Wang Matter)  
Case No. 17-O-04346  
Former 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, Ke-Ruo Wang, by constructively terminating respondent's employment by failing to take any action on the client's behalf after on or about April 26, 2017, and thereafter failing to inform the client that respondent was withdrawing from employment, in willful violation of the former Rules of Professional Conduct, rule 3-700(A)(2).

COUNT FOUR

(The Wang Matter)  
Case No. 17-O-04346  
Former Rules of Professional Conduct, Rule 4-100(B)(3)  
Current Rules of Professional Conduct, Rule 1.15(d)(4)  
[Failure to Render Accounts of Client Funds]

5. On or about June 7, 2016, respondent received from respondent's client, Ke-Ruo Wang, the sum of \$1,200 as advanced fees for legal services to be performed. Respondent thereafter failed to render an appropriate accounting to the client regarding those funds following the termination of respondent's employment on or about April 26, 2017, in willful violation of the former Rules of Professional Conduct, rule 4-100(B)(3) and the current Rules of Professional Conduct, rule 1.15(d)(4).

COUNT FIVE

(The Wang Matter)  
Case No. 17-O-04326  
Former Rules of Professional Conduct, Rule 3-700(D)(2)  
Current Rules of Professional Conduct, Rule 1.16(e)(2)  
[Failure to Refund Unearned Fees]

6. On or about June 7, 2016, respondent received advanced fees of \$1,200 from his client, Ke-Ruo Wang, to represent her and obtain a default judgment in *Wang v. Huynh*, Santa Clara County Superior Court case number 15FL172965. Respondent failed to take the necessary

1 steps to obtain a default judgment and therefore, earned none of the advanced fees paid.  
2 Respondent failed to return promptly, upon respondent's termination of employment on or about  
3 April 26, 2017, any part of the \$1,200 fee that was not earned to the client, in willful violation of  
4 the former Rules of Professional Conduct, rule 3-700(D)(2) and the current Rules of Professional  
5 Conduct, rule 1.16(e)(2).

6 COUNT SIX

7 (The Xiao Matter)  
8 Case No. 18-O-14985  
9 Former Rules of Professional Conduct, Rule 3-110(A)  
[Failure to Perform with Competence]

10 7. On or about March 16, 2016, Jingyu Xiao employed respondent to perform legal  
11 services, namely to file an uncontested marriage dissolution proceeding against her husband and  
12 obtain a default judgment, which respondent intentionally, recklessly, or repeatedly failed to  
13 perform with competence, in willful violation of the former Rules of Professional Conduct, rule  
14 3-110(A), by failing to take the necessary steps to obtain a default judgment before effectively  
15 withdrawing from employment on or about May 16, 2017.

16 COUNT SEVEN

17 (The Xiao Matter)  
18 Case No. 18-O-14985  
19 Former Rules of Professional Conduct, Rule 3-700(A)(1)  
[Failure to Obtain Court Permission to Withdraw]

20 8. On or about March 16, 2016, Jingyu Xiao, employed respondent to perform legal  
21 services, and thereafter, respondent filed a petition for dissolution and appeared as counsel of  
22 record for the client in *Xiao v. Wang*, Santa Clara County Superior Court case number  
23 16FL174341. On or about May 16, 2017, respondent took no further action on behalf of the  
24 client after he submitted defective default judgment documents to the court on or about May 2,  
25 2017, and effectively withdrew from the employment. At that time, respondent did not obtain  
26 the permission of the court to withdraw from the client's representation in the case before that  
27 court when the rules of the court required that respondent do so, and respondent withdrew from  
28

1 employment in a proceeding before a tribunal without its permission, in willful violation of the  
2 former Rules of Professional Conduct, rule 3-700(A)(1).

3 COUNT EIGHT

4 (The Xiao Matter)  
5 Case No. 18-O-14985  
6 Former Rules of Professional Conduct, Rule 4-100(B)(3)  
7 Current Rules of Professional Conduct, Rule 1.15(d)(4)  
8 [Failure to Render Accounts of Client Funds]

9 9. On or about March 16, 2016, respondent received from respondent's client, Jingyu  
10 Xiao, the sum of \$1,500 as advanced fees for legal services to be performed. Respondent  
11 thereafter failed to render an appropriate accounting to the client regarding those funds following  
12 the termination of respondent's employment on or about May 16, 2017, in willful violation of the  
13 former Rules of Professional Conduct, rule 4-100(B)(3) and the current Rules of Professional  
14 Conduct, rule 1.15(d)(4).

15 COUNT NINE

16 (The Xiao Matter)  
17 Case No. 18-O-14985  
18 Former Rules of Professional Conduct, Rule 3-700(D)(2)  
19 Current Rules of Professional Conduct, Rule 1.16(e)(2)  
20 [Failure to Refund Unearned Fees]

21 10. On or about March 16, 2016, respondent received advanced fees of \$1,500 from his  
22 client, Jingyu Xiao, to file an uncontested marriage dissolution proceeding against her husband  
23 and obtain a default judgment. Respondent failed to take the necessary steps to obtain a default  
24 judgment and therefore, earned none of the advanced fees paid. Respondent failed to return  
25 promptly, upon respondent's termination of employment on or about May 16, 2017, any part of  
26 the \$1,500 fee that was not earned to the client, in willful violation of the former Rules of  
27 Professional Conduct, rule 3-700(D)(2) and the current Rules of Professional Conduct, rule  
28 1.16(e)(2).

///

///

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

COUNT TEN

Case Nos. 17-O-04346 and 18-O-14985  
Business and Professions Code, section 6068(j)  
[Failure to Update Membership Address]

11. As of September 8, 2017, respondent had vacated respondent's office at the address maintained on the official membership records of the State Bar and thereafter failed to comply with the requirements of Business and Professions Code section 6002.1, by failing to notify the State Bar of the change in respondent's address within 30 days, in willful violation of Business and Professions Code, section 6068(j).

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.**

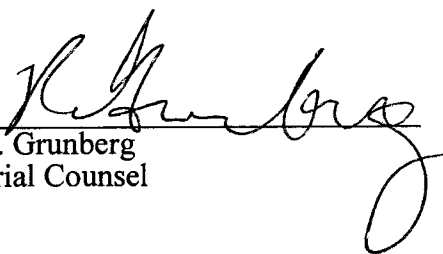
NOTICE - COST ASSESSMENT!

**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 13, 2018

By:   
Rachel S. Grunberg  
Senior Trial Counsel

