

1 The State Bar of California alleges:

2 JURISDICTION

3 1. Respondent Dale Irving Gustin was admitted to the practice of law in the State of
4 California on December 21, 1977, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 13-O-10692
8 Rule of Professional Conduct 3-110(A)
9 [Failure to Perform with Competence]

10 2. In or about October 2006, Steven Schwanbeck employed Respondent to perform
11 legal services, namely to resolve a dispute over a loan to purchase a new car, which Respondent
12 intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of
13 Rule of Professional Conduct 3-110(A), by the following:

- 14 a. Respondent delayed until on or about March 30, 2011, to file a lawsuit against the
15 three defendants Atascadero Ford, Allen Yarborough, the owner of Atascadero Ford,
16 and Wells Fargo Bank alleging fraud, despite the fact the alleged fraud occurred, if
17 at all, prior to October 2006.
- 18 b. Respondent never served defendant Atascadero Ford or Yarborough with the lawsuit
19 at any time.
- 20 c. Prior to June 21, 2011, when a timely opposition was due, Respondent failed to file
21 an opposition to a demurrer to the initial complaint filed by Wells Fargo Bank, the
22 only defendant Respondent served with the lawsuit.
- 23 d. Prior to September 21, 2011, Respondent failed to file an opposition to a demurrer to
24 the first amended complaint filed by Wells Fargo Bank.
- 25 e. On September 5, 2012, Respondent failed to appear at a Readiness Conference,
26 despite having received notice of the hearing, at which the court issued an order to
27 show cause why the case should not be dismissed, with a hearing on the order to
28 show cause set for September 26, 2012.

1 f. On September 26, 2012, Respondent failed to appear at the order to show cause
2 hearing, despite having received notice of the hearing, and failed to file any response
3 to the order to show cause, so the case was dismissed.

4 COUNT TWO

5 Case No. 13-O-10692
6 Business and Professions Code section 6068(m)
7 [Failure to Inform Client of Significant Development]

8 3. Respondent failed to keep Respondent's client, Steven Schwanbeck, reasonably
9 informed of significant developments in a matter in which Respondent had agreed to provide
10 legal services, in willful violation of Business and Professions Code section 6068(m), by failing
11 to inform the client of the following:

- 12 a. Respondent never notified the client that he failed to serve two named defendants,
13 Allen Yarborough, the owner of Atascadero Ford, and Atascadero Ford with a
14 lawsuit filed by Respondent on behalf of Schwanbeck.
15 b. Respondent never notified Schwanbeck that the lawsuit had been dismissed due to
16 Respondent's failure to respond to an order to show cause and failure to appear at the
17 order to show cause hearing on September 26, 2012.

18 COUNT THREE

19 Case No. 13-O-11454
20 Rule of Professional Conduct 3-700(D)(1)
21 [Failure to Release File]

22 4. Respondent failed to release promptly, after termination of Respondent's
23 employment no later than April 22, 2011, when his client Frances Bone died, to Frances Bone's
24 personal representative, Carol Bone, all of the client's papers and property following Carol
25 Bone's request for the Frances Bone file on June 19, 2012, in willful violation of Rules of
26 Professional Conduct, rule 3-700(D)(1).

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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 THE CHIEF TRIAL COUNSEL

DATED: November ²⁶, 2013 _____

By:  _____
Erin McKeeown Joyce
SENIOR TRIAL COUNSEL

DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 13-O-10692, 13-O-11454

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)) - 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))

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.: 71969008911164101376 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: DALE IRVING GUSTIN, 1521 PARK ST. SUITE C, P.O. BOX 764, PASO ROBLES, CA 93447, Electronic Address, dalegustin@yahoo.com, dale@dalegustin.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'). 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: November 26, 2013

SIGNED: [Signature] JULI JENEWEIN Declarant