



THE STATE BAR OF CALIFORNIA

180 HOWARD STREET, SAN FRANCISCO, CA 94105-1639

OFFICE OF PROFESSIONAL COMPETENCE

PLANNING, AND DEVELOPMENT

TELEPHONE: (415) 538-2167

MEMORANDUM

DATE: July 2, 2015

TO: Members of the Board's Regulation & Discipline Oversight Committee

FROM: Randall Difuntorum, Director, Professional Competence Programs

SUBJECT: R&D Meeting on July 23, 2015 – Status of the Professional Competence Unit

This memorandum provides a report on the activities of the Professional Competence Unit through May 31, 2015.¹ In addition to this memorandum, provided are the following: (Encl. 1) Ethics Hotline Activity Statistics; (Encl. 2) Ethics Hotline Satisfaction Survey Excerpts; and (Encl. 3) Professional Competence Budget Summary – Actuals vs. Authorized. Board members with questions may contact Randall Difuntorum at (415) 538-2161 or Lauren McCurdy at (415) 538-2107.

1. ETHICS HOTLINE

As of May 31, 2015, 5,940 member inquiries were received with a completion rate of 87%. This completion rate includes distribution of 123 copies of published ethics opinions and other written materials requested by inquirers and 1,606 referrals to information posted at the Bar's website. In addition, the staff made 377 courtesy follow-up calls to members who placed a call to the Hotline, received a call back from Hotline staff but were not available at that time to take the call from the Hotline staff person. These members received instructions on how to call-in and receive priority handling when they choose to return the Hotline's call at their convenience. However, when no return call is received, the Hotline initiates a courtesy follow-up call. (See Enclosure 1: Ethics Hotline Activity Statistics.)

Currently five paralegals have primary responsibility for the Ethics Hotline call work. As of May 31, 2015: (1) the monthly average number of total calls handled by one paralegal was 349; (2) the monthly average number of completed calls by one paralegal was 212; and (3) the monthly average number of left messages by one paralegal was 137.

In April and May, 2015, since the last Competence status report submitted for the Board Committee's May 7, 2015 meeting, nine voluntary satisfaction surveys were received from members after using the Ethics Hotline service. Each survey asks for a rating on several specified categories of service, including: satisfaction with the system for handling the calls; helpfulness of receptionist; helpfulness of paralegal; usefulness of materials sent; whether the inquirer would recommend the Hotline to others; and whether they received the assistance they needed. Most of the surveys received gave the Hotline top marks in all survey categories (copies of the surveys are available upon request). Seven survey respondents added personal comments commending the staff for being courteous, helpful, professional and knowledgeable, and describing the service as a valuable resource. The other two survey respondents raised concerns. One survey respondent indicated dissatisfaction with the receptionist and the other was unhappy with the service provided by the paralegal. Both of these survey respondents felt that they were treated rudely. Ethics Hotline supervisors have discussed these calls with the relevant

¹ There are 13.5 authorized positions in the Professional Competence Unit and one of the positions, a paralegal position, currently is vacant.

staff persons and reminded them that good customer service is a priority. Also, it can be noted that these staff persons received complimentary survey submissions during this same period. (See Enclosure 2: Ethics Hotline Satisfaction Survey Excerpts.)

Through May, 2015, the category of “Fees and Costs” was the most frequently raised issue category, which accounted for 18% of the total calls. This category encompasses questions concerning: client trust accounts; fee agreements; and costs (litigation expenses, advances of costs to client, loans to client, payment of third party expenses). Close behind were the categories of “Communications” (16%) and “Conflicts” (15%). Historical data indicates that these categories often occupy the top three positions each year.

2. COPRAC

Since the last Professional Competence status report submitted for the Board Committee’s May 7, 2015 meeting, COPRAC met on April 24, 2015 in San Diego, and June 5, 2015 in San Francisco.

A. Published Opinions

The following opinion was approved and published at the Bar’s website:

Formal Opinion No. 2015-193 (formerly 11-0004):

ISSUE: What are an attorney’s ethical duties in the handling of discovery of electronically stored information?

