

PUBLIC MATTER

FILED

APR 15 2016

**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. 15-O-13527
14 RANDY GODIN,)
15 No. 239411,) 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. RANDY GODIN ("Respondent") was admitted to the practice of law in the State of
4 California on December 12, 2005, 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-13527
8 Rules of Professional Conduct, rule 3-110(A)
9 [Failure to Perform with Competence]

10 2. On or about November 3, 2011, Susan Warren ("Warren") employed Respondent to
11 perform legal services, namely to continue the prosecution of a personal injury action initiated by
12 Warren's deceased sister, Cathy Diane Cohen ("Decedent") in the case entitled *Cathy Cohen v.*
13 *4501 Cedros Homeowners' Association*, Los Angeles County Superior Court Case No.
14 BC389827 ("the personal injury case") and to represent Warren as the Personal Administrator in
15 a probate action entitled *In re Estate of Cathy Diane Cohen*, Los Angeles County Superior Court
16 Case No. BP131640 ("the probate case"), which Respondent intentionally, recklessly, or
17 repeatedly failed to perform with competence, in willful violation of Rules of Professional
18 Conduct, rule 3-110(A), by:

- 19 A) settling the personal injury case for \$50,000 without the required approval from the
20 probate court in the probate case;
- 21 B) disbursing \$16,673 of the \$50,000 he received from the personal injury case to Linda
22 Cohen on or about June 25, 2012 to pay an alleged claim of the Estate for which no
23 creditor's claim had been filed and without probate court approval;
- 24 C) disbursing \$22,500 of the \$50,000 he received from the personal injury case to
25 himself between on or about May 25, 2012 and on or about March 18, 2013 without
26 the required approval from the probate court in the probate case;
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- 1 D) disbursing \$10,827 of the \$50,000 he received from the personal injury case to
2 himself between on or about May 25, 2012 and on or about March 18, 2013 without
3 the required approval from the probate court in the probate case;
- 4 E) failing to apply for additional powers for Warren which would allow Warren to take
5 possession of assets and distribute assets;
- 6 F) failing to advise Warren that she could not do anything without obtaining additional
7 general powers and/or probate court authorization, except to pursue the personal
8 injury case, and failing to advise Warren that she had no other powers to collect and
9 disburse Estate assets;
- 10 G) failing to file any proper accountings in the probate case between November 14, 2011
11 and the present;
- 12 H) filing a substantively deficient Petition for Final Distribution and Inventory and
13 Appraisal with the probate court on or about June 9, 2015 which gave the court a
14 conflicting valuation of the estate; and
- 15 I) failing to complete the probate case, file a proper petition for distribution of assets
16 and obtain an order closing the estate to date.

17 COUNT TWO

18 Case No. 15-O-13527
19 Rules of Professional Conduct, rule 3-700(A)(1)
[Failure to Obtain Court Permission to Withdraw]

20 3. On or about November 3, 2011, Susan Warren (“Warren”) employed Respondent to
21 perform legal services, and thereafter, Respondent appeared as counsel of record for the client in
22 a probate action entitled *In re Estate of Cathy Diane Cohen*, Los Angeles County Superior Court
23 Case No. BP131640 (“the probate case”). On or about October 1, 2015, Respondent took no
24 further action on behalf of the client after filing a substantively deficient Petition for Final
25 Distribution and Inventory and Appraisal with the probate court on or about June 9, 2015 which
26 gave the court a conflicting valuation of the estate and which the court denied without prejudice
27 on or about September 29, 2015 due to the deficiencies, and effectively withdrew from the
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1 employment. At that time, Respondent did not obtain the permission of the court to withdraw
2 from the client's representation in the case before that court when the rules of the court required
3 that he do so, and Respondent withdrew from employment in a proceeding before a tribunal
4 without its permission, in willful violation of the Rules of Professional Conduct, rule 3-
5 700(A)(1).

6 COUNT THREE

7 Case No. 15-O-13527
8 Business and Professions Code, section 6104
9 [Appearing for Party without Authority]

10 4. On or about June 9, 2015, Respondent corruptly or willfully, and without authority,
11 appeared as attorney for a party, Susan Warren, to an action or proceeding, namely by filing a
12 Petition for Final Distribution and to Close Estate and by filing an Inventory and Appraisal on
13 behalf of Warren in the probate action entitled *In re Estate of Cathy Diane Cohen*, Los Angeles
14 County Superior Court Case No. BP131640 (“the probate case”) without Warren’s authority, in
15 willful violation of Business and Professions Code, section 6104.

16 COUNT FOUR

17 Case No. 15-O-13527
18 Business and Professions Code, section 6068(a)
19 [Failure to Comply With Laws – Violation of California Probate Code section 1023]

20 5. On or about June 9, 2015, Respondent filed a Petition for Final Distribution and to
21 Close Estate and an Inventory and Appraisal on behalf of Warren in the probate action entitled *In*
22 *re Estate of Cathy Diane Cohen*, Los Angeles County Superior Court Case No. BP131640 (“the
23 probate case”) without Warren’s signed verification in violation of California Probate Code
24 section 1023. By violating California Probate Code section 1023, Respondent failed to support
25 the Constitution, the laws of the United States and the laws of this state in willful violation of
26 Business and Professions Code section 6068(a).

