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**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES**

In the Matter of)	Case No.: 09-O-18495 (S196647)
)	
GARY CRAIG WYKIDAL,)	ORDER EXTENDING PROBATIONARY
)	PERIOD WITH CONDITIONS
Member No. 92437,)	
)	
<u>A Member of the State Bar.</u>)	

TO ALL PARTIES AND COUNSEL IN THE ABOVE ENTITLED MATTER:

Pursuant to the court's February 2, 2015 order for further update, the parties have informed this court that respondent Gary Craig Wykidal's appeal is still pending in *JWN, Inc. v. C. Benassi Architecture, LLC*, California Court of Appeal, Fourth Appellate District, Division Three, case No. G050916 (JWN lawsuit). Accordingly, the court will now rule on the State Bar's motion for order directing respondent to disburse funds and to extend his probation for five years, filed December 4, 2014.¹

Respondent opposed the motion. Thereafter, the parties have filed multiple pleadings in this matter.



¹ Respondent's probation was scheduled to be terminated on December 30, 2014.

Supreme Court Case No. S196647

In the underlying matter, on November 30, 2011, the California Supreme Court ordered that respondent is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and that he is placed on probation for three years subject to certain conditions, including (1) an actual suspension of 60 days; and (2) compliance with the probation conditions recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation (stipulation) filed August 5, 2011. (Supreme Court case No. S196647.)

Under the stipulation, respondent agreed to replenish the disputed funds between Carol Benassi and John Neal in a client trust account as follows:

"Within the first 30 months of his probationary period, Respondent must deposit \$34,221.50 into an interest-bearing (non-IOLTA) client trust account until such time as the dispute between Carol Benassi and John Neal over ownership of that sum is resolved."

Ownership of Disputed Funds Not Yet Resolved

Despite the terms to which respondent had stipulated, respondent has now unilaterally decided that he no longer has a duty to maintain a special trust account with the deposited funds of \$34,221.50 because he believes that all claims to those funds have legally been adjudicated and terminated. As a result, he has closed the account and claims that this matter is now concluded. Yet, he has taken no steps to ascertain whether his belief is correct. (See *In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138.) Respondent's persistence in arguing that the ownership of the disputed funds between Benassi and Neal has been adjudicated is troubling and unreasonable, particularly since he is the one pursuing the appeal of the JWN lawsuit and is challenging the ownership of the funds.

Therefore, the court finds respondent's contentions to be without merit and must be rejected.

Order Extending Probationary Period With Conditions

After having carefully considered the parties' arguments, the court finds the State Bar's request is consistent with the primary goal of disciplinary probation – that is, the protection of the public, the rehabilitation of the attorney, and the maintenance of the integrity of the legal profession. (Rules Proc. of State Bar, rule 5.300(B).)

THEREFORE, good cause appearing, the court **GRANTS, in part**, the State Bar's motion and **ORDERS** that the period of respondent's probation be extended to **February 28, 2018**, unless otherwise ordered by the court. Respondent Gary Craig Wykidal is hereby ordered to comply with the following conditions during his probation:

1. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.
2. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
3. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.
4. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.
5. Respondent must disburse \$34,221.50, plus interest which accrued on such amount, to Richard R. Therrien, attorney for JWN, Inc., within 10 days of the filing date of this order, such funds to be held in trust by attorney Richard R. Therrien in a separate, interest-bearing client trust account pending the final resolution of the declaratory relief matter in the JWN lawsuit (*JWN, Inc. v. C.*

Benassi Architecture, LLC, California Court of Appeal, Fourth Appellate District, Division Three, case No. G050916).

6. Respondent must show satisfactory proof to the Office of Probation within 15 days of the filing date of this order, that he has disbursed \$34,221.50 plus interest to attorney Richard R. Therrien and proof from the bank of the amount of interest accrued.
7. Respondent must provide proof to the Office of Probation within 10 days of the filing of the final court order or opinion of the JWN lawsuit, if it occurred during his probationary period.
8. Respondent's period of probation is extended to February 28, 2018, unless otherwise ordered by the court.

IT IS SO ORDERED.

Dated: February 18, 2015



LUCY ARMENDARIZ
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on February 18, 2015, I deposited a true copy of the following document(s):

ORDER EXTENDING PROBATIONARY PERIOD WITH CONDITIONS

in a sealed envelope for collection and mailing on that date as follows:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

GARY CRAIG WYKIDAL
245 FISCHER AVE #A-1
COSTA MESA, CA 92626

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

TERRIE GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on February 18, 2015.



Mazie Yip
Case Administrator
State Bar Court