DIGEST: An attorney’s obligations under the ethical duty of competence evolve as new technologies develop and become integrated with the practice of law. Attorney competence related to litigation generally requires, among other things, and at a minimum, a basic understanding of, and facility with, issues relating to e-discovery, including the discovery of electronically stored information (“ESI”). On a case-by-case basis, the duty of competence may require a higher level of technical knowledge and ability, depending on the e-discovery issues involved in a matter, and the nature of the ESI. Competency may require even a highly experienced attorney to seek assistance in some litigation matters involving ESI. An attorney lacking the required competence for e-discovery issues has three options: (1) acquire sufficient learning and skill before performance is required; (2) associate with or consult technical consultants or competent counsel; or (3) decline the client representation. Lack of competence in e-discovery issues also may lead to an ethical violation of an attorney’s duty of confidentiality.

B. Meetings

At the April 24, 2015 meeting, COPRAC considered the public comments received on Formal Opinion Interim No. 11-0004 (ESI and Discovery Requests) and 12-0006 (Attorney Blogging). The Committee continued the post-public comment work on Formal Opinion Interim No. 12-0007 (Puffing in Negotiations). COPRAC also continued pre-public comment work on the following draft opinions: 12-0002 (Revocation of Waivers); 12-0003 (Attorney Directory and Rating Websites); 12-0005 (Law Firm In-House Counsel); 13-0002 (Attorney with a Vulnerable Client); 13-0003 (Ethical Obligations When Departing Firm); 13-0004 (Collecting Unpaid Fees); 13-0005 (Publically Available Confidential Information); 14-0001 (Colleague Impairment); 14-0002 (Alternative Litigation Funding); 14-0003 (Settling Before Withdrawal); and 14-0004 (Witness Perjury). The Committee continued work on plans for four panel presentations for the 2015 State Bar Annual Meeting in October, and two panel presentations for the Solo & Small Firm Summit in June.

The following opinion was tentatively approved by COPRAC for a 90-day public comment period at its April 24, 2015 meeting, with a public comment deadline of August 27, 2015. Post-public comment consideration of the opinion will occur at the Committee's August 28, 2015 meeting.

Formal Opinion Interim No. 13-0005:

ISSUE: What duties does a lawyer owe to current and former clients to refrain from disclosing potentially embarrassing or detrimental information about the client, including publicly available information the lawyer learned during the course of his representation or relating to the representation?

DIGEST: A lawyer may not disclose his client's secrets, which include not only confidential information communicated by the client to the lawyer, but also publicly available information that the lawyer obtained during or related to the professional relationship which the client has requested to be kept secret or the disclosure of which might be embarrassing or detrimental to the client. Even after termination of the attorney-client relationship, the lawyer may not disclose potentially embarrassing or detrimental information about the former client if that information is related to or was acquired by virtue of the lawyer's prior representation.

Post-public comment consideration of Formal Opinion Interim No. 11-0004 (ESI and Discovery Requests) occurred at the Committee's April 24, 2015 meeting, and the Committee revised the opinion after consideration of the public comments and approved the opinion for submission to the Board Committee on Regulation and Discipline (RAD). The draft opinion was circulated before RAD for a 30-day approval period and was formally published as Formal Opinion No. 2015-193, as noted above in section 2.A of this memorandum.

At the June 6, 2015 meeting, COPRAC continued the post-public comment work on Formal Opinion Interim No. 12-0006 (Attorney Blogging) and 12-0007 (Puffing in Negotiations). COPRAC also continued pre-public comment work on the following draft opinions: 12-0002 (Revocation of Waivers); 12-0003 (Attorney Directory and Rating Websites); 12-0005 (Law Firm In-House Counsel); 13-0002 (Attorney with a Vulnerable Client); 13-0003 (Ethical Obligations When Departing Firm); 13-0004 (Collecting Unpaid Fees); 14-0001 (Colleague Impairment); 14-0002 (Alternative Litigation Funding); 14-0003 (Settling Before Withdrawal); and 14-0004 (Witness Perjury). The Committee continued work on four panel presentations for the 2015 State Bar Annual Meeting in October, and two panel presentations for the Solo & Small Firm Summit in June.

The following opinion was tentatively approved by COPRAC for an additional 90-day public comment period at its June 6, 2015 meeting, with a public comment deadline of September 23, 2015. Post-public comment consideration of the opinion will occur at the Committee's October 8, 2015 meeting.

