

PUBLIC MATTER

FILED

JUL 31 2014

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

1 STATE BAR OF CALIFORNIA
 2 OFFICE OF THE CHIEF TRIAL COUNSEL
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 CHIEF TRIAL COUNSEL
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 Los Angeles, California 90017-2515
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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

12 In the Matter of:) Case No. 14-O-01145
 13 BRIAN EDWARD REED,)
 No. 95877,) NOTICE OF DISCIPLINARY CHARGES
 14)
 15 A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

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

- 19 (1) **YOUR DEFAULT WILL BE ENTERED;**
- 20 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;**
- 21 (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;**
- 22 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE. 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. Brian Edward Reed (“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. 14-O-01145
Rules of Professional Conduct, rule 4-100(A)
[Commingling Personal Funds in Client Trust Account]

2. On or about December 12, 2012, Respondent received on behalf of Respondent’s client, Candice R. Westcott, a settlement check from Allstate made payable to Respondent, the Kuzyk Law Office, and the client in the sum of \$90,000. On or about December 12, 2012, Respondent deposited the \$90,000 into Respondent’s client trust account at American Security Bank, Account No. xxx4045¹ on behalf of the client. Respondent did not promptly remove funds which Respondent had earned as fees and costs from his client trust account and instead, left the fees and costs in his client trust account to be withdrawn as needed, in willful violation of Rules of Professional Conduct, rule 4-100(A).

COUNT TWO

Case No. 14-O-01145
Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

3. On or about December 12, 2012, Respondent received on behalf of Respondent’s client, Candice R. Westcott, a settlement check from Allstate made payable to Respondent, the Kuzyk Law Office, and the client in the sum of \$90,000. On or about December 12, 2012, Respondent deposited the \$90,000 into Respondent’s client trust account at American Security Bank, Account No. xxx4045² on behalf of the client. Of this sum, the client was entitled to \$25,597.60. Respondent failed to maintain a balance of \$25,597.60 on behalf of the client in

¹ The account number has been redacted to protect the account and account holder.
² The account number has been redacted to protect the account and account holder.

1 Respondent's client trust account, in willful violation of Rules of Professional Conduct, rule 4-
2 100(A).

3 COUNT THREE

4 Case No. 14-O-01145
5 Business and Professions Code section 6106
6 [Moral Turpitude - Misappropriation]

7 4. On or about December 12, 2012, Respondent received on behalf of Respondent's
8 client, Candice R. Westcott, a settlement check from Allstate made payable to Respondent, the
9 Kuzyk Law Office, and the client in the sum of \$90,000. On or about December 12, 2012,
10 Respondent deposited the \$90,000 into Respondent's client trust account at American Security
11 Bank, Account No. xxx4045³ on behalf of the client. Between on or about February 6, 2013 and
12 on or about March 20, 2013, Respondent dishonestly or grossly negligently misappropriated for
13 Respondent's own purposes \$14,841.11 that the client was entitled to receive, and thereby
14 committed an act involving moral turpitude, dishonesty or corruption in willful violation of
15 Business and Professions Code section 6106.

16 COUNT FOUR

17 Case No. 14-O-01145
18 Rules of Professional Conduct, rule 4-100(C)
19 [Trust Account Record-Keeping]

20 5. On or about December 12, 2012, Respondent received on behalf of Respondent's
21 client, Candice R. Westcott, a settlement check from Allstate made payable to Respondent, the
22 Kuzyk Law Office, and the client in the sum of \$90,000. On or about December 12, 2012,
23 Respondent deposited the \$90,000 into Respondent's client trust account at American Security
24 Bank, Account No. xxx4045.⁴ Respondent thereafter failed to prepare and maintain a written
25 ledger for the client, a written journal for the client trust account, and the monthly reconciliation
26 for the written ledger, written journal, and bank statement, in willful violation of the Rules of
27 Professional Conduct, rule 4-100(C).

28 ³ The account number has been redacted to protect the account and account holder.

⁴ The account number has been redacted to protect the account and account holder.

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COUNT FIVE

Case No. 14-O-01145
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

6. On or about December 12, 2012, Respondent received on behalf of Respondent's client, Candice R. Westcott, a settlement check from Allstate made payable to Respondent, the Kuzyk Law Office, and the client in the sum of \$90,000. Respondent thereafter failed to render an appropriate accounting to the client regarding those funds following a written request for an accounting made on behalf of the client on or about December 6, 2013, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

COUNT SIX

Case No. 14-O-01145
Rules of Professional Conduct, rule 4-100(B)(4)
[Failure to Pay Client Funds Promptly]

7. On or about December 12, 2012, Respondent received on behalf of Respondent's client, Candice R. Westcott, a settlement check from Allstate made payable to Respondent, the Kuzyk Law Office, and the client in the sum of \$90,000. Of this sum, the client was entitled to at least \$25,207.60. On or about January 25, 2013, the client requested in writing that Respondent pay her medical providers pursuant to lien and thereafter, pay the remainder of the settlement funds to her. To date, Respondent has failed to pay promptly, as requested by Respondent's client, any portion of the \$25,207.60 that was in Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

COUNT SEVEN

Case No. 14-O-01145
Business and Professions Code section 6106
[Moral Turpitude - Misrepresentation]

8. On or about December 13, 2013, Respondent stated in writing to Joshua E. Bryson, an attorney acting on behalf of his client Candice R. Westcott, that approximately \$22,000 was being held in trust for the client, when Respondent knew or was grossly negligent in not knowing

1 the statement was false, and thereby committed an act involving moral turpitude, dishonesty or
2 corruption in willful violation of Business and Professions Code section 6106.

3 COUNT EIGHT

4 Case No. 14-O-01145
5 Business and Professions Code section 6068(i)
6 [Failure to Cooperate in State Bar Investigation]

7 9. Respondent failed to cooperate and participate in a disciplinary investigation pending
8 against Respondent by failing to provide a substantive response to the State Bar's letters dated
9 April 15, 2014, June 5, 2014, and July 14, 2014, which Respondent received, that requested
10 Respondent's response to the allegations of misconduct being investigated in case no. 14-O-
11 01145, in willful violation of Business and Professions Code section 6068(i).

12 NOTICE - INACTIVE ENROLLMENT!

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

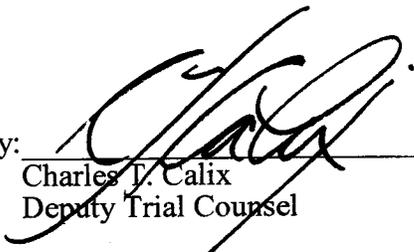
21 NOTICE - COST ASSESSMENT!

22 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
23 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
24 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
25 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
26 PROFESSIONS CODE SECTION 6086.10.**

27 Respectfully submitted,

28 THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: July 30, 2014

By: 

Charles T. Calix
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-01145

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))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (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.: 7196 9008 911 6411 2372 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: BRIAN EDWARD REED, 43825 10th Street W Lancaster, CA 93534-4802, Electronic Address brianreed1866@msn.com

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: July 31, 2014

SIGNED:

Handwritten signature of Genelle De Luca-Suarez
Genelle De Luca-Suarez
Declarant