

PUBLIC MATTER

FILED

JUL 08 2014

1 STATE BAR OF CALIFORNIA
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STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of:

) Case No. 13-O-13326

HARRY EDGAR RICE,
No. 31435,

) 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.

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The State Bar of California alleges:

JURISDICTION

1 and Respondent withdrew from employment in a proceeding before a tribunal without its
2 permission, in willful violation of the Rules of Professional Conduct, rule 3-700(A)(1).

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4 COUNT THREE

5 Case No. 13-O-13326
6 Rules of Professional Conduct, rule 3-700(A)(2)
7 [Improper Withdrawal from Employment]

8 4. Respondent failed, upon termination of employment, to take reasonable steps to
9 avoid reasonably foreseeable prejudice to Respondent's client, Cheryl Schwenn, by
10 constructively terminating Respondent's employment on or about June 22, 1977, by failing to
11 take any action on the client's behalf after filing a Certificate of Inheritance Tax Referee in the
12 probate matter *Estate of Charles Cohen*, Marin County Superior Court Case No. 21331, and
13 effectively withdrew from the employment and thereafter failing to inform the client that
14 Respondent was withdrawing from employment, in willful violation of Rules of Professional
15 Conduct, rule 3-700(A)(2).

16 COUNT FOUR

17 Case No. 13-O-13326
18 Business and Professions Code, section 6068(m)
19 [Failure to Inform Client of Significant Development]

20 5. Respondent failed to keep Respondent's client, Cheryl Schwenn, reasonably
21 informed of significant developments in a matter in which Respondent had agreed to provide
22 legal services, in willful violation of Business and Professions Code, section 6068(m), by failing
23 to inform the client of the following: that Respondent ceased performing any work on behalf of
24 the client after on or about June 23, 1977, in the matter, *Estate of Charles Cohen*, Marin County
25 Superior Court Case No. 21331.

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COUNT FIVE

Case No. 13-O-13326
Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

6. Respondent failed to respond promptly to numerous telephonic and written reasonable status inquiries made by Respondent's client, Cheryl Schwenn, between on or about June 23, 1977, through on or about May 16, 2013, that Respondent received in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

COUNT SIX

Case No. 13-O-13326
Rules of Professional Conduct, rule 3-700(D)(1)
[Failure to Release File]

7. Respondent failed to release promptly, after termination of Respondent's employment on or about June 22, 1977, to Respondent's client, Cheryl Schwenn, all of the client's papers and property following the client's request for the client's file beginning on or about June 23, 1977, through on or about May 16, 2013, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

COUNT SEVEN

Case No. 13-O-13326
Rules of Professional Conduct, rule 4-100(A)
[Commingling Personal Funds in Client Trust Account]

8. From on or about February 20, 2008, through on or about February 1, 2013, Respondent deposited or commingled funds belonging to Respondent into Respondent's client trust account at Citibank Account No. xxxx6682, as follows in wilful violation Rules of Professional Conduct, rule 4-100(A):

<u>DATE OF DEPOSIT</u>	<u>AMT. DEPOSITED</u>	<u>FORM OF DEPOSIT</u>
January 23, 2013	\$4,050.00	Check No. 6221
January 23, 2013	\$585.00	Check No. 1183
February 1, 2013	\$1,015.00	Check No. 1184

NOTICE - INACTIVE ENROLLMENT!

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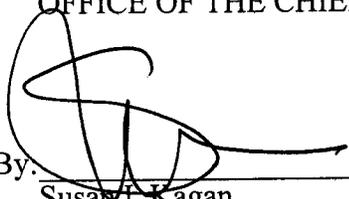
YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. 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

By: 

Susan F. Kagan
Senior Trial Counsel

DATED: July 8, 2014

DECLARATION OF SERVICE
BY CERTIFIED AND REGULAR MAIL

CASE NO.: 13-O-13326

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that 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; that 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; that I am aware that on motion of 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; and that 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, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as *certified mail, return receipt requested*, and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

Article No.: 7196 9008 9111 2393 1136

Harry Edgar Rice
c/o Matthew Rice
CMR 411 Box 4095
APO, AE 09112

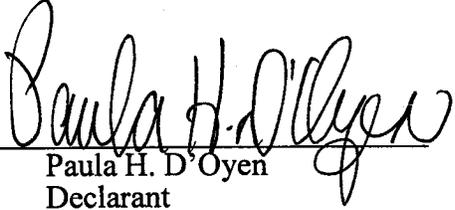
in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

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: July 8, 2014

Signed: _____


Paula H. D'Oyen
Declarant