

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2
3 **I.**

4 **THE PURPOSE OF THIS PRELIMINARY OPPOSITION**

5 Petitioner, A.M. Young, is submitting this preliminary opposition to London & Co.'s
6 Motion for Protective Order to quickly address some inaccurate information contained in that
7 Motion.

8 As will become clear, London & Co. has violated Federal regulations, State law and
9 the ethical rules that apply to accountants by failing or refusing to provide basic financial
10 documents and information when its client, Mr. Young, requested those things. London &
11 Co. then made its violation of law even worse by failing to comply with a Deposition
12 Subpoena that required it to produce Mr. Young's own financial records to him.

13 London & Co. is most likely engaging in the foregoing unlawful conduct because it
14 continues to perform services for and be paid by Respondent, K.E. Walsh. Thus, in addition
15 to its other wrongdoing, London & Co. has a conflict of interest that is prohibited by the
16 ethical rules that apply to accountants.

17 London & Co. is well aware the both Mr. Young and Ms. Walsh are public figures and
18 that documents that it filed in the Court's publicly accessible file will be picked up and
19 published by the news media. Thus, it is clear that London & Co.'s very inaccurate and
20 incomplete Motion was designed as a press release to benefit one client, Ms. Walsh, and
21 prejudice another, Mr. Young.

22 Importantly, Mr. Young has only been attempting to obtain basic financial documents
23 and information from London & Co. and Ms. Walsh which he needs for several reasons. For
24 example, before marriage, the parties acquired a very valuable house that they purchased
25 together and they acquired very valuable furnishings, furniture and artwork using money from
26 both of them. Accordingly, Mr. Young now needs financial documents and information to
27 determine each party's right to be reimbursed for their contributions to the property, to
28

1 determine which property is separate and which property is community, and to value
2 property.

3 Contrary to very clear statutory authority requiring the disclosure of financial
4 information and documents, London & Co. and Ms. Walsh have failed or refused to provide
5 those things, which leaves Mr. Young's attorneys no other choice but to pursue those
6 documents. Instead, they have both filed documents in the Court's publicly accessible file
7 and, suspiciously, those documents have been quoted (and misquoted) by the media before
8 or at the same time that they are received by Mr. Young's attorneys. Thus, it appears that
9 Ms. Walsh and her advisors have decided to litigate this case in the media.

10 For his part, Mr. Young has wanted to achieve a private resolution to this matter for
11 several months. However, when faced with the kind of unlawful and unethical conduct
12 engaged in by Ms. Walsh's accountants at London & Co., Mr. Young has no choice but to
13 respond with documents like this preliminary Opposition. A longer, detailed opposition to
14 London & Co.'s Motion will later be filed later.

15
16 **II.**
17 **INTRODUCTION**

18 In June 2007, a few months before the parties were married, at Ms. Walsh's urging,
19 Mr. Young retained London & Co., a firm of Certified Public Accountants, to perform
20 business management, accounting and tax services for him. Ms. Walsh had retained
21 London & Co. to provide the same services a few months earlier.

22 To allow London & Co. to perform the services that it contracted to perform,
23 Mr. Young caused his bills to be sent to London & Co., he caused bank accounts to be
24 opened which London & Co. was authorized to write checks from, he caused his substantial
25 income to be deposited into the bank accounts controlled by London & Co. so that they could
26 pay his bills and manage his financial life, and he caused his W2 and 1099s to be sent to
27 London & Co. so that it could prepare his tax return.

28

1 In August 2007, Mr. Young and Ms. Walsh acquired a multi-million dollar house using
2 money from both of them for the down payment.

3 On September 1, 2007, Mr. Young and Ms. Walsh were married. They then acquired
4 very valuable furniture, furnishings and artwork using money from both of them. They also
5 remodeled and improved the house using money from both of them.

6 All of the financial records related to the house and the payment of those bills went
7 to London & Co., the business managers, accountants and tax return preparers for both
8 Mr. Young and Ms. Walsh.

9 When Mr. Young decided to file for divorce on November 22, 2008, in order to
10 maintain peace and in an attempt to diffuse hostilities, Mr. Young volunteered to move out
11 of their house and took next to nothing. Ms. Walsh retained exclusive possession, custody
12 and control of their house, as well as the furniture, furnishings and artwork in their house.

