

PUBLIC MATTER

FILED

1 STATE BAR OF CALIFORNIA
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MAR 13 2013
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

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10 STATE BAR COURT

11 HEARING DEPARTMENT - LOS ANGELES

12
13 In the Matter of:) Case Nos. 11-O-13780 and 12-O-15666
14 WAYNE SHELTON DRYDEN,)
No. 43319,) NOTICE OF DISCIPLINARY CHARGES
15)
16 A Member of the State Bar)

17
18 **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.
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
25 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
26 FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.



1 The State Bar of California alleges:

2 JURISDICTION

3 1. Wayne Shelton Dryden ("Respondent") was admitted to the practice of law in the
4 State of California on January 9, 1969, was a member at all times pertinent to these charges, and
5 is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 11-O-13780
8 Rules of Professional Conduct, Rule 1-320(A)
9 [Sharing Legal Fees with a Non-Lawyer]

10 2. Respondent wilfully violated Rules of Professional Conduct, rule 1-320(A), by
11 sharing legal fees with a person who is not a lawyer, as follows:

12 3. On or about January 26, 2011, Jun Feng Ao ("Ao") was detained by the Department
13 of Homeland Security, placed in custody, and placed in removal proceedings ("immigration
14 case") due to Ao's failure to appear at an immigration court hearing in New York in January
15 2009.

16 4. On or about January 28, 2011, on behalf of Ao, Ao's family hired Frances Chan
17 ("Chan"), a non-attorney, doing business in Los Angeles, California, as Asia America Business
18 and Legal Services, to retain counsel to represent Ao in the immigration proceedings. Chan had
19 Ao's family complete a form authorizing Respondent to represent Ao in the immigration case.
20 Chan negotiated a \$7,000 legal fee on behalf of Respondent.

21 5. On or about January 28, 2011, Chan collected \$7,000 in advanced fees from Ao's
22 family, on Ao's behalf, to retain Respondent to represent Ao in the immigration proceedings,
23 including filing a motion to re-open the immigration case.

24 6. On or about February 2, 2011, Chan paid Respondent a \$2,000 portion of the
25 advanced fees received from Ao's family to file a motion to re-open Ao's immigration case.
26 Chan retained the balance of \$5,000. Respondent accepted Ao's case based on information
27 provided by Chan. Chan also recommended that Respondent file an asylum application on
28 behalf of Ao.

7. By splitting \$7,000 in advanced fees with Chan, paid by Ao's family, on behalf of

1 Ao, to represent Ao in the immigration proceedings, Respondent shared legal fees with a person
2 who is not a lawyer.

3 COUNT TWO

4 Case No. 11-O-13780
5 Rules of Professional Conduct, Rule 1-300(A)
6 [Aiding the Unauthorized Practice of Law]

7 8. Respondent wilfully violated Rules of Professional Conduct, rule 1-300(A), by aiding
8 a person or entity in the unauthorized practice of law, as follows:

9 9. The allegations of Count(s) One are incorporated by reference.

10 10. By allowing Chan to enter into an agreement with Ao's family, on behalf of Ao, for
11 Respondent's legal services, and permitting Chan to negotiate and collect an advanced fee on his
12 behalf, Respondent aided a person or entity in the unauthorized practice of law.

13 COUNT THREE

14 Case No. 11-O-13780
15 Rules of Professional Conduct, rule 3-110(A)
16 [Failure to Perform with Competence]

17 11. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by
18 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
19 follows:

20 12. The allegations of Count(s) One and Two are incorporated by reference.

21 13. Shortly after Chan retained Respondent to represent Ao in his immigration case, Ao's
22 family contacted Respondent by phone, and Respondent told Ao's family he did not specialize in
23 immigration law, but would attempt to represent Ao in the immigration case.

24 14. At the time Ao was detained and placed in removal proceedings, there was an
25 existing removal order for Ao that had been entered on or about January 21, 2009. Thus, at the
26 time Chan retained Respondent to file a motion to re-open Ao's immigration case, time was of
27 the essence.

