

# PUBLIC MATTER

**FILED**

**JUN 10 2013**

**STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO**

STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL  
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## STATE BAR COURT

### HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of: ) Case No. 13-O-11052 [13-O-11053, 13-O-11346]  
SIGMUND CHARLES KOHNEN, )  
No. 61759, ) NOTICE OF DISCIPLINARY CHARGES  
A Member of the State Bar )

### NOTICE - FAILURE TO RESPOND!

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

- (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  
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

The State Bar of California alleges:

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JURISDICTION

1. SIGMUND CHARLES KOHNEN ("Respondent") was admitted to the practice of law in the State of California on December 18, 1974, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE

Case No. 13-O-11052  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

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

3. On or about March 28, 2012, Levis and Marie Caycedo (the "Caycedos") employed Respondent for a civil matter regarding a transfer of their time-share property. On that date, the Caycedos paid Respondent \$1,295 in advanced legal fees.

4. Between in or about April 2012 and June 2012, the Caycedos spoke to Respondent by telephone approximately four times. Each time, Respondent informed the Caycedos that he had some problems which caused a delay in their matter and would now be able to take care of their transfer. At no time did Respondent provide any proof of work completed on the Caycedos matter to them.

5. At no time did Respondent provide any legal services of value to the Caycedos with respect to their civil matter, or complete the transfer of their time-share property.

6. On or about March 20, 2013, the Caycedos sent a letter to Respondent informing Respondent that they were terminating Respondent's legal services and requesting refund of their advanced legal fees. Respondent received the letter.

7. By failing to provide any legal services of value to the Caycedos, including not taking any steps to pursue the transfer of the Caycedos' time-share property, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.

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Case No. 13-O-11052  
Rules of Professional Conduct, rule 3-700(D)(2)  
[Failure to Refund Unearned Fees]

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

9. The allegations of Count One are incorporated by reference herein.

10. The Caycedos terminated Respondent's services on or about March 20, 2013.

11. Respondent did not perform any services of value for the Caycedos. As of March 20, 2013, Respondent had not earned any portion of the advanced fees paid by the Caycedos.

12. To date, Respondent has not refunded any portion of the \$1,295 paid by the Caycedos in advanced attorney fees.

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14. Respondent wilfully violated Business and Professions Code, section 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, as follows:

15. The allegations of Count One are incorporated by reference herein.

16. In or about July 2012, the Caycedos telephoned Respondent several times and each time left a message for Respondent inquiring about the status of their matter. Respondent received the messages.

17. At no time did Respondent return the telephone messages left by the Caycedos in July 2012, or provide an update on the status of their matter.

18. In or about July 2012, the Caycedos sent several emails to Respondent inquiring about the status of their matter. Respondent received the emails.

1 19. At no time did Respondent respond to the Caycedos email of July 2012, or provide an  
2 update on the status of their matter.

3 20. By failing to respond to the Caycedos' telephone messages and emails of July 2012,  
4 regarding the status of their matter, Respondent failed to respond promptly to reasonable status  
5 inquiries of a client in a matter in which Respondent had agreed to provide legal services.

6 COUNT FOUR

7 Case No. 13-O-11052  
8 Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

9 21. Respondent wilfully violated Business and Professions Code, section 6068(i), by  
10 failing to cooperate and participate in a disciplinary investigation pending against Respondent, as  
11 follows:

12 22. The allegations of Count One are incorporated by reference herein.

13 23. On or about February 8, 2013, the State Bar opened an investigation, Case Number  
14 13-O-11052, pursuant to a complaint made by the Caycedos against Respondent (the "Caycedos  
15 matter").

16 24. On or about March 6, 2013 and March 20, 2013, the State Bar sent Respondent letters  
17 regarding the allegations made by the Caycedos and asking Respondent to respond in writing to  
18 those allegations. The letters were placed in sealed envelopes and properly mailed to  
19 Respondent's official membership address of record. Respondent received the letters.

20 25. To date, Respondent has failed to cooperate in any manner in this investigation and  
21 failed to provide a written response to any of the State Bar's letters requesting that he respond to  
22 the allegations of misconduct being investigated in the Caycedos matter.

23 26. By failing to provide a written response in the Caycedos matter or otherwise  
24 cooperating in the investigation of the Caycedos matter, Respondent failed to cooperate and  
25 participate in a disciplinary investigation pending against Respondent.

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COUNT FIVE

Case No. 13-O-11053  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

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

28. On or about August 19, 2011, Kenneth and Elaine Thomas (the "Thomases") employed Respondent for a civil matter regarding a transfer of their time-share property. On or about September 15, 2011, the Thomases paid Respondent \$1,295 in advanced legal fees.

29. Between in or about September 2011 and May 2012, each time the Thomases spoke to Respondent or corresponded with him by email regarding the status of their matter, Respondent would provide excuses, but no proof of any work being completed.

30. At no time did Respondent provide any legal services of value to the Thomases with respect to their civil matter, or complete the transfer of their time-share property.

31. In or about March 2013, the Thomases sent a letter to Respondent informing Respondent that they were terminating Respondent's legal services and requesting a refund of their advanced legal fees. Respondent received the letter.

32. By failing to provide any legal services of value to the Thomases, including not taking any steps to pursue the transfer of the Thomases's time-share property, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.