Formal Opinion Interim No. 12-0007:

ISSUE: When an attorney is engaged in negotiations on behalf of a client, are there ethical limitations on the statements the attorney may make to third parties, including statements that may be considered "puffing" or posturing?

DIGEST: Statements made by counsel during the course of negotiations are subject to those rules prohibiting an attorney from engaging in dishonesty, deceit or collusion. Thus, it is improper for an attorney to make false statements of fact or implicit misrepresentations of material fact during the course of a negotiation. However, puffery and posturing, such as statements about a party's negotiating goals or willingness to compromise, are generally permissible because they are not considered statements of fact.

COPRAC's next meeting is scheduled for July 17, 2015, and will be held in Los Angeles. At this meeting, COPRAC will continue post-public comment consideration of Formal Opinion Interim No. 12-0006 (Attorney Blogging). COPRAC will continue pre-public comment work on the following opinions: 12-0002 (Revocation of Waivers); 12-0003 (Attorney Directory and Rating Websites); 12-0005 (Law Firm In-House Counsel); 13-0002 (Attorney with a Vulnerable Client); 13-0003 (Ethical Obligations When Departing Firm); 13-0004 (Collecting Unpaid Fees); 14-0001 (Colleague Impairment); 14-0002 (Alternative Litigation Funding); 14-0003 (Settling Before Withdrawal); and 14-0004 (Witness Perjury). The Committee will also continue planning for the 2015 State Bar Annual Meeting CLE panels and begin planning for the 2016 Statewide Ethics Symposium.

C. Appointment Nominations

On Friday, March 23, the COPRAC Appointment Nominations Subcommittee met by conference call to rank and select applicants for interview. The subcommittee selected thirteen individuals to interview out of twenty-two total applicants. Seven applicants were interviewed on Wednesday, April 29, 2015 in San Francisco and six applicants were interviewed on Tuesday, May 5, 2015 in Los Angeles. The subcommittee recommended a slate of nominees that included three new attorney members, one public member, and one attorney member to fill the remaining term of a member who recently resigned. The Board Committee on Nominations and Appointments (NAC) and the Board are set to consider the appointment recommendations at their meetings on July 23-24, 2015.

D. Ethics Symposium

On Saturday, April 25, 2015 COPRAC held the Nineteenth Annual Statewide Ethics Symposium at Thomas Jefferson School of Law in San Diego. This day-long program provided five hours of continuing legal education credit in legal ethics which was also approved for legal malpractice specialization credit. State Bar Vice President Heather Rosing attended and provided the welcoming remarks, along with Thomas Jefferson School of Law professor Steven Berenson. The program was well received by the nearly 70 lawyers in attendance.

3. PROPOSED NEW AND AMENDED RULES OF PROFESSIONAL CONDUCT

The Rules Revision Commission met on May 29 & 30, 2015 at the State Bar office in Los Angeles. At that meeting, the Commission voted to recommend a rule numbering system patterned on the ABA Model Rule numbering system. The Commission also voted to expedite consideration of Rules 5-110 and 5-220 that are the closest counterparts to ABA Model Rule 3.8. Professor Laurie Levenson, Loyola Law School, and Sarah Leddy, Policy Analyst for the Innocence Project attended the May meeting and spoke in support of the Commission's expedited consideration of these rules. A Report and Recommendation on these rules is anticipated for the Commission's September 25 & 26, 2015 meeting. The Commission also met on June 26, 2015 at the State Bar office in San Francisco. Among the other rules acted upon by the Commission at the May or June meeting are the following.

- Rule 1-100 Rules of Professional Conduct, in General
- Rule 1-110 Disciplinary Authority of the State Bar
- Rule 1-200 False Statement Regarding Admission to the State Bar
- Rule 1-300 Unauthorized Practice of Law
- Rule 1-311 Employment of Disbarred, Suspended, Resigned, or Involuntarily Inactive Member
- Rule 2-100 (Proposed Rule 4.2) (Communication With a Represented Person)

The Commission's next meeting is scheduled for August 14, 2015 at the Los Angeles office of the State Bar.