28 15. At no time did Respondent meet or speak with Ao regarding his immigration case.

16. On or after February 2, 2011, Chan stopped responding to Ao's family's telephone
inquiries regarding Ao's immigration case.

1 17. On or about February 8, 2011, Ao retained new counsel to represent him in his
2 immigration case.

3 18. On or about February 8, 2011, Ao's new counsel of record immediately filed a
4 Motion to Re-Open Ao's immigration case, effectively terminating Respondent's representation
5 of Ao.

6 19. On or about February 8, 2011, Respondent filed a Notice of Entry of Appearance in
7 Ao's immigration case. Respondent failed to file a Motion to Re-Open Ao's immigration case
8 until on or about February 24, 2011, more than two weeks after Ao's new counsel filed the same
9 motion. Thus, Respondent failed to provide any legal services of value to Ao in the immigration
10 case.

11 20. On or about February 25, 2011, the immigration court granted the motion to reopen
12 filed by Ao's new counsel of record, and ordered Ao's deportation proceedings re-opened.

13 21. By failing to promptly file a motion to re-open Ao's immigration case when time was
14 of the essence, failing to file a motion to re-open Ao's immigration case for nearly three weeks
15 after he was hired to represent Ao, and failing to meet or speak with Ao regarding his
16 immigration case, Respondent intentionally, recklessly, or repeatedly failed to perform legal
17 services with competence.

18 COUNT FOUR

19 Case No. 11-O-13780
20 Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

21 22. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by
22 failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

23 23. The allegations of Count(s) One, Two and Three are incorporated by reference.

24 24. Respondent failed to earn any portion of the \$2,000 in advanced fees paid by Ao's
25 family, on behalf of Ao.

26 25. To date, Respondent has failed to refund to Ao and his family any portion of the
27 \$2,000 in unearned advanced fees paid to Respondent, by Ao's family, on behalf of Ao, and
28 through Chan.

1 35. On or about October 26, 2010, the HOA served Respondent with form interrogatories
2 and requests for production of documents in the HOA action. Respondent received the written
3 discovery but failed to notify Chang that he was required to provide responses.

4 36. On or about January 11, 2011, the HOA sent Respondent a letter notifying him that
5 the deadline to respond to its written discovery had expired, and requesting responses within
6 seven days. Respondent received the letter but failed to respond, or to notify Chang that he must
7 provide responses, or that Chang may become liable for payment of monetary sanctions if he did
8 not provide responses.

9 37. On or about February 15, 2011, the HOA filed motions to compel responses to form
10 interrogatories and requests for production of documents, requesting monetary sanctions, and
11 served Respondent with the motion. Respondent received the motion but failed to notify Chang
12 that he must provide responses.

13 38. On or about March 17, 2011, the court held a hearing regarding the HOA's motions.
14 The court granted the HOA's motions to compel responses to written discovery, ordered Chang
15 to provide responses within ten days, and ordered Chang to pay a total of \$1,240 in sanctions
16 within 30 days of the court's order. The court also set an Order to Show Cause Re: Dismissal for
17 May 26, 2011. Respondent was present at the March 17, 2011 hearing, and had notice of the
18 court's order, but failed to inform Chang of the court's order.

19 39. On or about March 17, 2011, Respondent sent Chang a letter containing the HOA's
20 written discovery requests, and told Chang, for the first time, to provide responses. Respondent
21 did not inform Chang that he must provide responses within ten days of the court's order, or pay
22 the HOA monetary sanctions within 30 days of the court's order.

23 40. On or about April 4, 2011, Chang telephoned Respondent and asked to meet
24 regarding his discovery responses. Respondent refused to meet with Chang, and instead told
25 Chang to wait, without further explanation. Accordingly, Chang did not provide responses to the
26 HOA's written discovery within ten days of the March 17, 2011 court order.

