

PUBLIC MATTER

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FILED

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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES



STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

11 In the Matter of:) Case Nos. 07-O-13599 and 08-O-11153
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 13 RUBEN D. SANCHEZ,) NOTICE OF DISCIPLINARY CHARGES
 14 No. 164298,)
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 A Member of the State Bar

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE AN ANSWER TO THIS NOTICE WITHIN THE TIME ALLOWED BY STATE BAR RULES, INCLUDING EXTENSIONS, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL, (1) YOUR DEFAULT SHALL BE ENTERED, (2) YOU SHALL BE ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR AND WILL NOT BE PERMITTED TO PRACTICE LAW UNLESS THE DEFAULT IS SET ASIDE ON MOTION TIMELY MADE UNDER THE RULES OF PROCEDURE OF THE STATE BAR, (3) YOU SHALL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOUR DEFAULT IS SET ASIDE, AND (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.

STATE BAR RULES REQUIRE YOU TO FILE YOUR WRITTEN RESPONSE TO THIS NOTICE WITHIN TWENTY DAYS AFTER SERVICE.

IF YOUR DEFAULT IS ENTERED AND THE DISCIPLINE IMPOSED BY THE SUPREME COURT IN THIS PROCEEDING INCLUDES A PERIOD OF ACTUAL SUSPENSION, YOU WILL REMAIN SUSPENDED FROM THE PRACTICE OF LAW FOR AT LEAST THE PERIOD OF TIME SPECIFIED BY THE SUPREME COURT. IN ADDITION, THE ACTUAL SUSPENSION WILL CONTINUE UNTIL YOU HAVE REQUESTED, AND THE STATE BAR COURT HAS GRANTED, A MOTION FOR

1 15. After the hearing on or about June 14, 2007, Respondent told Rodolfo to bring Giana,
2 Giana's father (who resided at the time in Colorado), and Giana's mother (who resided at the
3 time in Indio, California) to the hearing scheduled for July 26, 2007.

4 16. Between on or about June 14, 2007 and on or about June 21, 2007, Rodolfo and/or
5 Giana called Respondent's office and spoke with Respondent on approximately three or four
6 occasions to discuss *People v. Barranco*. Respondent told Rodolfo and/or Giana that:

7 (a) they and Giana's parents needed to appear for the Violation of Probation hearing on July 26,
8 2007; (b) they needed to bring letters of reference for Rodolfo; (c) they needed to put together a
9 package of information to demonstrate that Rodolfo was gainfully employed and it would cause
10 a hardship to his family if he was incarcerated in California; and (d) they needed to locate an
11 agency that would monitor the house arrest of Rodolfo in Utah.

12 17. Between on or about June 21, 2007 and on or about July 25, 2007, Rodolfo and/or
13 Giana called Respondent's office at the telephone number Respondent had given them
14 approximately 10 to 12 times to obtain a status report on *People v. Barranco*. No one answered
15 the telephone, and so they left messages for Respondent on Respondent's voice message system
16 with their telephone numbers requesting that Respondent call them and provide a status report.
17 Respondent received the messages.

18 18. Between on or about June 21, 2007 and on or about July 25, 2007, Chavez called
19 Rodolfo and/or Giana once in response to the messages that Rodolfo and/or Giana had left for
20 Respondent. Chavez told Rodolfo and/or Giana that Chavez would have Respondent call
21 Rodolfo and provide a status report on *People v. Barranco*. Respondent received the message
22 from Chavez.

23 19. Between on or about June 21, 2007 and on or about July 25, 2007, Respondent did
24 not provide a status report to Rodolfo and/or Giana, or otherwise communicated with Rodolfo or
25 Giana.

1 20. On or about July 25, 2007, Rodolfo and Giana, who had driven in from Utah for the
2 hearing in *People v. Barranco*, went to the Oasis address. They were told by the tenants of the
3 office that Respondent had vacated the Oasis address and left no forwarding address.

4 21. Respondent never informed Rodolfo and/or Giana that he was vacating the Oasis
5 address or provided Rodolfo with his new office address.

