

# PUBLIC MATTER

1 STATE BAR OF CALIFORNIA  
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**FILED**  
 NOV 20 2014  
 STATE BAR COURT  
 CLERK'S OFFICE  
 LOS ANGELES

## STATE BAR COURT

### HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of: ) Case Nos. 14-O-01008, 14-O-02316 and  
 14 VITO TORCHIA, Jr., ) 14-O-02698  
 15 No. 244687, ) NOTICE OF DISCIPLINARY CHARGES  
 16 A Member of the State Bar. )

### NOTICE - FAILURE TO RESPOND!

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

- 21 (1) YOUR DEFAULT WILL BE ENTERED;
- 22 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
 WILL NOT BE PERMITTED TO PRACTICE LAW;
- 23 (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;
- 24 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
 25 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
 26 ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
 FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
 27 RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.



1 The State Bar of California alleges:

2 JURISDICTION

3 1. Vito Torchia, Jr. ("Respondent") was admitted to the practice of law in the State of  
4 California on December 1, 2006, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 GENERAL BACKGROUND

7 2. Brookstone Law is and was at all times herein, a professional law corporation  
8 established and owned by Respondent, wherein Respondent performs the duties and  
9 responsibilities of managing attorney for the operation. Brookstone and Respondent are one and  
10 the same for purposes of the following charging allegations.

11 COUNT ONE

12 Case No. 14-O-01008  
13 Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

14 3. On October 20, 2011, Maria Madrigal ("Madrigal") employed Respondent to  
15 allow her to participate within a mass joinder litigation against her lender, Ocwen. On January 9,  
16 2012, Madrigal employed Respondent to defend her in an unlawful detainer action. Respondent  
17 intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of  
18 Rules of Professional Conduct, rule 3-110(A), by failing to add Madrigal as a plaintiff to the  
19 mass joinder litigation, by failing to file a mass joinder action against Ocwen, and by failing to  
20 appear and participate at the unlawful detainer trial.

21 COUNT TWO

22 Case No. 14-O-01008  
23 Rules of Professional Conduct, rule 3-700(D)(2)  
[Failure to Refund Unearned Fees]

24 4. Between on or about October 20, 2011 and December 17, 2012, Respondent  
25 received total advanced fees and costs of \$13,115 from a client, Maria Madrigal, to perform legal  
26 services, namely, to add the client as a plaintiff to the mass joinder litigation against the client's  
27 lender, to perform an analysis to determine if she was a proper candidate for mass joinder, and to  
28

1 appear at trial and defend an unlawful detainer. Respondent failed to perform any legal services  
2 for the client and therefore earned none of the advanced fees paid. Respondent failed to refund  
3 promptly, upon Respondent's termination of employment on or about December 17, 2013, any  
4 part of the \$13,115 advanced fees and costs, in willful violation of Rules of Professional  
5 Conduct, rule 3-700(D)(2).

6 COUNT THREE

7 Case No. 14-O-01008  
8 Business and Professions Code, section 6068(i)  
9 [Failure to Cooperate in State Bar Investigation]

10 5. Respondent failed to cooperate and participate in a disciplinary investigation  
11 pending against Respondent by failing to provide a substantive response to the State Bar's letters  
12 of March 7, 2014, March 24, 2014, and April 8, 2014, which Respondent received, that requested  
13 Respondent's response to the allegations of misconduct being investigated in case no. 14-O-  
14 01008, in willful violation of Business and Professions Code, section 6068(i).

15 COUNT FOUR

16 Case No. 14-O-01008  
17 Rules of Professional Conduct, rule 4-100(B)(3)  
18 [Failure to Render Accounts of Client Funds]

19 6. Between on or about October 20, 2011 and December 17, 2012, Respondent  
20 received from Respondent's client, Maria Madrigal, the sum of \$13,115 as advanced fees for  
21 legal services to be performed. Respondent thereafter failed to render an appropriate accounting  
22 to the client regarding those funds following the client's request for such accounting upon the  
23 termination of Respondent's employment on or about December 17, 2012, in willful violation of  
24 the Rules of Professional Conduct, rule 4-100(B)(3).

