

PUBLIC MATTER

FILED

JUN 19 2015

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

1 STATE BAR OF CALIFORNIA
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STATE BAR COURT

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HEARING DEPARTMENT - LOS ANGELES

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In the Matter of:

Case No. 14-O-04026; 14-O-04815;
 14-O-05386; 14-O-05959;
 14-O-06202; 14-J-05673.

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RICHARD CLAY MENDEZ,
 No. 199927,

NOTICE OF DISCIPLINARY CHARGES

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A Member of the State Bar

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NOTICE - FAILURE TO RESPOND!

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

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- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
 WILL NOT BE PERMITTED TO PRACTICE LAW;
- (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;
- (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
 24 FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
 25 RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. RICHARD CLAY MENDEZ ("respondent") was admitted to the practice of law in
4 the State of California on December 10, 1998, was a member at all times pertinent to these
5 charges, and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 14-O-04026
8 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

9 2. Between on or about September 23, 2013 and May 5, 2014, Everli Marin and
10 Lorena Marin employed Respondent to perform legal services, namely to represent them in
11 Chapter 7 bankruptcy proceedings, which Respondent intentionally, recklessly, or repeatedly
12 failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-
13 110(A), by failing to prepare and file relevant court documents and to pursue the bankruptcy,
14 and by failing to supervise the work of subordinate non-attorney employees, who gave legal
15 advice and who performed legal services in that matter.

16 COUNT TWO

17 Case No. 14-O-04026
18 Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

19 3. Between on or about September 23, 2013 and April 15, 2014, Respondent received
20 from Respondent's clients, Everli Marin and Lorena Marin, the sum of \$1,400 as advanced fees
21 for legal services to be performed. Respondent thereafter failed to render an appropriate
22 accounting to the client regarding those funds following the client's requests for an accounting
23 on or about May 5, 2014 and September 16, 2014, in willful violation of the Rules of
24 Professional Conduct, rule 4-100(B)(3).

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COUNT THREE

Case No. 14-O-04026
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

4. Between on or about September 23, 2013 and April 15, 2014, Respondent received from Respondent's clients, Everli Marin and Lorena Marin, the sum of \$1,400 as advanced fees, to represent them in Chapter 7 bankruptcy proceedings. Respondent failed to perform the legal services for which he was retained and did not earn all the fees paid, if any. Respondent failed to refund promptly, upon the constructive termination of his employment on or about May 5, 2014, any part of the \$1,400 advanced fee to the clients, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

COUNT FOUR

Case No. 14-O-04815
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

5. On or about December 23, 2010, Alice Rodriguez employed Respondent to perform legal services, namely to represent her in Chapter 7 bankruptcy proceedings, which Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by preparing and filing insufficient bankruptcy documents, failing to appear at hearings in bankruptcy court on or about May 17, 2014 and July 30, 2014, in United States Bankruptcy Court, *In re Alice Cazares Rodriguez*, case no. 14-12575-A-7, and by failing to supervise the work of subordinate non-attorney employees, who gave legal advice and who performed legal services in that matter.

COUNT FIVE

Case No. 14-O-04815
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

6. Between on or about January 3, 2011 and May 22, 2014, Respondent received from Respondent's client, Alice Rodriguez, the sum of \$2,096 as advanced fees for legal services to be performed. Respondent thereafter failed to render an appropriate accounting to the client

1 regarding those funds following his constructive termination in or about July, 2014, in willful
2 violation of the Rules of Professional Conduct, rule 4-100(B)(3).

3 COUNT SIX

4 Case No. 14-O-04815
5 Rules of Professional Conduct, rule 3-700(D)(2)
6 [Failure to Refund Unearned Fees]

7 7. Between on or about January 3, 2011 and May 22, 2014, Respondent received from
8 Respondent's client, Alice Rodriguez, the sum of \$2,096 as advanced fees, to represent her in
9 Chapter 7 bankruptcy proceedings. Respondent failed to perform the legal services for which
10 he was retained and did not earn all the fees paid, if any. Respondent failed to refund promptly,
11 upon the constructive termination of his employment on or about July, 2014, any part of the
12 \$2,096 advanced fee to the client, in willful violation of Rules of Professional Conduct, rule 3-
13 700(D)(2).