6 22. On or about July 25, 2007, Rodolfo and/or Giana called Respondent at the telephone
7 number that Respondent had given them approximately 2 to 4 times to discuss the hearing in
8 *People v. Barranco* scheduled for July 26, 2007. No one answered the telephone, and so they
9 left messages for Respondent on Respondent's voice message system with their telephone
10 numbers requesting that Respondent call them and provide a status report. Respondent received
11 the messages.

12 23. On or about July 25, 2007, Respondent did not call Rodolfo or Giana, or otherwise
13 communicated with Rodolfo or Giana.

14 24. On or about July 26, 2007, Rodolfo and/or Giana called Respondent at the telephone
15 number that Respondent had given them prior to the hearing in *People v. Barranco*. No one
16 answered the telephone, and so they left messages for Respondent on Respondent's voice
17 message system with their telephone numbers requesting that Respondent call them and provide
18 a status report. Respondent received the messages.

19 25. On or about July 26, 2007, Respondent did not call Rodolfo or Giana, or otherwise
20 communicated with Rodolfo or Giana prior to the hearing.

21 26. On or about July 26, 2007, Respondent failed to appear for the Violation of Probation
22 hearing in *People v. Barranco*. Rodolfo appeared and the Superior Court relieved Respondent as
23 the attorney of record for Rodolfo. The Court continued the Violation of Probation hearing until
24 August 16, 2007.

25 27. On or about July 26, 2007, Rodolfo and/or Gina called Respondent at the telephone
26 number that Respondent had given them after the hearing in *People v. Barranco*. No one
27 answered the telephone, and so they left messages for Respondent on Respondent's voice
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1 message system with their telephone numbers requesting that Respondent call them, and refund
2 their unearned advanced attorney fees and costs. Respondent received the messages.

3 28. Respondent did not call Rodolfo and/or Giana, communicated with Rodolfo and/or
4 Giana, or refund their unearned advanced attorney fees and costs.

5 29. By failing to appear for the hearing on or about July 26, 2007, Respondent
6 intentionally, recklessly, or repeatedly failed to perform legal services with competence.

7 **COUNT THREE**

8 Case No. 07-O-13599
9 Business and Professions Code section 6068(m)
[Failure to Respond to Client Inquiries]

10 30. Respondent willfully violated Business and Professions Code section 6068(m), by
11 failing to respond promptly to reasonable status inquiries of a client, as follows:

12 31. The allegations of paragraphs 2 through 6, 8 through 10, and 14 through 28 are
13 incorporated herein by reference.

14 32. By failing to respond to the messages left by Rodolfo and/or Giana to provide a status
15 report or communicate with them between on or about June 21, 2007 and on or about July 26,
16 2007, Respondent willfully failed to respond promptly to reasonable status inquiries of a client.

17 **COUNT FOUR**

18 Case No. 07-O-13599
19 Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

20 33. Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2), by
21 failing to refund promptly any part of a fee paid in advanced that has not been earned, as follows

22 34. The allegations of paragraphs 2 through 6, 8 through 10, and 14 through 28 are
23 incorporated herein by reference.

24 35. Respondent provided no legal services of value to Rodolfo. Respondent did not earn
25 any of the advanced attorney fees and costs paid by Rodolfo. At no time did Respondent refund
26 any of the \$1,000 paid by Rodolfo and Giana.

1 address and telephone number or, if no office is maintained, the address to be used for State Bar
2 purposes or purposes of the agency charged with attorney discipline, as follows:

3 43. The allegations of paragraphs 2 through 6, 8 through 10, 14 through 28, and 39
4 through 40 are incorporated herein by reference.

5 44. On or about July 25, 2008, Respondent changed his official State Bar membership
6 records address from the Oasis address to 48-255 Monroe Street #67, Indio, California 92201
7 (the "Monroe address").

8 45. By failing to update his official State Bar membership records address from the Oasis
9 address between on or before July 25, 2007 and on or about July 25, 2008, Respondent willfully
10 failed to comply with the requirements of section 6002.1, which requires a member of the State
11 Bar to maintain on the official membership records of the State Bar, the member's current office
12 address and telephone number or, if no office is maintained, the address to be used for State Bar
13 purposes.

