

**PUBLIC MATTER**

**FILED**

**DEC 20 2018**

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

1 STATE BAR OF CALIFORNIA  
2 OFFICE OF CHIEF TRIAL COUNSEL  
3 MELANIE J. LAWRENCE, No. 230102  
4 INTERIM CHIEF TRIAL COUNSEL  
5 MIA R. ELLIS, No. 228235  
6 ASSISTANT CHIEF TRIAL COUNSEL  
7 SCOTT D. KARPf, No. 274682  
8 DEPUTY TRIAL COUNSEL  
9 845 South Figueroa Street  
10 Los Angeles, California 90017-2515  
11 Telephone: (213) 765-1161

8 STATE BAR COURT  
9 HEARING DEPARTMENT - LOS ANGELES

11 In the Matter of: ) Case No. 18-O-13124  
12 MOISES ALCIDES AVILES, )  
13 No. 226569, ) NOTICE OF DISCIPLINARY CHARGES  
14 A Member of the State Bar )

15 **NOTICE - FAILURE TO RESPOND!**

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

- 19 (1) **YOUR DEFAULT WILL BE ENTERED;**
- 20 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**  
21 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
- 22 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**  
23 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**  
24 **AND THE DEFAULT IS SET ASIDE, AND;**
- 25 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**  
26 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**  
27 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**  
28 **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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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Moises Alcides Aviles ("respondent") was admitted to the practice of law in the State  
4 of California on November 13, 2003, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 COUNT 1

7 Case No. 18-O-13124  
8 Former Rules of Professional Conduct, Rule 3-110(A)  
9 [Failure to Perform with Competence]

10 2. On or about August 28, 2017, Jose Antonio Arredondo employed respondent to  
11 perform legal services, namely to file a United States Citizenship and Immigration Services  
12 Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, which  
13 respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful  
14 violation of Rules of Professional Conduct, rule 3-110(A), by failing to file the Form N-336.

14 COUNT 2

15 Case No. 18-O-13124  
16 Business and Professions Code, Section 6068(m)  
17 [Failure to Inform Client of Significant Developments]

18 3. Respondent failed to keep respondent's client, Jose Antonio Arredondo, reasonably  
19 informed of significant developments in a matter in which respondent had agreed to provide  
20 legal services, in willful violation of Business and Professions Code, section 6068(m), by failing  
21 to inform the client that he would be delayed by six months in filing the client's United States  
22 Citizen and Immigration Services Form N-336, Request for a Hearing on a Decision in  
23 Naturalization Proceedings.

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COUNT 3

Case No. 18-O-13124  
Former Rules of Professional Conduct, Rule 4-100(B)(4)  
[Failure to Pay Client Funds Promptly]

4. On August 28, 2017, respondent was hired by client, Jose Antonio Arredondo, to perform legal services, namely to file a United States Citizenship and Immigration Services Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings. On or about September 12, 2017, respondent received from his client, \$700 in advanced costs for payment of the filing fee associated with the Form N-336. Respondent failed to file the Form N-336 on the client's behalf. On or about March 16, 2018, the client requested that respondent repay the filing fee costs. To date, respondent has failed to pay promptly, as requested by respondent's client, the \$700 in costs in respondent's possession in willful violation of the Rules of Professional Conduct, rule 4-100(B)(4).

COUNT 4

Case No. 18-O-13124  
Rules of Professional Conduct, Rule 3-700(D)(2)  
[Failure to Refund Unearned Fees]

5. On or about August 28, 2017 respondent received advanced fees of \$1,500 from a client, Jose Antonio Arredondo, to perform legal services, namely to file a United States Citizenship and Immigration Services Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings. Respondent failed to file the Form N-336, or perform any legal services beyond preliminary services that did not result in a benefit for the client, and therefore earned none of the advanced fees paid. Respondent failed to return promptly, upon respondent's termination of employment on or about March 16, 2018 and at his request, any part of the \$1,500 attorney fees to the client, in willful violation of the Rules of Professional Conduct, rule 3-700(D)(2).

