



The State Bar  
*of California*

OFFICE OF CHIEF TRIAL COUNSEL

845 S. Figueroa Street, Los Angeles, CA 90017

213-765-1338

bo.yang@calbar.ca.gov

February 19, 2020

Darryl Gerard Cotton  
6176 Federal Blvd  
San Diego CA 92114

RE: Case Number: 20-O-02553  
Respondent: Michael Phelps

Dear Mr. Cotton:

The State Bar's Office of Chief Trial Counsel has reviewed your complaint against Michael Phelps to determine whether there are sufficient grounds to prosecute a possible violation of the State Bar Act and/or Rules of Professional Conduct.

In your complaint to the State Bar, you stated that Mr. Phelps represented the City of San Diego. You stated that you filed for a Writ of Mandate wherein you asked the court to issue an order protecting your property against the City of San Diego while a Conditional Use Permit application was pending with the City. You alleged that Mr. Phelps argued that a disputed document was an enforceable contract, and that the presiding judge, Hon. Joel Wohlfell, accepted Mr. Phelps's argument. You expressed your belief that a "first year law student could look at that document and see that it wasn't a contract/agreement".

Based on our evaluation of the information provided, we are closing your complaint. Under the laws of California, the facts as you have alleged them would not be grounds for disciplinary action. The fact you have alleged against Mr. Phelps – that he advanced a legal argument regarding the document with which you disagreed – is a legal dispute between two parties. Only a court of competent jurisdiction can decide on such disputes. The State Bar is not a trier of fact or law, and cannot overrule or otherwise change the court's decision on this matter.

For these reasons, the State Bar is closing this matter.

If you have new facts and circumstances that you believe may change our determination to close your complaint, you may submit a written statement with the new information to the

San Francisco Office  
180 Howard Street  
San Francisco, CA 94105

[www.calbar.ca.gov](http://www.calbar.ca.gov)

Los Angeles Office  
845 S. Figueroa Street  
Los Angeles, CA 90017

Darryl Cotton  
February 19, 2020  
Page 2

Intake Unit for review. If you have any questions about this process, you may call Deputy Trial Counsel Bo Yang at 213-765-1338. If you leave a voice message, be sure to clearly identify the lawyer complained of, the case number assigned, and your telephone number including the area code. We should return your call within two business days.

If you are not aware of new facts or circumstances but otherwise disagree with the decision to close your complaint, you may submit a request for review by the State Bar's Complaint Review Unit, which will review your complaint and the Intake Unit's decision to close the complaint. The Complaint Review Unit may reopen your complaint if it determines that your complaint was inappropriately closed or that you presented new, significant evidence to support your complaint. To request review by the Complaint Review Unit, you must submit your request **in writing**, together with any new evidence you wish to be considered, post-marked within **90 days of the date of this letter**, to:

The State Bar of California  
Complaint Review Unit  
Office of General Counsel  
180 Howard Street  
San Francisco, CA 94105-1617

We would appreciate if you would complete a short, anonymous survey about your experience with filing your complaint. While your responses to the survey will not change the outcome of the complaint you filed against the attorney, the State Bar will use your answers to help improve the services we provide to the public. The survey can be found at <http://bit.ly/StateBarSurvey1>.

Thank you for bringing your concerns to the attention of the State Bar.

Sincerely,



Bo Yang  
Deputy Trial Counsel