

# PUBLIC MATTER

1 STATE BAR OF CALIFORNIA  
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**FILED**

NOV 19 2015  
 STATE BAR COURT  
 CLERK'S OFFICE  
 LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of:	)	Case No. 15-O-12391; 15-O-12587
14 MARTIN IAN CUTLER,	)	NOTICE OF DISCIPLINARY CHARGES
15 No. 139536,	)	
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. 15-O-12391  
8 Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

9 2. On or about December 21, 2012, Natalie Hardison employed Respondent to perform  
10 legal services, namely to file an appeal in a wrongful death case, *Hardison v. City of Los*  
11 *Angeles, et al.*, Los Angeles Superior Court case no. BC448773, which Respondent intentionally,  
12 recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of  
13 Professional Conduct, rule 3-110(A), by failing to file an opening brief after receiving repeated  
14 extensions to do so, resulting in the court dismissing the appeal.

15 COUNT TWO

16 Case No. 15-O-12391  
17 Business and Professions Code, section 6068(m)  
[Failure to Respond to Client Inquiries]

18 3. Respondent failed to respond promptly to reasonable and numerous telephonic status  
19 inquiries made by his client, Natalie Hardison, which he received beginning in or about April  
20 2015, regarding the legal matter in which Respondent had agreed to provide legal services, in  
21 willful violation of Business and Professions Code, section 6068(m).

22 COUNT THREE

23 Case No. 15-O-12391  
24 Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

25 4. Respondent failed to cooperate and participate in a disciplinary investigation pending  
26 against Respondent by failing to provide a substantive response to the State Bar's letters of July  
27 7, 2015 and July 22, 2015, which Respondent received, that requested Respondent's response to  
28

1 the allegations of misconduct being investigated in case no. 15-O-12391, in willful violation of  
2 Business and Professions Code, section 6068(i).

3 COUNT FOUR

4 Case No. 15-O-12587  
5 Rules of Professional Conduct, rule 3-110(A)  
6 [Failure to Perform with Competence]

7 5. On or about May 22, 2014, Walther Baca, employed Respondent to perform legal  
8 services, namely to file and pursue a civil lawsuit, *Baca v. Bank of America*, Orange County  
9 Superior Court, case no. 30-2014-00733675-CU-OR-CJC, which Respondent intentionally,  
10 recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of  
11 Professional Conduct, rule 3-110(A), by filing the lawsuit and thereafter failing to serve the  
12 defendants and prosecute the complaint, and performing no other services for which he was  
13 retained for 14 months.

14 COUNT FIVE

15 Case No. 15-O-12587  
16 Business and Professions Code, section 6068(m)  
17 [Failure to Inform Client of Significant Development]

18 6. Respondent failed to keep Respondent's client, Walther Baca, reasonably informed of  
19 significant developments in a matter in which Respondent had agreed to provide legal services,  
20 in willful violation of Business and Professions Code, section 6068(m), by failing to inform the  
21 client of the following:

22 A) That Respondent attempted to modify Baca's mortgage loan, without the prior  
23 knowledge or consent of Baca, after being retained and receiving advanced fees to  
24 pursue a civil lawsuit on or about May 27, 2014;

25 B) That Respondent was notified by letter dated February 25, 2015 that Baca's loan  
26 modification application was denied, and Respondent did not advise Baca of the denial  
27 until March 23, 2015, leaving Baca only four days to appeal the decision.

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COUNT SIX

Case No. 15-O-12587  
Rules of Professional Conduct, rule 4-100(B)(3)  
[Failure to Render Accounts of Client Funds]

7. Between approximately May 27, 2014, through April 2015, Respondent received from Respondent's client, Walther Baca, the sum of \$12,000, as advanced fees for legal services to be performed. Respondent thereafter failed to render an appropriate accounting to the client regarding those funds following his client's request on September 29, 2015, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

COUNT SEVEN

Case No. 15-O-12587  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

8. 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 July 7, 2015, July 22, 2015, and electronic messages of July 7, 2015, July 22, 2015, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 15-O-12587, in willful violation of Business and Professions Code, section 6068(i).

**NOTICE - INACTIVE ENROLLMENT!**

**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.**

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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 CHIEF TRIAL COUNSEL



DATED: 11-19 2015 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): 15-O-12391; 15-O-12587

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))

- 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 Los Angeles.



By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))



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 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 0881 96 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 via U.S. Certified Mail & U.S. First Class Mail, Business-Residential Address, Fax Number, and Courtesy Copy to. Row 1: MARTIN IAN CUTLER, 8500 Wilshire Blvd. Ste 916 Beverly Hills, CA 90211, Electronic Address, 8500 Wilshire Blvd. Ste 916 Beverly Hills, CA 90211.

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 Los Angeles, California, on the date shown below.

DATED: November 19, 2015

SIGNED:

Genelle De Luca-Suarez
Genelle De Luca-Suarez
Declarant