13 Starting in December 2008 and continuing into January 2009, Mr. Young asked
14 London & Co. to provide him with documents and information, primarily about the parties'
15 house and the payment of expenses for their house. However, London & Co. was very slow
16 to respond and it would not answer certain questions that Mr. Young it about the payment
17 of expenses and the way that London & Co. continued to use Mr. Young's earnings which
18 were still being deposited into accounts controlled by London & Co.

19 Mr. Young, an extremely busy executive, then left it to his attorneys to obtain
20 information and documents from London & Co. However, when Mr. Young's accountants
21 still failed to respond to a request for information, Mr. Young's attorneys issued a
22 Deposition Subpoena requiring London & Co. to produce documents that it had an obligation
23 to provide to Mr. Young on request - in other words, without a Deposition Subpoena even
24 being issued.

25 While London & Co. did provide some documents in response to that Deposition
26 Subpoena, it was clear that it had not provided all of Mr. Young's and Ms. Walsh's financial
27 documents as required. Moreover, London & Co. failed to comply with the Deposition
28 Subpoena because it did not provide a required declaration which is necessary to confirm

1 the authenticity of the documents that it produced and to disclose whether it produced all or
2 only some of the requested documents. Furthermore, London & Co.'s attorney served
3 written objections to Mr. Young's Deposition Subpoena and those objections were patently
4 improper and, at times, bizarre.

5 Mr. Young's attorney tried to informally resolve the issue of London & Co.'s failure to
6 comply with the Deposition Subpoena by sending a detailed letter describing the things that
7 needed to be remedied or cleared up. However, instead of responding to that letter by
8 providing a legally and factually based response, London & Co.'s attorney tried to further
9 delay his client's compliance with the Deposition Subpoena and, without ever meeting and
10 conferring as required by law, London & Co. filed an extremely misleading Motion.

11 In this regard, London & Co. is well aware the both Mr. Young and Ms. Walsh are
12 public figures and that the documents that it filed in the Court's publicly accessible file will
13 be picked up and published by the news media. Thus, it is clear that London & Co.'s very
14 inaccurate and incomplete Motion was designed as a press release to benefit one client,
15 Ms. Walsh, and prejudice another, Mr. Young.

16 Importantly, London & Co.'s spin on the facts is not accurate and should not be
17 believed. Accordingly, Mr. Young is filing this preliminary opposition.

18
19 **III.**

20 **LONDON & CO. VIOLATED VERY CLEAR LAW BY FAILING TO**
21 **PROVIDE DOCUMENTS AND INFORMATION TO MR. YOUNG ON REQUEST**

22 It is extremely clear that accountants, like London & Co., have an obligation to provide
23 documents and information to their clients, like Mr. Young, upon request and without a
24 Deposition Subpoena ever being issued. Those obligations are set forth in Federal
25 Regulations, State Statutes governing accountant's, the California Board of Accountancy
26 rules, and the American Institute of Certified Pubic Accountant's Code of Professional
27 Conduct. See 31 Code Fed. Regs. §§ 10.2 and 10.28; California *Business & Professions*
28 *Code* § 5037; *Cal. Code of Regs.* §68; Rule 501, AICPA Code of Prof. Conduct. Thus, it is

1 very clear that London & Co.'s actions in failing to provide documents and information to
2 Mr. Young when he requested it was unlawful and unethical.

3
4 IV.