27 41. On or about April 13, 2011, the HOA filed a motion for terminating sanctions against
28 Chang, based on his failure to provide responses within ten days of the March 17, 2011 court

1 order. The notice of motion reflected a May 10, 2011 hearing date. Respondent was served a
2 copy of the motion by U.S. mail, and had notice of the May 10, 2011 hearing date, but failed to
3 inform Chang of the motion or the May 10, 2011 hearing.

4 42. On or about April 20, 2011, the HOA sent Respondent a letter advising that if Chang
5 did not pay the court-ordered monetary sanctions by April 25, 2011, it would file a motion for
6 terminating sanctions, including reimbursement of the HOA's attorney fees and costs incurred in
7 filing the motion. Respondent received the letter, but failed to respond, and failed to inform
8 Chang of the letter or the possibility that Chang could be ordered to pay the HOA's attorney fees
9 and costs.

10 43. On or about April 28, 2011, the HOA filed a second motion for terminating sanctions
11 against Chang, based on his failure to pay monetary sanctions pursuant to the March 17, 2011
12 court order. Respondent was served a copy of the motion by U.S. mail. The notice of motion
13 reflected a May 26, 2011 hearing date. Respondent was served a copy of the motion by U.S.
14 mail, and had notice of the May 26, 2011 hearing date, but failed to inform Chang of the motion
15 of the May 26, 2011 hearing date.

16 44. On or about May 10, 2011, the court held a hearing regarding the HOA's motion for
17 terminating sanctions. Respondent failed to appear. The court granted the motion, ordered
18 Chang's operative complaint stricken, dismissed the HOA action without prejudice, and ordered
19 Chang to pay the HOA \$840 in monetary sanctions within 15 days of the hearing. On or about
20 May 10, 2011, the court clerk served the court's May 10, 2011 order on Respondent by U.S.
21 mail. Respondent received the order.

22 45. On or about May 22, 2011, Respondent sent Chang a letter informing him that the
23 court had dismissed the HOA action due to Chang's failure to complete the form interrogatories,
24 but failed to inform Chang of the monetary sanctions awarded against him.

25 46. On or about June 7, 2011, the court entered judgment in the HOA action in favor of
26 the HOA and against Chang.

27 47. On or about July 14, 2011, the HOA filed a motion for attorney fees and costs against
28 Chang, and served a copy of the motion on Respondent. The notice of motion reflected an

1 August 9, 2011 hearing date. Respondent received the motion, and had notice of the August 9,
2 2011 hearing date, but failed to file an opposition, and failed to inform Chang of the motion, the
3 HOA's request for attorney fees and costs, or the August 9, 2011 hearing date.

4 48. On or about August 9, 2011, the court held a hearing regarding the HOA's motion for
5 attorney fees and costs. Respondent failed to appear. The court granted the HOA's motion, and
6 awarded the HOA a total of \$2,555 in costs, and \$22,183 in attorney fees, for a total of \$24,738,
7 against Chang. On or about August 9, 2011, the court clerk serve the court's August 9, 2011
8 order on Respondent by U.S. mail. Respondent received the order, but failed to notify Chang of
9 the cost award.

10 49. On or about September 1, 2011, Chang received a notice of involuntary lien on his
11 real property in the amount of \$24,738, and a notice of garnishment on his Chase Bank account
12 in the amount of \$1,430.70. This was the first time Chang learned he owed any money to the
13 HOA.

14 50. By failing to inform Chang he must provide responses to the HOA's written
15 discovery requests, failing to inform Chang he must pay monetary sanctions to the HOA, failing
16 to appear at the May 10, 2011 hearing during which the court granted the HOA's motion for
17 terminating sanctions and dismissed the HOA action, failing to oppose the HOA's motion for
18 attorney fees and costs, and failing to inform Chang that the judgment required him to pay the
19 HOA \$24,738 in attorney fees and costs, Respondent intentionally, recklessly, or repeatedly
20 failed to perform legal services with competence.