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COUNT 5

Case No. 18-O-13124  
Business and Professions Code, section 6106  
[Moral Turpitude - Misappropriation]

6. On or about September 12, 2017, respondent received on behalf of respondent's client, Jose Antonio Arredondo, \$700 of advanced costs for payment of a filing fee of a United States Citizenship and Immigration Services Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, to hold in trust pending filing of an application on the client's behalf. Respondent deposited the \$700 into his Chase Bank client trust account, account no. ending -6462<sup>1</sup>.

7. After the client terminated respondent's representation, on March 21, 2018 respondent purchased a United States Postal Money Order, serial no. 25153505280, to refund the advanced costs to client.

8. On or about April 30, 2018, respondent re-deposited the \$700 money order into respondent's client trust account on behalf of the client.

9. On May 1, 2018, respondent willfully and intentionally misappropriated \$700 that the respondent's client, was entitled to receive. Respondent thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

10. A violation of section 6106 may result from intentional conduct or grossly negligent conduct. Respondent is charged with committing an intentional misappropriation. However, should the evidence at trial demonstrate that respondent misappropriated funds as a result of grossly negligent conduct, respondent must still be found culpable of violating section 6106 because misappropriation through gross negligence is a lesser included offense of intentional misappropriation.

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<sup>1</sup> To protect the privacy of the account, only the last four digits of the respondent's client trust account are listed.

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COUNT 6

Case No. 18-O-13124  
Business and Professions Code, section 6106  
[Moral Turpitude – Misrepresentations to the State Bar and Proffering False Documents]

11. On or about August 24, 2018, respondent sent a letter to the State Bar that contained the following misrepresentations:

- a. That on March 16, 2018, respondent's secretary attempted to give the client, Jose Antonio Arredondo, an accounting and a United States Postal Money Order for \$700, and
- b. That on March 19, 2018, respondent immediately sent a letter to his client enclosing an accounting for services. The letter, which was attached to respondent's August 24, 2018 letter to the State Bar and which was submitted as proof of his actions, additionally stated that respondent was mailing his client \$700.

12. When respondent sent to the State Bar his August 24, 2018 letter, attaching the March 19, 2018 letter, he knew the statements in his letter and the attached letter were false and misleading because respondent did not purchase the postal money order until March 21, 2018 and never sent his client a letter containing an accounting or \$700. Respondent thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

13. A violation of section 6106 may result from intentional conduct or grossly negligent conduct. Respondent is charged with committing intentional misrepresentation. However, should the evidence at trial demonstrate that respondent committed misrepresentation as a result of gross negligence, respondent must still be found culpable of violating section 6106 because misrepresentation through gross negligence is a lesser included offense of intentional misrepresentation.

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**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.**

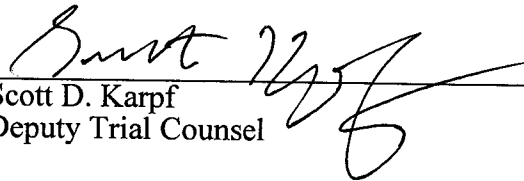
**NOTICE - COST ASSESSMENT!**

**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 20, 2018

By:   
Scott D. Karpf  
Deputy Trial Counsel

# DECLARATION OF SERVICE

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

CASE NUMBER(s): **18-O-13124**

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 90017-2515, 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))**  
 - 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 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.: 9414 7266 9904 2111 0144 45 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)

Person Served	Business-Residential Address	Fax Number	COURTESY COPY VIA REGULAR 1 <sup>ST</sup> CLASS MAIL
Moises Alcides Aviles	Aviles & Associates 560 N. Arrowhead Ave., Ste. 2A San Bernardino, CA 92401-1219	Electronic Address	

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"). 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, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

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: December 20, 2018

SIGNED: *Sandra Reynolds*  
 Sandra Reynolds  
 Declarant