At the April 24, 2015 Regulation and Discipline teleconference meeting, the Board Committee authorized a public comment period to seek input on possible rule revisions that the Commission ought to consider as it begins its comprehensive study. That public comment period ended on June 16, 2015 and 48 comments were received. The full text of the comment letters have been made available to all of the Commission members and each comment letter will be discussed at relevant times over the course of the Commission's project.

4. SENATE BILL NO. 1186

Enacted in September 2012, Senate Bill No. 1186 made significant changes to the law governing construction-related disability access claims. In accordance with Senate Bill No. 1186, Professional Competence staff receives and reviews copies of demand letters to screen for matters that may give rise to a disciplinary investigation. Any identified compliance issues are forwarded to the Office of Enforcement. Senate Bill No. 1186 also requires the State Bar to submit an annual report to the legislature on July 31 of each year. This report is currently being prepared for submission by July 31, 2015.

The table below shows the number of demand letters received and reviewed by the Office of Professional Competence, as well as the number of matters referred to Enforcement for possible violations of the statute (year to date by month).

ADA Letters Received-Referred to Enforcement

Month	Letters Received	Letters Referred To Enforcement
Jan.	18	2
Feb.	17	1
Mar.	40	0
Apr.	49	1
May	17	1
TOTAL	141	5

The table below lists the possible compliance issues and shows the numbers of issues referred to Enforcement.

Compliance Issues Referred to Enforcement*
(1/1/15 through 5/31/15)

<u>Compliance Issue</u>	<u>No. of Issues</u>
Failure to Copy the State Bar within 5 Business Days	2
Failure to Include Mandatory Advisory	2
Failure to Copy the CCDA within 5 Business Days	4
Possible Prohibited Request/Demand for Money or Offer/Agreement to Accept Money	2
Possible Prohibited Statement of Recipient's Specific Monetary Liability	3

(*Note: A single letter may have more than one compliance issue.)

5. COMPETENCE PUBLICATIONS

Handbook on Client Trust Accounting for California Attorneys: The online Trust Accounting Handbook html webpage was visited approximately 3,970 times between January – May, 2015.

California Compendium on Professional Responsibility: 2014 Compendium case entries have been completed for the 2015 Compendium index. The 2015 Compendium update is anticipated to be released in the third quarter.

California Rules of Professional Conduct & State Bar Act (a.k.a Publication No. 250): Updates to the 2015 Publication 250 have been completed and it is anticipated to be released at the end of the second quarter.

An e-Reader version of Publication 250² is available at the Amazon Kindle store. A total of two hundred thirty-two e-books have been purchased to date. One hundred thirty-five copies of the 2011 e-book have been purchased since posting in September 2011. Thirty-eight copies of the 2012 e-book have been purchased since posting in June 2012. Twenty-nine copies of the 2013 e-Reader version have been purchased since posting in June 2013. The 2014 e-Reader version of Publication 250 was posted on June 3, 2014 and thirty copies have been purchased. The 2015 version is being prepared and it is anticipated to be available in the third quarter.

6. PROFESSIONAL COMPETENCE EDUCATIONAL PROGRAMS & OTHER OUTREACH ACTIVITIES

Client Trust Accounting Survey and Education: In follow-up to the discussion at the Board's January planning meeting, Professional Competence assumed a lead role in coordinating State Bar staff's development of a member survey on client trust accounting. At an April 24, 2015 teleconference meeting, the Board Committee approved the voluntary survey and an initial outreach and education plan. A brief article announcing the survey ran in the June issue of the California Bar Journal. On June 9, 2015, the survey and the new trust accounting online resources page were featured in The San Diego Daily Transcript. An MCLE self-study article highlighting the survey as well as the State Bar's client trust accounting resources appears in the July issue of the California Bar Journal. Outreach utilizing social media (Twitter posts) will continue until the end of the survey period on July 31, 2015. As of June 16, 2015, the preliminary data collected from the survey includes the following:

1. the majority of lawyers taking the survey are lawyers who are sole practitioners or in an office with ten or less attorneys (over 46%);
2. nearly all have opened an IOLTA account (over 90% percent);
3. only a minority have opened a non-IOLTA account (less than 18%);
4. most reconcile records on a monthly basis (over 70%);
5. about half provide an accounting to a client on a monthly basis (just over 50%), while some only do so upon a client request (over 35%);
6. a majority have never taken an MCLE course on client trust accounting (over 70%); and
7. a majority have never received a bank notice of insufficient funds on a client trust accounting transaction (over 70 percent).