21 COUNT SEVEN

22 Case No. 12-O-15666
23 Rules of Professional Conduct, rule 3-300
24 [Business Transaction with a Client]

25 51. Respondent wilfully violated Rules of Professional Conduct, rule 3-300, by entering
26 into a business transaction with a client without complying with the requirements that the
27 transaction or acquisition and its terms were fair and reasonable to the client; the transaction or
28 acquisition and its terms were fully disclosed and transmitted in writing to the client in a manner
which should reasonably have been understood by the client; the client was advised in writing

1 that the client may seek the advice of an independent lawyer of the client's choice; the client was
2 given a reasonable opportunity to seek that advice; and the client thereafter consented in writing
3 to the terms of the transaction or acquisition, as follows:

4 52. The allegations of Count(s) Six are incorporated by reference.

5 53. On or about July 16, 2010, Respondent asked Chang to loan him \$5,000. On or about
6 July 16, 2010, Chang issued Respondent Check No. 1059 in the amount of \$5,000.

7 54. At no time did Respondent ensure that that the \$5,000 loan and its terms were fair and
8 reasonable to Chang, that the loan and its terms were fully disclosed and transmitted in writing to
9 Chang in a manner which should reasonably have been understood by Chang, that Chang was
10 advised in writing that he may seek the advice of an independent lawyer of his choice, or that
11 Chang was given a reasonable opportunity to seek that advice. At no time did Respondent obtain
12 Chang's informed written consent to the terms of the loan.

13 55. By failing to ensure that that the \$5,000 loan and its terms were fair and reasonable to
14 Chang, that the loan and its terms were fully disclosed and transmitted in writing to Chang in a
15 manner which should reasonably have been understood by Chang, that Chang was advised in
16 writing that he may seek the advice of an independent lawyer of his choice, that Chang was
17 given a reasonable opportunity to seek that advice, and by failing to obtain Chang's informed
18 written consent to the terms of the \$5,000 loan, Respondent entered into a business transaction
19 with a client without complying with the requirements that the transaction or acquisition and its
20 terms were fair and reasonable to the client; the transaction or acquisition and its terms were
21 fully disclosed and transmitted in writing to the client in a manner which should reasonably have
22 been understood by the client; the client was advised in writing that the client may seek the
23 advice of an independent lawyer of the client's choice; the client was given a reasonable
24 opportunity to seek that advice; and the client thereafter consented in writing to the terms of the
25 transaction or acquisition.

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COUNT EIGHT

Case No. 12-O-15666
Rules of Professional Conduct, rule 4-100(B)(4)
[Failure to Pay Client Funds Promptly]

56. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(4), by failing to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive, as follows:

57. The allegations of Count(s) Six and Seven are incorporated by reference.

58. On or about August 3, 2010, Chang issued Respondent Check No. 1061, in the amount of \$1,200, as advanced costs for taking a third deposition in the HOA action.

59. The third deposition was never taken in the HOA action.

60. In or about July 2012, Chang hired a new attorney to obtain a refund of the \$5,000 loan and the \$1,200 in advanced costs paid by Chang to Respondent.

61. On or about July 3, 2012, Chang's new attorney sent Respondent a letter requesting repayment of the \$5,000 plus interest, as well as a full refund of the \$1,200 in unused advanced costs paid by Chang.

62. To date, Respondent has failed to refund the \$1,200 in unused advanced costs, paid by Chang for the third deposition which never took place.

63. By failing to refund \$1,200 in unused advanced costs, Respondent, failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive.

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.

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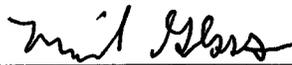
NOTICE - COST ASSESSMENT!

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: March 13, 2013

By: 
Michael Glass
Senior Trial Counsel

DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 11-O-13780 and 12-O-15666

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))
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.: 71969008911104429959 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, and Courtesy Copy to. Row 1: Wayne Shelton Dryden, 5212 Grandview Road Jasper, GA 30143, Michael E. Wine, 301 N. Lake Ave., Suite 800 Pasadena, CA 91101-5113

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: March 13, 2013

SIGNED:

Carmen Corona
Carmen Corona
Declarant