

# PUBLIC MATTER

FILED

APR 29 2015

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

## STATE BAR COURT

### HEARING DEPARTMENT - SAN FRANCISCO

14 In the Matter of: ) Case No. 14-O-910, 14-O-916  
 15 KEVIN JOHN SENN, )  
 16 No. 136226, ) NOTICE OF DISCIPLINARY CHARGES  
 17 A Member of the State Bar )

### NOTICE - FAILURE TO RESPOND!

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

- 21 (1) **YOUR DEFAULT WILL BE ENTERED;**
- 22 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**  
 23 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
- 24 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**  
 25 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**  
 26 **AND THE DEFAULT IS SET ASIDE, AND;**
- 27 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**  
 28 **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. Kevin John Senn ("respondent") was admitted to the practice of law in the State of California on December 7, 1988, 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. 14-O-910  
Rules of Professional Conduct, rule 4-100(A)  
[Failure to Maintain Client Funds in Trust Account]

2. Between on or about September 6, 2013 and October 11, 2013, respondent received on behalf of respondent's clients, Randolph and Mona McConville three settlement checks as follows:

- A) A settlement check dated September 6, 2013 from Hershey's made payable to respondent and his clients in the amount of \$60,000;
- B) A settlement check dated September 24, 2013 from Royal and SunAlliance Insurance Agency, Inc. made payable to respondent in the amount of \$140,000; and
- C) A settlement check dated October 8, 2013 from Truck Insurance Exchange made payable to respondent and his clients in the amount of \$865,000.

3. Between on or about September 10, 2013 and on or about October 16, 2013, respondent deposited the three settlement checks as follows:

- A) On or about September 10, 2013, respondent deposited the \$60,000 check into respondent's client trust account at Wells Fargo Bank, account number XXXXXX2104<sup>1</sup> on behalf of the clients;
- B) On or about September 25, 2013, respondent deposited the \$140,000 check into respondent's business account at Wells Fargo Bank, account number

<sup>1</sup> The account number is redacted for privacy purposes.

1 XXXXXX5925 on behalf of the clients; and

2 C) On or about October 16, 2013, respondent deposited the \$865,000 check into  
3 respondent's client trust account at Wells Fargo Bank, account number  
4 XXXXXX4859 on behalf of the client;

5 4. Of the total settlement, \$1,065,000, the clients' lienholder, namely Woodbridge Baric,  
6 was entitled to at least \$136,820 pursuant to a lien held against respondent's clients' recovery.  
7 Respondent failed to maintain a balance of \$136,820 on behalf of the clients' lienholder in  
8 respondent's client trust account and business account, in willful violation of Rules of  
9 Professional Conduct, rule 4-100(A).

10 COUNT TWO

11 Case No. 14-O-910  
12 Business and Professions Code, section 6106  
13 [Moral Turpitude - Misappropriation]

14 5. Between on or about September 6, 2013 and October 11, 2013, respondent received  
15 on behalf of respondent's clients, Randolph and Mona McConville three settlement checks as  
16 follows:

17 A) A settlement check dated September 6, 2013 from Hershey's made payable to  
18 respondent and his clients in the amount of \$60,000;

19 B) A settlement check dated September 24, 2013 from Royal and SunAlliance  
20 Insurance Agency, Inc. made payable to respondent in the amount of \$140,000;  
21 and

22 C) A settlement check dated October 8, 2013 from Truck Insurance Exchange made  
23 payable to respondent and his clients in the amount of \$865,000.

24 6. Between on or about September 10, 2013 and on or about October 16, 2013,  
25 respondent deposited the three settlement checks as follows:

26 A) On or about September 10, 2013, respondent deposited the \$60,000 check into  
27 respondent's client trust account at Wells Fargo Bank, account number  
28 XXXXXX2104 on behalf of the clients;

1 B) On or about September 25, 2013, respondent deposited the \$140,000 check into  
2 respondent's business account at Wells Fargo Bank, account number  
3 XXXXXX5925 on behalf of the clients; and

4 C) On or about October 16, 2013, respondent deposited the \$865,000 check into  
5 respondent's client trust account at Wells Fargo Bank, account number  
6 XXXXXX4859 on behalf of the clients;

7 7. Between on or about September 10, 2013 and on or about December 6, 2013,  
8 respondent dishonestly or grossly negligently misappropriated for respondent's own purposes the  
9 \$136,820 that the clients' lienholder, namely Woodbridge Baric, was entitled to receive, pursuant  
10 to a lien held against respondent's clients' recovery, and thereby committed an act involving  
11 moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code,  
12 section 6106.

