

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
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FILED

MAY 12 2014

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of:) Case No. 13-O-13871; 13-O-14262; 13-O-
14 MARTIN IAN CUTLER,) 14617; 13-O-14953
15 No. 139536,) NOTICE OF DISCIPLINARY CHARGES
16 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.**

1 The State Bar of California alleges:

2 JURISDICTION

3 1. MARTIN IAN CUTLER ("Respondent") was admitted to the practice of law in the
4 State of California on May 11, 1989, 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-14953
8 Rules of Professional Conduct, rule 4-100(A)
[Commingling Personal Funds in Client Trust Account]

9 2. On or about July 31, 2013, Respondent did not promptly remove funds which
10 Respondent had earned as fees from Respondent's client trust account at GBC International
11 Bank, account no. xxxx729 and issued the following checks from those funds in Respondent's
12 CTA for the payment of personal expenses, in willful violation of Rules of Professional Conduct,
13 rule 4-100(A):

<u>Check No.</u>	<u>Payee</u>	<u>\$ Amount of Check</u>
227	Public Storage	\$385.25

16 COUNT TWO

17 Case Nos. 13-O-13871; 13-O-14262; 13-O-14617; 13-O-14953
18 Business and Professions Code, section 6106
[Moral Turpitude-Issuance of Checks Against Insufficient Funds]

19 3. From on or about June 21, 2013 to on or about July 31, 2013 Respondent repeatedly
20 issued the following checks drawn upon Respondent's client trust account at GBC International
21 Bank, account no. xxxx729, when Respondent knew or was grossly negligent in not knowing
22 that there was insufficient funds in the CTA to pay them, and thereby committed an act involving

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1 moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code,
2 section 6106:

<u>Check No.</u>	<u>Check Date</u>	<u>Check Amount</u>	<u>Bank Action</u>
4 219	6-21-13	\$306	Paid
221	7-17-13	\$281	Paid
5 222	7-18-13	\$435	Paid
224	7-24-13	\$60	Returned
6 225	7-23-13	\$435	Returned
226	7-25-13	\$27	Returned
7 227	7-31-13	\$385	Returned

8 COUNT THREE

9 Case Nos. 13-O-13871; 13-O-14262; 13-O-14617; 13-O-14953
10 Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

11 4. Respondent failed to cooperate and participate in a disciplinary investigation pending
12 against Respondent by failing to provide a substantive response to the State Bar's letters of July
13 25, 2013, August 9, 2013, August 19, 2013, September 9, 2013, and September 26, 2013, which
14 Respondent received, that requested Respondent's response to the allegations of misconduct
15 being investigated in case nos. 13-O-13871, 13-O-14262, 13-O-14617, and 13-O-14953 in
16 willful violation of Business and Professions Code, section 6068(i).

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18 NOTICE - INACTIVE ENROLLMENT!

19 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
20 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
21 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
22 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
23 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
24 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
25 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
26 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: May 12 2014

By: _____

R. KEVIN BUCHER
Deputy 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-13871;13-O-14262;13-O-14617;13-O-14953

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, 845 South Figueroa Street, Los Angeles, California 90017, 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.: 7196 9008 9111 6411 1627 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: MARTIN IAN CUTLER, 106 1/2 Judge John Aiso St Ste 108 Los Angeles, CA 90012, 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").

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: May 12, 2014

SIGNED:

Handwritten signature of Kim Wimbish and printed name KIM WIMBISH Declarant