



The State Bar  
*of California*

OFFICE OF CHIEF TRIAL COUNSEL  
ENFORCEMENT

845 S. Figueroa Street, Los Angeles, CA 90017

213-765-1205

michelle.king@calbar.ca.gov

June 22, 2020

SENT VIA U.S. MAIL

**PERSONAL AND CONFIDENTIAL**

Darryl Cotton  
6176 Federal Blvd.  
San Diego, CA 92114

Re: Respondent: Gina Austin  
Case Number: 20-O-02543

Dear Mr. Cotton:

I am writing to inform you that the State Bar has decided to close your complaint against Gina Austin.

Please understand that the State Bar cannot proceed with disciplinary charges unless we can present evidence and testimony in court sufficient to prove by clear and convincing evidence that the attorney has committed a violation of the State Bar Act or the Rules of Professional Conduct. The violation must be serious enough to support both a finding of culpability and the imposition of professional discipline. In some cases, there may be evidence of attorney malfeasance or negligence, but this evidence may be insufficient to justify the commencement of a disciplinary proceeding or to be successful at a disciplinary trial.

After carefully reviewing the information that you provided in your complaint and interview, this office has concluded that we would not be able to prevail in a disciplinary proceeding.

Ms. Austin represents a third-party client (not you). You alleged that Ms. Austin represented one client, terminated that representation, and then went on to represent another client with directly competing interests.

During your interview, it was explained to you that you were complaining about duties owed to the client and not you. With this complaint, we do not have a client complaining witness, and Ms. Austin's communications/advice to her client are privileged. You stated that before your interview, you did not understand how attorney-client privilege related to your complaint.

During the interview, you mentioned Ms. Austin's involvement with an issue with attorney Matthew Shapiro that would further explain the conflict of interest. We informed you that we would need these emails to explore further the ability for us to gain the information necessary to establish a violation.

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

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You were given several weeks to produce information that you believed would help the investigation, but you failed to do so. Without proof of the alleged actions by Ms. Austin that are not tied to an attorney-client relationship, we are unable to prove a violation.

If you would like to further discuss this matter or provide additional information or documentation, we request but do not require that you call us or send us the information within ten days of the date of this letter. You may leave a voice mail message with attorney Jessica Jorgensen at (213) 765-1409. In your message, be sure to clearly identify the lawyer complained against, the case number assigned to your complaint, and your name and return telephone number, including area code. The attorney will return your call as soon as possible.

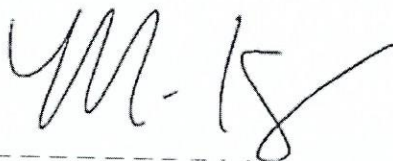
If you have presented all of the information that you wish to have considered, and you disagree with the decision to close your complaint, you may request that the State Bar's Complaint Review Unit review your complaint. The Complaint Review Unit will recommend that your complaint be reopened if it determines that further investigation is warranted. To request review by the Complaint Review Unit, you must submit your request in writing, **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.

If you decide to send new information or documents to this office, the 90-day period will continue to run during the time that this office considers the new material. You may wish to consult with legal counsel for advice regarding any other available remedies. You may contact your local or county bar association to obtain the names of attorneys to assist you in this matter.

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/StateBarSurvey2>.

Respectfully,



Michelle King  
Investigator

MK:wss