

PUBLIC MATTER

FILED

NOV 10 2014

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

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

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case No. 14-O-02397; 14-O-03590
MARTIN IAN CUTLER,) NOTICE OF DISCIPLINARY CHARGES
No. 139536,)
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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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. 14-O-02397
8 Rules of Professional Conduct, rule 4-100(B)(4)
[Failure to Pay Client Funds Promptly]

9 2. On or about August 27, 2013, Respondent received on behalf of Respondent's client,
10 Maureen Kindred, whom he represented in a marital dissolution proceeding, a check in the
11 amount of \$7,500 representing her share from the sale of family property. Of this sum, the client
12 was entitled to \$7,500. From September 2013 to the present, the client made numerous requests
13 that Respondent pay her the funds. To date, Respondent has failed to pay promptly, as requested
14 by Respondent's client, any portion of the \$7500 in Respondent's possession in willful violation
15 of Rules of Professional Conduct, rule 4-100(B)(4).

16 COUNT TWO

17 Case No. 14-O-02397
18 Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

19 3. On or about August 27, 2013, Respondent received on behalf of Respondent's client,
20 Maureen Kindred, a check in the amount of \$7500 representing her share from the sale of family
21 property. On or about August 27, 2013, Respondent deposited the \$7,500 into Respondent's
22 client trust account at GBC International Bank, account no. xxxx1600729 on behalf of the client.
23 Of this sum, the client was entitled to \$7,500. Respondent failed to maintain a balance of \$7,500
24 on behalf of the client in Respondent's client trust account, in willful violation of Rules of
25 Professional Conduct, rule 4-100(A).

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COUNT THREE

Case No. 14-O-02397
Business and Professions Code, section 6106
[Moral Turpitude-Misappropriation]

4. On or about August 27, 2013, Respondent received on behalf of Respondent's client, Maureen Kindred, a check in the amount of \$7500 representing her share from the sale of family property. On or about August 27, 2013, Respondent deposited the \$7,500 into Respondent's client trust account at GBC International Bank, account no. xxxx1600729 on behalf of the client. Between August 27, 2013 September 12, 2013 Respondent dishonestly or grossly negligently misappropriated for Respondent's own purposes \$7500 that Respondent's client was entitled to receive, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

COUNT FOUR

Case No. 14-O-02397
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

5. In or about February 2013, Maureen Kindred employed Respondent to perform legal services, namely to represent her in a marital dissolution matter, *Kindred v. Kindred*, Los Angeles Superior Court case no. BD500928. In or about October 2013, Respondent agreed to perform further services including contacting the IRS on his client's behalf about her inability to pay tax penalties until she received her divorce settlement, which Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by not contacting the IRS on his client's behalf to resolve or modify her tax penalties.

COUNT FIVE

Case No. 14-O-02397
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

6. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letters of May 28, 2014, July 18, 2014 and August 4, 2014, which Respondent received, that requested

1 Respondent's response to the allegations of misconduct being investigated in case no. 14-O-
2 02397, in willful violation of Business and Professions Code, section 6068(i).

3 COUNT SIX

4 Case No. 14-O-03590
5 Rules of Professional Conduct, rule 4-100(B)(3)
6 [Failure to Render Accounts of Client Funds]

7 7. On or about March 13, 2013, Respondent received from Respondent's client, Carol
8 Greene, the sum of \$2,000 as advanced fees for legal services to be performed. Respondent
9 thereafter failed to render an appropriate accounting to the client regarding those funds following
10 the client's request for such accounting, through her new counsel, on August 26, 2013,
11 September 6, 2013 and October 2, 2013, in willful violation of the Rules of Professional
12 Conduct, rule 4-100(B)(3).

13 COUNT SEVEN

14 Case No. 14-O-03590
15 Business and Professions Code, section 6068(i)
16 [Failure to Cooperate in State Bar Investigation]

17 8. Respondent failed to cooperate and participate in a disciplinary investigation pending
18 against Respondent by failing to provide a substantive response to the State Bar's letters of
19 August 13, 2014 and September 2, 2014, which Respondent received, that requested
20 Respondent's response to the allegations of misconduct being investigated in case no. 14-O-
21 03590, in willful violation of Business and Professions Code, section 6068(i).

22 NOTICE - INACTIVE ENROLLMENT!

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

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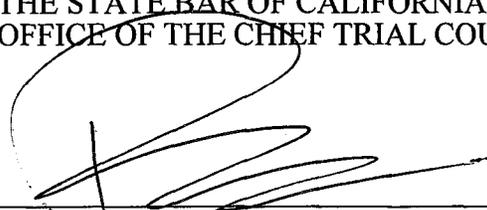
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NOTICE - COST ASSESSMENT!

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: 11-10 2014 By: 
R. KEVIN BUCHER

DECLARATION OF SERVICE

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

CASE NUMBER(s): 14-O-02397; 14-O-03590

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.: 9414 7266 9904 2010 0893 91 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, 8500 Wilshire Blvd Ste 916 Beverly Hills, CA 90211, 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: November 10, 2014

SIGNED:

Handwritten signature of Kim Wimbish and printed name KIM WIMBISH Declarant.