13 COUNT THREE

14 Case No. 14-O-916  
15 Rules of Professional Conduct, rule 4-100(A)  
16 [Failure to Maintain Client Funds in Trust Account]

17 8. Between on or about September 6, 2013 and October 11, 2013, respondent received  
18 on behalf of respondent's clients, Randolph and Mona McConville three settlement checks as  
19 follows:

20 A) A settlement check dated September 6, 2013 from Hershey's made payable to  
21 respondent and his clients in the amount of \$60,000;

22 B) A settlement check dated September 24, 2103 from Royal and SunAlliance  
23 Insurance Agency, Inc. made payable to respondent in the amount of \$140,000;  
24 and

25 C) A settlement check dated October 8, 2013 from Truck Insurance Exchange made  
26 payable to respondent and his clients in the amount of \$865,000.

27 9. Between on or about September 10, 2013 and on or about October 16, 2013,  
28 respondent deposited the three settlement checks as follows:

- 1 A) On or about September 10, 2013, respondent deposited the \$60,000 check into  
2 respondent's client trust account at Wells Fargo Bank, account number  
3 XXXXXXX2104 on behalf of the clients;
- 4 B) On or about September 25, 2013, respondent deposited the \$140,000 check into  
5 respondent's business account at Wells Fargo Bank, account number  
6 XXXXXXX5925 on behalf of the clients; and
- 7 C) On or about October 16, 2013, respondent deposited the \$865,000 check into  
8 respondent's client trust account at Wells Fargo Bank, account number  
9 XXXXXXX4859 on behalf of the clients;

10 Of the total settlement, \$1,065,000, the clients' lienholder, New Prime, Inc. was entitled  
11 to \$172,500 pursuant to a workers' compensation lien held against respondent's clients'  
12 recovery. Respondent failed to maintain a balance of \$172,500 on behalf of the clients'  
13 lienholder in respondent's client trust account and business account, in willful violation of Rules  
14 of Professional Conduct, rule 4-100(A).

15 COUNT FOUR

16 Case No. 14-O-916  
17 Business and Professions Code, section 6106  
18 [Moral Turpitude - Misappropriation]

19 10. Between on or about September 6, 2013 and October 11, 2013, respondent received  
20 on behalf of respondent's clients, Randolph and Mona McConville, three settlement checks as  
21 follows:

- 22 A) A settlement check dated September 6, 2013 from Hershey's made payable to  
23 respondent and his clients in the amount of \$60,000;
- 24 B) A settlement check dated September 24, 2013 from Royal and SunAlliance  
25 Insurance Agency, Inc. made payable to respondent in the amount of \$140,000;  
26 and
- 27 C) A settlement check dated October 8, 2013 from Truck Insurance Exchange made  
28 payable to respondent and his clients in the amount of \$865,000.

1 11. Between on or about September 10, 2013 and on or about October 16, 2013,  
2 respondent deposited the three settlement checks as follows:

3 A) On or about September 10, 2013, respondent deposited the \$60,000 check into  
4 respondent's client trust account at Wells Fargo Bank, account number  
5 XXXXXX2104 on behalf of the clients;

6 B) On or about September 25, 2013, respondent deposited the \$140,000 check into  
7 respondent's business account at Wells Fargo Bank, account number  
8 XXXXXX5925 on behalf of the clients; and

9 C) On or about October 16, 2013, respondent deposited the \$865,000 check into  
10 respondent's client trust account at Wells Fargo Bank, account number  
11 XXXXXX4859 on behalf of the clients;

12 12. Between on or about September 10, 2013 and on or about December 6, 2013,  
13 respondent dishonestly or grossly negligently misappropriated for respondent's own purposes the  
14 \$172,500 that the clients' lienholder, namely New Prime, Inc. was entitled to receive, pursuant to  
15 a lien held against respondent's clients' recovery, and thereby committed an act involving moral  
16 turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section  
17 6106.

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19  
20 **NOTICE - INACTIVE ENROLLMENT!**

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

29  
30 **NOTICE - COST ASSESSMENT!**

31 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC  
32 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS**

1 **INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING**  
2 **AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND**  
3 **PROFESSIONS CODE SECTION 6086.10.**

4 Respectfully submitted,

5 THE STATE BAR OF CALIFORNIA  
6 OFFICE OF THE CHIEF TRIAL COUNSEL

7 DATED: April 29, 2015

8 By:   
9 Erica L. M. Dennings  
10 Senior Trial Counsel  
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DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 14-O-910, 14-O-916

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))

- I deposited or placed for collection and mailing in the City and County of San Francisco.



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.: 9414 7266 9904 2011 9758 39 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 via email to:
Kevin John Senn	Senn Law, A Prof Corp 1990 N California Blvd Fl 8 Walnut Creek, CA 94596	Electronic Address	<a href="mailto:ksenn@senn-law.com">ksenn@senn-law.com</a>

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: April 29, 2015

SIGNED:

Dawn Williams  
Declarant