

1 Albert M. Kun, Esq. SB# 55820
2 381 Bush Street, #200
3 San Francisco, CA 94104
4 Telephone: (415) 362-4000
5 FAX: (415) 362-1305

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STATE BAR COURT

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HEARING DEPARTMENT - SAN FRANCISCO

10 In the Matter of 11 12 ALBERT MIKLOS KUN, 13 No. 55820 14 A Member of the State Bar	Case No. 14-0-5418 15 ANSWER TO NOTICE OF 16 DISCIPLINARY CHARGES
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17 Comes now Albert M. Kun (Respondent) and answers the Notice of Disciplinary Charges as
18 follows:

19 JURISDICTION

- 20 1. Admits paragraph 1 regarding Jurisdiction of the Court.

21 COUNT ONE

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23 Case No. 14-0-5418
Rules of Professional Conduct rule 4-100(A)

- 24 2. Admits receiving a check from Dana Le Grande in the sum of \$2,460. Admits depositing
25 the sum of \$2,460 in the client trust account. Respondent denies, generally and
26 specifically, all further allegations of the charges.
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ANSWER TO NOTICE OF DISCIPLINARY CHARGES

Case No. 14-0-5418

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COUNT TWO

Case No. 14-0-5418
(Moral turpitude – Misappropriation)

- 3. Respondent admits paragraph 3 of the allegation.
- 4. Respondent denies the allegation of paragraph 4.

COUNT THREE

Case No. 14-0-5418
(Rules of Professional Conduct rule 4-100(A)
(Commingling Personal Funds in Client Trust Account)

- 5. Respondent denies all allegations of paragraph 5.

COUNT FOUR

Case No. 14-0-5418
Rules of Professional Conduct rule 4-100(A)
(Commingling – Payment of Personal Expenses from Client Trust Account)

- 6. Respondent denies all the allegations of paragraph 6.

FIRST AFFIRMATIVE DEFENSE

At all times Respondent maintained a second Trustee Account, this being with Wells Fargo Bank and the combined balances of the Bank of the West Account and the Wells Fargo account were always in the positive. The minus-\$9.04 balance was only on the Bank of the West account.

SECOND AFFIRMATIVE DEFENSE

The \$9.04 deficiency in the Bank of the West account was *de minimus*, and therefore not one on which charges can be based.

THIRD AFFIRMATIVE DEFENSE

Respondent had no knowledge of the \$9.04 deficiency when it occurred, as it was the direct result of a “bum check” from another client, which was both unforeseeable and unpreventable by Respondent.

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FOURTH AFFIRMATIVE DEFENSE

Client gave her consent to the \$9.04 deficiency.

FIFTH AFFIRMATIVE DEFENSE

Counts Three and Four are based on evidence obtained in violation of Respondent's rights under the Fourth Amendment of the United States Constitution.

SIXTH AFFIRMATIVE DEFENSE

The allegations of the Notice of Disciplinary Charges are insufficient to support a charge of professional misconduct because "commingling: is unconstitutionally vague.

SEVENTH AFFIRMATIVE DEFENSE

All attorneys are known by the State Bar to engage in some degree of commingling; under the circumstance the Respondent should not be selectively prosecuted.

EIGHTH AFFIRMATIVE DEFENSE

The State Bar has herein engaged in prosecutorial misconduct under Rule 102-8 in that it reopened a case that that had already been closed in Los Angeles.

WHEREFORE, Respondent prays that the hearing panel find that the acts charged did not constitute professional misconduct, or, if it does so find, that the acts be excused by virtue of mitigating circumstances.

November 24, 2015



Albert M. Kun
In Pro Se