14 COUNT SEVEN

15 Case No. 14-O-05386
16 Rules of Professional Conduct, rule 3-110(A)
17 [Failure to Perform with Competence]

18 8. On or about June 10, 2012, Arturo Castro employed Respondent to perform legal
19 services, namely to represent him in Chapter 7 bankruptcy proceedings, which Respondent
20 intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of
21 Rules of Professional Conduct, rule 3-110(A), by performing no services on his client's behalf,
22 and by failing to supervise the work of subordinate non-attorney employees, who gave legal
23 advice and who performed legal services in that matter.

24 COUNT EIGHT

25 Case No. 14-O-05386
26 Rules of Professional Conduct, rule 4-100(A)
27 [Failure to Deposit Client Funds in Trust Account]

28 9. On or about June 10, 2012, Respondent received from Respondent's client, Arturo
Castro, advanced filing costs in the amount of \$360. Respondent failed to deposit \$360 in
advanced costs that he received from the client in a bank account labeled "Trust Account,"

1 "Client's Funds Account" or words of similar import, in wilful violation of Rules of Professional
2 Conduct, rule 4-100(A).

3 COUNT NINE

4 Case No. 14-O-05959
5 Rules of Professional Conduct, rule 3-110(A)
6 [Failure to Perform with Competence]

7 10. On or about April 26, 2012, Francisco Fuentes and Villma Fuentes employed
8 Respondent to perform legal services, namely to represent them in Chapter 7 bankruptcy
9 proceedings, which Respondent intentionally, recklessly, or repeatedly failed to perform with
10 competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by performing
11 no services on his clients' behalf, and by failing to supervise the work of subordinate non-
12 attorney employees, who gave legal advice and who performed legal services in that matter.

13 COUNT TEN

14 Case No. 14-O-05959
15 Rules of Professional Conduct, rule 3-700(D)(2)
16 [Failure to Refund Unearned Fees]

17 11. Between on or about April 26, 2012 and September 27, 2012, Respondent received
18 advanced fees of \$1,200 from clients, Francisco Fuentes and Villma Fuentes, to represent them
19 in Chapter 7 bankruptcy proceedings. Respondent failed to perform any legal services for the
20 clients, and therefore earned none of the advanced fees paid. Respondent failed to refund
21 promptly, following the request of his clients on or about September 23, 2014, any part of the
22 \$1,200 advanced fee to the clients, in willful violation of Rules of Professional Conduct, rule 3-
23 700(D)(2).

24 COUNT ELEVEN

25 Case No. 14-O-04026; 14-O-04815; 14-O-05386; 14-O-05959; 14-O-06202
26 Rules of Professional Conduct, Rule 1-300(A)
27 [Aiding the Unauthorized Practice of Law]

28 12. From in or about June 2012 through in or about September 2014, Respondent aided
his office staff, including but not limited to Jose Luis Huguet, John Corona, and Cynthia
Patrillo, who are not licensed to practice law in California, in the unauthorized practice of law,
by allowing them to retain clients, offer legal advice, assess clients' legal needs, and draft legal

1 documents, among other things, without Respondent's supervision or oversight, in willful
2 violation of Rules of Professional Conduct, rule 1-300(A).

3 COUNT TWELVE

4 Case No. 14-O-06202
5 Rules of Professional Conduct, rule 3-110(A)
6 [Failure to Perform with Competence]

7 13. On or about April 14, 2014, Ramon Marroquin Hernandez, on behalf of his son Luis
8 Alberto Marroquin Rosales, employed Respondent to perform legal services, namely to represent
9 Luis Alberto Marroquin Rosales in an immigration matter, Immigration Court case number
10 A206-498-144, and to appear at a contested Immigration and Customs Enforcement hearing on
11 April 23, 2014. Respondent understood the significance of the hearing and was hired
12 specifically for the purpose of appearing at the hearing on his clients' behalf. Respondent
13 intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of
14 Rules of Professional Conduct, rule 3-110(A), by failing to appear and represent his client at the
15 contested Immigration and Customs Enforcement hearing on or about April 23, 2014, and
16 thereafter by failing to take any steps to set aside the adverse ruling against his client as a result
17 of that hearing.