Targeted Outreach: At the recent Solo and Small Firm Summit, State Bar ethics resources flyers and "mini" versions of the California Rules of Professional Conduct and State Bar Act book were circulated to attendees at a resource table staffed by a Professional Competence staff person. The resource flyer highlights the following resources: the Ethics Hotline service; ethics related publications; online ethics resources including the advisory ethics opinions; the Ethics & Technology web page; the new Client Trust Accounting web page; and the e-Reader version of the California Rules of Professional Conduct and State Bar Act book. In addition, the voluntary client trust accounting survey was publicized.

² The e-Reader version of Publication 250 is compatible with the Kindle Reader App which is a free e-Reader application available for iPads, iPhones, Blackberry Phones, Android Phones, Macbooks, and PC laptops. The book also works on all versions of Amazon.com's own Kindle Reader device, including the Kindle Fire. The e-Reader version of the book can be purchased at Amazon.com and has several useful features including: a search function; bookmarking; highlighting and annotating. In addition, once downloaded to a tablet, smartphone or other compatible device, the book can be accessed at any time, even if there is no Internet or cellular data signal.

7. COMPETENCE RESOURCES AT CALBAR.CA.GOV

Client Trust Accounting Resources Page: This new page is a collection of client trust accounting resources which includes links to relevant rules and statutes, publications (including the Client Trust Accounting Handbook), forms, ethics opinions, links to trust accounting MCLE programs, and online videos. This page was first posted in May, 2015 as a complement to the announcement of the voluntary client trust accounting survey. The various resources available at this page have been visited approximately 460 times since the page was originally posted.

Senior Lawyer Ethics Resources Page: This page recognizes that many attorneys reach their senior years with questions about what to do if they faced health problems that might affect how long they can work. They may be thinking of closing their practice or how to handle their business if they suddenly become ill or pass away. The new Senior Lawyers Ethics Resources page is a collection of resources addressing attorney professional responsibility issues that arise in connection with retirement, disability, and death of attorneys. The resources include rules, advisory ethics opinions, articles, publications, and MCLE programs. Most of the links are to internal resources found on other State Bar pages. Others are external links to the ABA's website, or to local, or out-of-state bar associations. The Senior Lawyer web pages were visited approximately 4,900 times between January – May, 2015.

Judicial Ethics Page: The Judicial Ethics page is a collection of selected resources to promote a lawyer's awareness and understanding of judicial ethics. The Judicial Ethics page was launched in October 2013 and has been visited approximately 2,680 times through May 31, 2015. Lawyers often interact with judges and court staff, sometimes on a daily basis. An awareness of the standards of conduct applicable to judges and court staff helps assure that a lawyer practices law in a competent and professionally responsible manner. In some circumstances, a lawyer is required to comply with standards ordinarily applicable only to judges (for example, a lawyer serving as a temporary judge, referee or court-appointed arbitrator). The provided resources are organized into five categories: general information; candidates for judicial office; gifts to judges; lawyers as temporary judicial officers; and social media. The resources include rules, statutes, advisory ethics opinions and court policy guides. The resources also include information concerning restrictions on gifts to judges, and a link to an online educational course on Judicial Campaign Ethics which is a mandatory requirement for all candidates for judicial office.

Web Activity: The State Bar tracks the web activity for all html website pages accessed.³ The chart below lists selected web pages administered by Professional Competence and the 2015 activity in terms of visits.

Professional Competence Web Resources – Activity Detail* January – May, 2015	
Webpage	Approx. Number of Visits
Rules of Professional Conduct html web pages	252,429
The State Bar Act html web pages	12,230
Ethics Opinions html web pages	16,913
Ethics Information html web pages	27,336
Ethics & Technology html web pages	8,486

Since the last Professional Competence status report submitted for the Board Committee's May 7, 2015 meeting, the following website updates were made:

1. New Commission for the Revision of the Rules of Professional Conduct web page and State Bar Board of Trustees meeting page were updated as follows: June 26, 2015 meeting agenda and materials posted.
2. Link to Client Trust Accounting Survey added to following web pages: Ethics Information; Client Trust Accounting Resources; and, Client Trust Accounting Handbook.
3. Link to July MCLE self-study article about State Bar resources concerning client trust accounting added to Client Trust Accounting Resources web page.