5 **LONDON & CO.'S CONTINUED REPRESENTATION OF MS. WALSH**
6 **IS A CONFLICT OF INTEREST THAT IS PROHIBITED BY THE ETHICAL RULES**
7 **THAT APPLY TO ACCOUNTANTS**

8 London & Co. also is continuing to violate the ethical rules that apply to accountants
9 by representing one client, Ms. Walsh, at the same time that she and London & Co. are in
10 an adverse position to London & Co.'s other client, Mr. Young. The American Institute of
11 Certified Public Accountant's Code of Professional Conduct makes this clear by saying:

12 In the performance of any professional service, a member
13 shall maintain objectivity and integrity, **shall be free of conflicts**
14 **of interest**, and shall not knowingly misrepresent facts or
15 subordinate his or her judgment to others. [bold added]

16 Rule 102, AICPA Code of Prof. Conduct.

17 Here, it is impossible for London & Co. to be "free of conflicts of interest." It was
18 Mr. Young's accountant, business manager and tax return preparer for about 1 ½ years, and
19 it performed the same services for Ms. Walsh. However, after the parties separated,
20 London & Co. decided that it would drop Mr. Young as a client after he started asking
21 questions about what it had done with his earnings and about community property, but,
22 London & Co. has continued to be paid by and perform services for Ms. Walsh.

23 In this regard, it is probably no coincidence that at the same time that Ms. Walsh is
24 failing to disclose basic financial information to Mr. Young that every party to a California
25 Family Law case must disclose¹, her accountants at London & Co. have filed a Motion which
26 is grossly misleading and which casts Mr. Young in a false light.

27 ¹As a simple example, even though Mr. Young's attorneys granted Ms. Walsh's
28 request for additional time to respond to basic Family Law Discovery, she failed to disclose
the amounts that she earned during the preceding 12 months. In this regard, as the Court
knows, all husbands and wives who are parties to California Family Law cases are also
required to make detailed financial disclosures to each other and they can be ordered to pay
monetary sanctions if they fail to do so. See *Family Code* §§ 2100, 2102, 2107(c), 271,
1101(g) and 1101(h); *Marriage of Feldman* (2007) 153 Cal.App.4th 1470.

KOLODNY & ANTEAU
9100 Wilshire Boulevard - Ninth Floor, West Tower
Beverly Hills, California 90212-3425
(310) 271-5533 Fax (310) 271-3918

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

V.
CONCLUSION

It is unfortunate that London & Co. filed its Motion. By doing so, it has caused Mr. Young to file this preliminary opposition so that the Court's file immediately contains evidence showing some of London & Co.'s failures to comply with its legal obligations to Mr. Young. As a result of London & Co.'s deliberate evasions, Mr. Young has been forced to spend an inordinate amount of extra time and incur significant legal costs.

As stated above, Mr. Young will file a detailed opposition to London & Co.'s Motion within the timelines set forth in the *Code of Civil Procedure*.

DATED: April 24, 2009

KOLODNY & ANTEAU

By:



JEFF M. STURMAN
Attorneys for Petitioner,
A. M. YOUNG

KOLODNY & ANTEAU
9100 Wilshire Boulevard - Ninth Floor, West Tower
Beverly Hills, California 90212-3425
(310) 271-5533 Fax (310) 271-3918

1 PROOF OF SERVICE

2 DELIVERY TO, AND BY, MESSENGER

3
4 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

5 I am employed in the county where the service of the hereinbelow described
6 document(s) is to take place. My business address is 9100 Wilshire Boulevard, Ninth Floor,
7 West Tower, Beverly Hills, CA 90212-3425. I am over the age of 18 and not a party to this
8 action.

9 On April 24, 2009, I caused copies of the hereinbelow described document(s) to be
10 served on the Respondent in this action and all interested parties by delivering them to a
11 messenger for personal delivery as follows:

12 Bryan J. Freedman, Esq.
13 FREEDMAN & TAITELMAN, LLP
14 1901 Avenue of the Stars, Suite 500
15 Los Angeles, CA 90067

16 Laura Wasser, Esq.
17 WASSER, COOPERMAN & CARTER
18 2029 Century Park East
19 Suite 1200
20 Los Angeles, CA 90067

21 The document(s) which are to be so delivered are designated: PETITIONER'S
22 PRELIMINARY OPPOSITION TO THIRD PARTY, LONDON & CO.'S MOTION FOR
23 PROTECTIVE ORDER.

24 A proof of service by the messenger, evidencing the above delivery, will be filed if
25 applicable.

26 I declare, under penalty of perjury pursuant to the laws of the State of California, that
27 the foregoing is true and correct.

28 Executed this 24th day of April, 2009, at Beverly Hills, California.


SHAYLA DONALDSON