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COUNT FIVE

Case No. 15-O-13527
Business and Professions Code, section 6106
[Moral Turpitude - Misappropriation]

6. On or about May 25, 2012, Respondent received on behalf of Respondent's client, Susan Warren ("Warren") as the Special Administrator of the Estate of Cathy Diane Cohen, a settlement check made payable to Respondent and the Estate of Cathy Diane Cohen in the amount of \$50,000, which were assets belonging to the probate estate of Warren's deceased sister, Cathy Diane Cohen ("Decedent"). On or about May 25, 2012, Respondent deposited the \$50,000 into Respondent's client trust account at Bank of America, Account No. xxxxxxxx0069¹ on behalf of Warren to hold in trust until further order of the probate court in the case entitled *In re Estate of Cathy Diane Cohen*, Los Angeles County Superior Court Case No. BP131640 ("the probate case"). Between on or about May 25, 2012, and on or about March 18, 2013, Respondent dishonestly, or with gross negligence, misappropriated for Respondent's own purposes approximately \$50,000 that the Estate 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 SIX

Case No. 15-O-13527
Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

7. On or about May 25, 2012, Respondent received on behalf of Respondent's client, Susan Warren ("Warren") as the Special Administrator of the Estate of Cathy Diane Cohen, a settlement check made payable to Respondent and Warren in the amount of \$50,000, which were assets belonging to the probate estate of Warren's deceased sister, Cathy Diane Cohen ("Decedent"). On or about May 25, 2012, Respondent deposited the \$50,000 into Respondent's client trust account at Bank of America, Account No. xxxxxxxx0069² on behalf of Warren to hold in trust until further order of the probate court in the case entitled *In re Estate of Cathy*

¹ Only the last four digits of the account number are listed to protect the account.
² Only the last four digits of the account number are listed to protect the account.

1 *Diane Cohen*, Los Angeles County Superior Court Case No. BP131640 (“the probate case”).
2 Respondent failed to maintain a balance of \$50,000 on behalf of the Decedent’s estate in
3 Respondent's client trust account, in willful violation of Rules of Professional Conduct, rule 4-
4 100(A).

5 COUNT SEVEN

6 Case No. 15-O-13527
7 Rules of Professional Conduct, rule 4-200(A)
8 [Illegal Fee]

9 8. On or about May 25, 2012, Respondent collected from Susan Warren (“Warren”) as
10 the Special Administrator of the Estate of Cathy Diane Cohen a fee of approximately \$22,500 to
11 perform legal services that was illegal because Respondent did not obtain approval for the
12 contingent fee from the probate court and because the fee was paid from assets belonging to the
13 probate estate of Warren’s deceased sister, Cathy Diane Cohen (“Decedent”), without the
14 approval of the probate court in the case entitled *In re Estate of Cathy Diane Cohen*, Los Angeles
15 County Superior Court Case No. BP131640 (“the probate case”), in willful violation of the Rules
16 of Professional Conduct, rule 4-200(A).

17 COUNT EIGHT

18 Case No. 15-O-13527
19 Business and Professions Code, section 6068(d)
20 [Seeking to Mislead a Judge]

21 9. On or about May 25, 2012, Respondent received the sum of \$50,000 on behalf of
22 Susan Warren (“Warren”) as the Special Administrator of the Estate of Cathy Diane Cohen. On
23 or about June 9, 2015, Respondent filed an Inventory and Appraisal in the case entitled *In re*
24 *Estate of Cathy Diane Cohen*, Los Angeles County Superior Court Case No. BP131640 (“the
25 probate case”), in which Respondent stated that the appraised value of the Estate was \$10,515.00
26 when the statement was false and Respondent knew the statement was false and thereby sought
27 to mislead the judge or judicial officer by an artifice or false statement of law or fact in willful
28 violation of Business & Professions Code section 6068(d).

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COUNT NINE

Case No. 15-O-13353
Business and Professions Code, section 6106
[Moral Turpitude – False and Misleading Statements]

10. On or about June 9, 2015, Respondent filed a Petition for Final Distribution and to Close the Estate on behalf of Susan Warren (“Warren”) as the Special Administrator in the case entitled *In re Estate of Cathy Diane Cohen*, Los Angeles County Superior Court Case No. BP131640 (“the probate case”), in which Respondent made the following false and misleading statements when Respondent knew or was grossly negligent in not knowing that each of the statements were false:

- (A) On page 1, line 24, Respondent stated that, “letters testamentary were issued to petitioner,” when in fact Respondent knew or was grossly negligent in not knowing that letters testamentary had never been issued in the case.
- (B) On page 1, line 28, Respondent stated that the probate court, “granted authority to marshal assets,” when in fact Respondent knew or was grossly negligent in not knowing that the court had not granted Warren the authority to marshal assets.
- (C) On page 2, lines 2-4, Respondent stated, “Special Administrator has performed all duties required of her for the estate of the decedent with respect to the administration of the estate,” when in fact Respondent knew or was grossly negligent in not knowing that Warren had not performed all duties required with respect to the administration of the estate.
- (D) On page 2, lines 6-8, Respondent stated, “Notice of Petition to Administer Estate...has been published for the period and in the manner prescribed by law, and that, “[w]ithin thirty (30) days after completion of the publication, Proof of Publication was filed with the court,” when in fact Respondent knew or was grossly negligent in not knowing that he had not published the Notice of Petition to Administer Estate, and that he had not filed Proof of Publication with the court.