18 COUNT THIRTEEN

19 Case No. 14-O-06202
20 Rules of Professional Conduct, rule 3-700(D)(2)
21 [Failure to Refund Unearned Fees]

22 14. On or about April 14, 2014, Respondent received advanced fees of \$2,500 from a
23 client, Ramon Marroquin Hernandez, on behalf of his son Luis Alberto Marroquin Rosales, to
24 represent Luis Alberto Marroquin Rosales in an immigration matter and appear at an
25 Immigration and Customs Enforcement hearing on April 23, 2014. Respondent failed to
26 perform the legal services for which he was retained and did not earn all the fees paid.
27 Respondent failed to refund promptly, following the request of his client on or about May 2,
28 2014, any part of the \$2,500 fee to the client, in willful violation of Rules of Professional
Conduct, rule 3-700(D)(2).

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2 COUNT FOURTEEN

3 Case No. 14-J-05673

4 Bus. & Prof. Code, § 6049.1; Rules Proc. Of State Bar, rules 5.350 to 5.354
5 [Professional Misconduct in a Foreign Jurisdiction]

6 15. On or about September 5, 2014, the Iowa Supreme Court Attorney Disciplinary
7 Board ordered that respondent be disciplined upon findings that respondent had committed
8 professional misconduct in that jurisdiction as set forth in the Order of the Iowa Supreme Court.
9 Thereafter, the decision of the foreign jurisdiction became final.

10 16. A certified copy of the final order of disciplinary action of the foreign jurisdiction is
11 attached, as Exhibit 1, and incorporated by reference.

12 17. A copy of the statutes, rules or court orders of the foreign jurisdiction found to have
13 been violated by respondent is attached, as Exhibit 2, and incorporated by reference.

14 18. Respondent's culpability as determined by the foreign jurisdiction indicates that the
15 following equivalent California statutes or rules have been violated or warrant the filing of this
16 Notice of Disciplinary Charges:

17 Rules of Professional Conduct, rule 2-200(A);

18 Rules of Professional Conduct, rule 3-110(A);

19 Rules of Professional Conduct, rule 3-310(B);

20 Rules of Professional Conduct, rule 3-700(D)(1);

21 Rules of Professional Conduct, rule 3-700(D)(2);

22 Rules of Professional Conduct, rule 4-200(A);

23 Business and Professions Code, section 6068(a);

24 Business and Professions Code, section 6068(m).

25 ISSUES FOR DISCIPLINARY PROCEEDINGS

26 19. The attached findings and final order are conclusive evidence that respondent is
27 culpable of professional misconduct in this state subject only to the following issues:

28 a. The degree of discipline to impose;

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- b. Whether, as a matter of law, respondent's culpability determined in the proceeding in the other jurisdiction would not warrant the imposition of discipline in the State of California under the laws or rules binding upon members of the State Bar at the time the member committed misconduct in such other jurisdiction; and
- c. Whether the proceedings of the other jurisdiction lacked fundamental constitutional protection.

20. Respondent shall bear the burden of proof with regard to the issues set forth in subparagraphs B and C of the preceding paragraph.

NOTICE - INACTIVE ENROLLMENT!

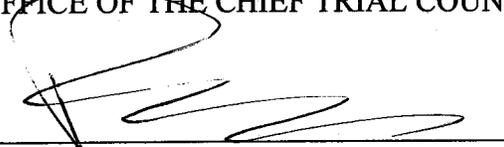
YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. 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: 6-19 2015 By: 
R. KEVIN BUCHER
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-04026; 14-O-04815; 14-O-05386; 14-O-05959; 14-O-06202; 14-J-05673

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.: 9414 7266 9904 2010 0880 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: PAUL JEAN VIRGO, 9909 Topanga Blvd #282 Chatsworth CA 91311, 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').

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: June 19, 2015

SIGNED: Genelle De Luca-Suarez
Genelle De Luca-Suarez
Declarant