14 **COUNT SEVEN**

15 Case No. 08-O-11153
16 Rules of Professional Conduct, Rule 1-300(A)
[Aiding the Unauthorized Practice of Law]

17 46. Respondent willfully violated Rules of Professional Conduct, rule 1-300(A), by
18 aiding a person or entity in the unauthorized practice of law, as follows:

19 47. On or about June 16, 2005, Pilar P. Southard ("Southard") went to Respondent's
20 office located at 45902 Oasis Street, Suite A, Indio, California, 92201 (the "Oasis address"),
21 which was also his official State Bar membership records address, to discuss retaining
22 Respondent to represent her son, Samuel Prieto Horn ("Horn"), in an appeal from a criminal
23 proceeding in the Superior Court of California, County of San Diego ("Superior Court"), titled
24 *People v. Samuel P. Horn*, Case No. SCD 184821 ("*People v. Horn*"). Southard met with
25 Respondent's assistant, Henry Ramirez ("Ramirez"). Ramirez told Southard that Respondent
26 would represent Horn regarding the appeal for \$10,000, and prepared a retainer agreement for
27 Southard to sign. Ramirez did not obtain authorization from Respondent prior to informing
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1 Southard that Respondent: would represent Horn; and/or charge Southard \$10,000 to represent
2 Horn.

3 48. Chavez has never been admitted to the practice of law in the State of California or a
4 member of the State Bar of California.

5 49. On or about June 16, 2005, Southard paid Respondent \$1,500 in cash for advanced
6 attorney fees and costs. Respondent received the \$1,500.

7 50. By permitting Ramirez to determine whether or not Respondent would accept a client
8 and setting the amount of advanced attorney fees and costs to be paid by the client for the
9 representation without any prior authorization from Respondent, Respondent willfully aided a
10 person or entity in the unauthorized practice of law.

11 **COUNT EIGHT**

12 Case No. 08-O-11153
13 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

14 51. Respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by
15 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
16 follows:

17 52. The allegations of paragraphs 47 through 49 are incorporated herein by reference

18 53. On or about June 17, 2005, Southard paid Respondent \$3,500 in advanced attorney
19 fees and costs. Respondent received the \$3,500.

20 54. On or about August 17, 2005, Respondent filed a "Notice of Appeal" of *People v.*
21 *Horn* with the Court of Appeal, Case No. D046984 (the "*Horn Appeal*"). The notice listed the
22 Oasis address as Respondent's address for the *Horn Appeal*.

23 55. On or about August 17, 2005, Respondent mailed a letter to Southard that stated that
24 Respondent had filed a Notice of Appeal and enclosed a copy of the notice of appeal. The letter
25 further stated that Respondent was
26 waiting for the Court of Appeals to order a copy of the transcript so that we may
27 began [sic] preparing the appeal. I need the address for your son in order to send
28 him a copy and keep him aware that his case is progressing and we have not
forgotten him.

1 Southard received the letter.

2 56. On or about September 9, 2005, Southard mailed a letter to Ramirez that stated that
3 Southard had been unable to communicate with Respondent or anyone from his office, and
4 requested Respondent's new telephone number so that she could obtain a status report. The
5 letter also provided Horn's address and telephone number. Respondent received the letter.

6 57. On or about September 26, 2005, Southard paid Respondent \$1,500 in advanced
7 attorney fees and costs. Respondent received the \$1,500.

8 58. Between in or about October of 2005 and in or about 2007, Southard repeatedly
9 called Respondent's office to obtain a status report on the *Horn Appeal*. No one answered the
10 telephone, and so she left messages on Respondent's voice message system requesting that
11 Respondent call her or Horn to discuss the appeal. Respondent received the messages.
12 Respondent did not call Horn or Southard, or otherwise communicated with Horn or Southard.

13 59. On or about November 7, 2005, Southard paid Respondent \$2,000 in advanced
14 attorney fees and costs. Respondent received the \$2,000.

15 60. On or about November 25, 2005, Southard paid Respondent \$1,500 in advanced
16 attorney fees and costs. Respondent received the \$1,500. Altogether, Southard paid Respondent
17 \$10,000 in advanced attorney fees and costs.