³ Web download statistics are not available for web content posted as Adobe PDF documents.

4. Ethics Opinions page updated with link to newly published Formal Opn. No. 2015-193 (re ESI and Discovery Requests).
5. The Ethics & Technology pages were updated to add: a link to Formal Opn. No. 2015-193; a link to a New York City Bar ethics opinion on internet scams targeted at attorneys; a link to Cal. Bar Journal, May, 2015, MCLE self-study article concerning the ethical handling of confidential information received inadvertently; and a link to June 2015 YouTube video entitled "Speaker Atkins Helps San Diegans Fight Cybercrime, Schemes, Scams."

cc: Robert A. Hawley

ENCLOSURE 1 - ETHICS HOTLINE ACTIVITY STATS

ETHICS HOTLINE ACTIVITY STATISTICS - 2015

Month	Work Days	Incoming Calls	Completed Calls	Left Messages	Percentage of Incoming Calls that are Completed Calls	Percentage of Incoming Calls that are Left Messages	Resources Mailed/Faxed	Internet Resource Referrals
January	21	1,206	1,051	155	87%	13%	35	362
February	19	1,229	1,126	103	92%	8%	21	336
March	21	1,228	1,047	181	85%	15%	29	330
April	22	1,171	1,050	121	90%	10%	22	292
May	20	1,106	916	190	83%	17%	16	286
Cumulative Totals	103	5,940	4,274	750	87%	13%	123	1,606

EXPLANATIONS

Incoming Calls: Total member inquiries to the Hotline received during that month.

Completed Calls: Member inquiries received in that month that were handled and resolved by staff during that month.

Left Messages: Member inquiries received in that month where staff left an initial message or courtesy follow-up message, but did not reach the member to resolve the inquiry.

Percentage of Incoming Calls that are Completed Calls: Proportion of Incoming Calls that were Completed Calls handled and resolved by the staff.

Percentage of Incoming Calls that are Left Messages: Proportion of Incoming Calls where staff left a message but the member did not return the call.

ENCLOSURE 1 - ETHICS HOTLINE ACTIVITY STATS

2015 Key Hotline Activity Averaged by Day and Month

Daily:	Incoming Calls:	58
	Completed Calls:	41
Monthly:	Incoming Calls:	1,188
	Completed Calls:	855

2015 Aggregate Outgoing Calls

Outgoing Calls:	8,731*
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*These figures account for all calls placed by staff, including: Completed Calls; Left Messages; and, courtesy follow-up calls. Due to "telephone tag" with members, staff may place multiple calls and leave multiple messages prior to completing a call.

ENCLOSURE 2 - ETHICS HOTLINE SATISFACTION SURVEYS

Excerpt from Ethics Hotline Customer Satisfaction Surveys

Additional Comments

(Surveys Received for April – May 2015)

1. Received April 28, 2015

COMMENTS/SUGGESTIONS:

David, the intake receptionist, was wonderfully courteous and helpful. Pamela Hill, the paralegal who called me back, told me just what I wanted to know and immediately pointed me toward the cases I needed to read. THANK YOU STATE BAR!

2. Received May 7, 2015

COMMENTS / SUGGESTIONS:

I've had great experience over the years with the Ethics Hotline. This is a valuable resource for attorneys. This morning I spoke with Carissa who was spot-on in helping refer me to relevant authorities. And David as receptionist has consistently been a pleasure to work with. If the Ethics Hotline were the only service provided by the Bar, I'd think my annual dues had been well spent. Thanks again for the great service!

3. Received May 8, 2015

COMMENTS / SUGGESTIONS:

I just got off the phone with the intake receptionist, and he was incredibly brusque and – dare I say – rude, because he had three calls pending. I understand his desire to go through the calls, but if your job is to take calls on a busy line, you should be equipped with the skills to do so. Yikes!