25 COUNT FIVE

26 Case No. 14-O-02316  
27 Business and Professions Code, section 6104  
28 [Appearing for Party without Authority]

7. On or about September 8, 2014, Respondent corruptly or willfully, and without  
authority, appeared as attorney for a party, Debra DeMagnus, to an action or proceeding, namely

1 by continuing to maintain DeMagnus as a plaintiff to a newly re-filed mass joinder litigation,  
2 *Bradford v. Bank of America*, Los Angeles Superior Court Case No. BC 556820, after she had  
3 terminated Respondent, in willful violation of Business and Professions Code, section 6104.

4 COUNT SIX

5 Case No. 14-O-02316  
6 Rules of Professional Conduct, rule 3-700(D)(1)  
7 [Failure to Release File]

8 8. Respondent failed to release promptly, after termination of Respondent's  
9 employment on or about March 10, 2014, to Respondent's client, Debra DeMagnus, all of the  
10 client's papers and property following the client's request for the client's file on March 10, 2014,  
11 in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

12 COUNT SEVEN

13 Case No. 14-O-02316  
14 Rules of Professional Conduct, rule 4-100(B)(3)  
15 [Failure to Render Accounts of Client Funds]

16 9. Between on or about May 16, 2013 and February 18, 2014, Respondent received  
17 total advanced fees and costs of \$5,145 from a client, Debra DeMagnus, for legal services to be  
18 performed. Respondent thereafter failed to render an appropriate accounting to the client  
19 regarding those funds following the client's request for such accounting upon the termination of  
20 Respondent's employment on or about March 10, 2014, in willful violation of the Rules of  
21 Professional Conduct, rule 4-100(B)(3).

22 COUNT EIGHT

23 Case No. 14-O-02316  
24 Business and Professions Code, section 6068(i)  
25 [Failure to Cooperate in State Bar Investigation]

26 10. Respondent failed to cooperate and participate in a disciplinary investigation  
27 pending against Respondent by failing to provide a substantive response to the State Bar's letters  
28 of April 25, 2014, May 13, 2014, and an e-mail dated September 8, 2014, which Respondent  
received, that requested Respondent's response to the allegations of misconduct being

1 investigated in case no. 14-O-02316, in willful violation of Business and Professions Code,  
2 section 6068(i).

3 COUNT NINE

4 Case No. 14-O-02316  
5 Business and Professions Code, section 6068(m)  
6 [Failure to Inform Client of Significant Development]

7 11. Respondent failed to keep Respondent's clients, Debra DeMagnus("DeMagnus")  
8 reasonably informed of significant developments in a matter in which Respondent had agreed to  
9 provide legal services, in willful violation of Business and Professions Code, section 6068(m),  
10 by failing to inform the client of the following:

- 11 a. failing to discuss with DeMagnus an amendment to a mass joinder complaint  
12 and that the mass joinder litigation had been dismissed; and  
13 b. failing to advise DeMagnus that he intended to continue DeMagnus as a  
14 plaintiff in a re-filed mass joinder even though she had terminated  
15 Respondent.

16 COUNT TEN

17 Case No. 14-O-02698  
18 Business and Professions Code, section 6068(i)  
19 [Failure to Cooperate in State Bar Investigation]

20 12. Respondent failed to cooperate and participate in a disciplinary investigation  
21 pending against Respondent by failing to provide a substantive response to the State Bar's letters  
22 of June 9, 2014, July 9, 2014, and an e-mail dated September 8, 2014, which Respondent  
23 received, that requested Respondent's response to the allegations of misconduct being  
24 investigated in case no. 14-O-02698, in willful violation of Business and Professions Code,  
25 section 6068(i).

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COUNT ELEVEN

Case No. 14-O-02698

Business and Professions Code, section 6068(m)  
[Failure to Inform Client of Significant Development]

13. Respondent failed to keep Respondent's clients, Amanda Morris("Morris") 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 status of the appeal of a mass joinder litigation.

**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 THE CHIEF TRIAL COUNSEL

DATED: November 20 '14

By: Hugh G. Radigan  
Hugh G. Radigan  
Deputy Trial Counsel

DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 14-O-01008, 14-O-02316 and 14-O-02698

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, 1149 South Hill Street, Los Angeles, California 90015, 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.: 9414726699042010090960 and 9414726699042010090939 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. Includes names Vito Torchia Jr and David Alan Clare, and addresses in Irvine and Long Beach, CA.

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').

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: November 20, 2014

SIGNED: [Signature] JULI FINNILA Declarant