1 (E) On page 2, lines 9-11, Respondent stated, "More than four (4) months have lapsed
2 since the first issuance of Letters, and the time for filing and presenting claims has
3 expired," when in fact Respondent knew or was grossly negligent in not knowing that
4 Letters had never been issued, and when in fact Respondent knew or was grossly
5 negligent in not knowing that the time for presenting claims had not in fact expired.

6 (F) On page 3, lines 2-6, Respondent stated, "An Inventory and Appraisal will be filed
7 concurrently showing an estate value of **\$50,000**. Special Administrator, by and
8 through her attorney, Randy Godin, Esq. state that such inventory contains all assets
9 of the estate that have come to petitioner's knowledge or into her control."
10 Respondent knew or was grossly negligent in not knowing that these statements were
11 false because Respondent filed an Inventory and Appraisal concurrently in which
12 Respondent stated that the appraised value of the Estate was \$10,515.00.

13 (G) On page 4, lines 16-18, Respondent stated, "More than four months have elapsed
14 since the date Letters Testamentary first issued," and "[t]he time for filing or
15 presenting Creditor's Claims has since expired," when in fact Respondent knew or
16 was grossly negligent in not knowing that Letters Testamentary had never been
17 issued, and when in fact Respondent knew or was grossly negligent in not knowing
18 that the time for presenting claims had not in fact expired.

19 (H) On page 5, lines 6-8, Respondent stated, "[m]ore than four months have elapsed
20 since the issuance of the Letters Testamentary," and "[t]he time for filing and/or
21 serving Creditor's Claims has expired," when in fact Respondent knew or was grossly
22 negligent in not knowing that Letters Testamentary had never been issued, and when
23 in fact Respondent knew or was grossly negligent in not knowing that the time for
24 presenting claims had not in fact expired.

25 (I) On page 5, lines 8-9, Respondent stated, "Special Administrator has performed all
26 duties as Administrator of the decedent's estate, ," when in fact Respondent knew or
27 was grossly negligent in not knowing that all duties had not been performed.
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1 (J) On page 5, lines 9-11, Respondent stated, "All costs of administration incurred to
2 date, except closing expenses, executor and attorney's fees have been paid, including
3 all charges for legal advertising/publication, bond premiums and probate referee's
4 services," and "[t]he estate is in a condition to be closed," when Respondent knew or
5 was grossly negligent in not knowing that all costs of administration, advertising and
6 bond premiums had not been paid, and that the estate was not in a condition to be
7 closed because:

- 8 • Warren had only been issued Special Letters of Administration, which had
9 expired on June 14, 2012, and which did not authorize Warren to marshal,
10 take possession of assets and distribute assets;
- 11 • no General Letters of Administration had issued to Warren or a personal
12 representative of the Estate;
- 13 • the Petition to Close the Estate was not verified by Warren or a personal
14 representative of the Estate;
- 15 • the final accounting was inadequate and premature;
- 16 • there was no proof of payment of any of the creditor's claims and three
17 creditors had filed the following respective claims: the Franchise Tax Board
18 in the amount of \$8,831, Hugh Duff Robertson, and Shumaker in the amount
19 of \$98,620.20;
- 20 • Respondent distributed \$16,673 to Linda Cohen on or about June 25, 2012 for
21 funeral expenses without any creditor's claim having been filed for said
22 funeral expenses and without permission of the probate court;

23 By making each of these statements set forth in paragraphs (A)-(J), when Respondent knew or
24 was grossly negligent in not knowing that they were false and misleading, Respondent
25 committed acts involving moral turpitude, dishonesty or corruption in willful violation of
26 Business and Professions Code, section 6106.

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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.

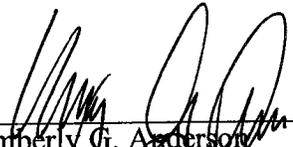
NOTICE - COST ASSESSMENT!

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: April 15, 2016

By: 

Kimberly G. Anderson
Senior 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-13527

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 0741 99 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: JAMES IRWIN HAM, Pansky Markle Ham LLP, 1010 Sycamore Ave Unit 308, South Pasadena, CA 91030, 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'). 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: April 15, 2016

SIGNED:

Handwritten signature of Kim Wimbish, followed by printed name KIM WIMBISH and title Declarant.