4. Received May 8, 2015

COMMENTS / SUGGESTIONS:

The information was very helpful to me. Carissa (missed last name) was quick, smart, pleasant, and personable. Very satisfactory and this was my first experience with the hotline. (I have ethics gurus to whom I turn more often.) The date, below, is my best guess.

5. Received May 11, 2015

COMMENTS / SUGGESTIONS:

Carissa was very helpful. Thank you for hiring her.

6. Received May 12, 2015

COMMENTS / SUGGESTIONS:

I have called the Ethics Hotline on probably ten occasions over the past 15 years or so. It's a great service. I particularly want to acknowledge the receptionist, David, who has always been pleasant and helpful when I called! Thanks!

ENCLOSURE 2 - ETHICS HOTLINE SATISFACTION SURVEYS

7. Received May 20, 2015

COMMENTS / SUGGESTIONS:

To State Bar executive committee, board members, etc... I have called the State Bar hotline over the past years, but did not know of this comment/suggestion section, because all I do is look at the back of my bar card and find the number! As a result, I have not commented on my previous encounters and help from the ethics hot line people. As such, I want to mention, most vigorously, that upon ALL occasions, the State Bar ethics people – from David in reception to each and every one of the assistants there, I have always been treated respectfully, professionally, and in great detail. I have never had a bad experience with them, and I have called upon them many times, as mentioned. Last year, I was referred to opposing case opinions on the matter of an attorney having a long consultation with the spouse of a client I now represented, and then going on to represent the husband! I think the Judicial Officer made a bad call on it, saying there was no conflict, and no confidential information imparted, despite my client's testimony to the contrary, but I was prepared to argue the matter as I had reviewed cases on both sides of the issue. But it was no fault of the Ethics People, they more than did their job. I now am on the other side of the fence and again, got case material on both sides of the issue so that I believe I am making an ethical, and informed decision on the matter. Look, you guys and gals in the higher echelons of the State Bar, I believe don't help us lonely sole practitioners enough, and go after us more so than the big shots in the big shot attorney firms. And you have to do something about that. I will be sending you materials on the way that "document preparers" are just sucking the business out of us street lawyers, while you guys and gals do nothing. These people are decimating our business yet we cannot even do what they do - stand out in front of the courthouse handing out business flyers. I will be sending some of these for you to see. Right here in Pomona, less than 50 feet from the front door of Pomona South Court - East District HQ, there are usually 3 distributors of "document preparer" flyers. And then some of these "document preparers" then go and practice law! They write up documents, argue legal issues and so why, these client think, should they go see an attorney! And so many times I wind up having to correct their errors after these clients go to court, get shafted and then come back dazed and bewildered! You guys and gals up there in the clouds HAVE to do something about this or you will see us street lawyers fall by the wayside, one by one, forgotten in our efforts to serve the common man and woman. But - back to the core issue of this missive. You should thank each and every one of these ethics hot line people till the cows go out, and till they come back in the morning. They help us - unsung - unheralded - and have kept my ass out of the fires of State Bar reprisals on more than one occasion, but more so, despite you guys and gals' penchant for beating up on the little attorneys, while the big firms walk, they help me do the right thing. And that is the most important thing of all. Respectfully submitted, Mark B. Peters Law Office of Mark B. Peters Pomona, CA 20 May 2015

8. Received May 26, 2015

COMMENTS / SUGGESTIONS:

My last experience with the hotline was very dissatisfactory. The paralegal was rude and condescending. I can't remember the exact call date.

9. Received May 29, 2015

COMMENTS / SUGGESTIONS:

Paralegals are always great! Thank you for this service.

ENCLOSURE 3 - PROFESSIONAL COMPETENCE BUDGET SUMMARY

Professional Competence Budget Summary*

Actual vs. Authorized

Year-to-Date as of May 2015

Budget (Actual)	\$895,992
Budget (Authorized)	\$1,052,988
Variance	\$156,996

Monthly (January – May)

	January	February	March	April	May
Budget (Actual)	\$218,622	\$173,392	\$168,836	\$158,715	176,427
Budget (Authorized)	\$269,266	\$195,588	\$195,868	\$196,120	\$196,146
Variance	\$50,644	\$22,196	\$27,032	\$37,405	\$19,719

* The information provided above reports on the latest financial figures available at the time of this report.