COUNT SIX

Case No. 13-O-11053  
Rules of Professional Conduct, rule 3-700(D)(2)  
[Failure to Refund Unearned Fees]

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

34. The allegations of Count Five are incorporated by reference herein.

35. The Thomases terminated Respondent's services in or about March 2013.



46. On or about February 8, 2013, the State Bar opened an investigation, Case Number 13-O-11053, pursuant to a complaint made by the Thomases against Respondent (the “Thomas matter”).

47. On or about March 6, 2013 and March 20, 2013, the State Bar sent Respondent letters regarding the allegations made by the Thomases and asking Respondent to respond in writing to those allegations. The letters were placed in sealed envelopes and properly mailed to Respondent's official membership address of record. Respondent received the letters.

48. To date, Respondent has failed to cooperate in any manner in this investigation and failed to provide a written response to any of the State Bar's letters requesting that he respond to the allegations of misconduct being investigated in the Thomas matter.

49. By failing to provide a written response in the Thomas matter or otherwise cooperating in the investigation of the Thomas matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent.

COUNT NINE

Case No. 13-O-11346  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

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

51. On or about July 5, 2012, Andrew and Pajaree Korinek (the "Korineks") employed Respondent for a civil matter regarding a transfer of their time-share property. On or about July 21, 2012, the Korineks paid Respondent \$395 in advanced legal fees.

52. On or about September 25, 2012, the Korineks sent Respondent an email requesting the status of their matter. Respondent responded to the Korineks that same day and provided excuses for the delay, but no proof of any work being completed.

53. At no time did Respondent provide any legal services of value to the Korineks with respect to their civil matter, or complete the transfer of their time-share property.

54. On or about December 27, 2012, the Korineks sent a letter to Respondent informing Respondent that they were terminating Respondent's legal services and requesting a refund of their advanced legal fees. Respondent received the letter.

55. By failing to provide any legal services of value to the Korineks, including not taking any steps to pursue the transfer of the Korineks' time-share property, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.

COUNT TEN

Case No. 13-O-11346  
Rules of Professional Conduct, rule 3-700(D)(2)  
[Failure to Refund Unearned Fees]

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

57. The allegations of Count Nine are incorporated by reference herein.

58. The Korineks terminated Respondent's services on or about December 27, 2012.

59. Respondent did not perform any services of value for the Korineks. Respondent did not earn any portion of the advanced fees paid by the Korineks.

60. To date, Respondent has not refunded any portion of the \$395 paid by the Korineks in advanced attorney fees.

61. By not refunding any portion of the \$395 in advanced attorney fees paid by the Korineks, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned.

COUNT ELEVEN

Case No. 13-O-11346  
Business and Professions Code, section 6068(m)  
[Failure to Respond to Client Inquiries]

62. Respondent wilfully violated Business and Professions Code, section 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, as follows:

63. The allegations of Count Nine are incorporated by reference herein.



64. Between in or about September 2012 and December 2012, the Korineks sent several emails to Respondent inquiring about the status of their matter. Respondent received the emails.

65. At no time did Respondent respond to the Korineks emails or provide an update on the status of their matter.

66. By failing to respond to the Korineks emails regarding the status of their matter, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services.

COUNT TWELVE

Case No. 13-O-11346  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

67. Respondent wilfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent, as follows:

68. The allegations of Count Nine are incorporated by reference herein.

69. On or about January 16, 2013, the State Bar opened an investigation, Case Number 13-O-11346, pursuant to a complaint made by the Korineks against Respondent (the “Korinek matter”).

70. On or about March 20, 2013, and April 3, 2013, the State Bar sent Respondent letters regarding the allegations made by the Korineks and asking Respondent to respond in writing to those allegations. The letters were placed in sealed envelopes and properly mailed to Respondent's official membership address of record. Respondent received the letters.

71. To date, Respondent has failed to cooperate in any manner in this investigation and failed to provide a written response to any of the State Bar's letters requesting that he respond to the allegations of misconduct being investigated in the Korinek matter.

72. By failing to provide a written response in the Korinek matter or otherwise cooperating in the investigation of the Korinek matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent.

1                                    **NOTICE - INACTIVE ENROLLMENT!**

2        **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**  
3        **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**  
4        **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**  
5        **THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO**  
6        **THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN**  
7        **INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE**  
8        **ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE**  
9        **RECOMMENDED BY THE COURT.**

10                                  **NOTICE - COST ASSESSMENT!**

11        **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC**  
12        **DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS**  
13        **INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING**  
14        **AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND**  
15        **PROFESSIONS CODE SECTION 6086.10.**

16                                  Respectfully submitted,

17                                  THE STATE BAR OF CALIFORNIA  
18                                  OFFICE OF THE CHIEF TRIAL COUNSEL

19        DATED: June 10, 2013

20                                  By: 

21                                  SUZAN J. ANDERSON  
22                                  Senior Trial Counsel

# DECLARATION OF SERVICE

by  
U.S. CERTIFIED MAIL AND U.S. FIRST-CLASS MAIL

CASE NUMBER(s): 13-O-11052 [13-O-11053; 13-O-11346]

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, 180 Howard Street, San Francisco, California 94105, 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 San Francisco.



**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 San Francisco, addressed to: (see below)



**(for Certified Mail)** in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,

Article No.:

7196 9008 9111 6623 0852

at San Francisco, 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 to:
Sigmund C. Kohnen	Thomas Hogan Law Office 331 J St # 200 Sacramento, CA 95814	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"). 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 San Francisco, California, on the date shown below.

DATED: June 10, 2013

SIGNED:

  
Meagan McGowan  
Declarant