18 61. On or about April 25, 2006, the Court of Appeal dismissed the *Horn Appeal* for
19 failure to file the Opening Brief.

20 62. In or about November of 2007, Southard – who resides near San Diego, California –
21 drove to the Oasis address to determine why Respondent had failed to communicate with Horn
22 and her. Southard determined that Respondent had vacated the Oasis address when she arrived
23 at the Oasis address.

24 63. Respondent never informed Horn or Southard that he was vacating the Oasis address
25 or provided them with his new office address.

26 64. By failing to file the Opening Brief, Respondent intentionally, recklessly, or
27 repeatedly failed to perform legal services with competence.

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COUNT NINE

Case No. 08-O-11153
Business and Professions Code section 6068(m)
[Failure to Respond to Client Inquiries]

65. Respondent willfully violated Business and Professions Code section 6068(m), by failing to respond promptly to reasonable status inquiries of a client, as follows:

66. The allegations of paragraphs 47 through 49 and 53 through 63 are incorporated herein by reference.

67. By failing to respond to the messages left by Southard to provide a status report or communicate with Horn and/or Southard between in or about October of 2005 and in or about 2007, Respondent willfully failed to respond promptly to reasonable status inquiries of a client.

COUNT TEN

Case No. 08-O-11153
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

68. Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advanced that has not been earned, as follows

69. The allegations of paragraphs 47 through 49 and 53 through 63 are incorporated herein by reference.

70. Respondent provided no legal services of value to Horn. Respondent did not earn any of the advanced attorney fees and costs paid by Southard. At no time did Respondent refund any of the \$10,000 paid by Southard.

71. By not refunding the \$10,000 in advanced attorney fees and costs to Southard, Respondent willfully failed to refund unearned fees.

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COUNT ELEVEN

Case No. 08-O-11153
Rules of Professional Conduct, rule 3-700(A)(2)
[Improper Withdrawal From Employment]

72. Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2), by failing, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, as follows:

73. The allegations of paragraphs 47 through 49 and 53 through 63 are incorporated herein by reference.

74. By failing to: provide any legal services of value to Horn; inform Horn and/or Southard that he was vacating the Oasis address; and inform Horn and/or Southard of Respondent's new office address, Respondent effectively withdrew from representation of Horn.

75. At no time that Respondent inform Horn and/or Southard that he was withdrawing from employment in the *Horn Appeal*, nor did Respondent take any steps to avoid reasonably foreseeable prejudice to Horn.

76. By failing to: provide any legal services of value to Horn; inform Horn and/or Southard that he was vacating the Oasis address; and inform Horn and/or Southard of Respondent's new office address, Respondent willfully failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client.

COUNT TWELVE

Case No. 08-O-11153
Business and Professions Code, section 6068(j)
[Failure to Update Membership Address]

77. Respondent willfully violated Business and Professions Code, section 6068(j), by failing to comply with the requirements of section 6002.1, which requires a member of the State Bar to maintain on the official membership records of the State Bar, the member's current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes or purposes of the agency charged with attorney discipline, as follows:

78. The allegations of paragraphs 47 through 49 and 53 through 63, 74 and 75 are incorporated herein by reference.

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DECLARATION OF SERVICE BY CERTIFIED MAIL

CASE NUMBER: 07-O-13599; 08-O-11153

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that 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; that 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; that I am aware that on motion of 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; and that 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, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7160 3901 9848 5950 5743, at Los Angeles, on the date shown below, addressed to:

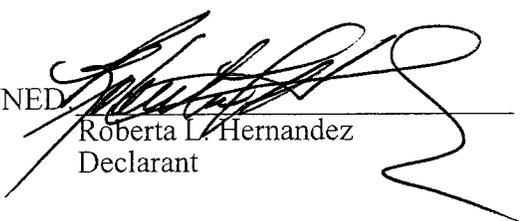
**Ruben D. Sanchez
48-255 Monroe St. #67
Indio, CA 92201**

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

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 2, 2008

SIGNED: 
Roberta L. Hernandez
Declarant