

SEE ¶ 4.10 THE FEE AGREEMENT

# Morgan D. King

Attorneys & Counselors at Law  
OFFICES

Morgan D. King  
P.O. Box 2952  
Dublin, CA 94568  
Tel (925) 829-6363  
Fax (925) 829-8724  
[morgan@TaxJustice.com](mailto:morgan@TaxJustice.com)  
[morgan@MorganKing.com](mailto:morgan@MorganKing.com)

## 8-PAGE ATTORNEY-CLIENT FEE CONTRACT FOR LEGAL ADVICE OR REPRESENTATION

Pursuant to Business and Professions Code Section 6148:

This **ATTORNEY-CLIENT FEE AGREEMENT** (“Agreement”) is entered into by and Between \_\_\_\_\_ (“Client”), and LAW OFFICES OF MORGAN D. KING<sup>1</sup>, (“Attorney” or “Law Firm”) as of date executed on page 8.

### 1. CONDITIONS

This contract will not take effect, and Attorney will have no obligation to provide legal services, until Client returns a signed and dated copy of this Contract and pays the retainer called for under Paragraph 5.

### 2. SCOPE AND DUTIES

Client hires Law Firm to provide legal services/advice in connection with:

- Business taxes                       Personal taxes
- Bankruptcy advice & counsel       Bankruptcy representation       Bankruptcy adversary
- Evaluate all remedies for delinquent taxes
- Tax discharge evaluation               Federal Taxes     State Taxes     Other
- Offer-in-Compromise for               Federal Taxes     State Taxes     Other
- Audit Representation for               Federal Taxes     State Taxes     Other
- Tax collection appeal / Request for Due Process Hearing       Levy
- Petition to U.S. Tax Court
- Complaint/Determine Discharge               Federal               State
- Post-petition matters (from previous bankruptcy filings: \_\_\_\_\_)
- Business/corp. consulting               Business/corporation services
- Dissolution of marriage               Criminal defense
- Representation / filing a consumer bankruptcy case
- Other: \_\_\_\_\_

#### Services:

**Delinquent tax case:** Consult re tax liabilities, tax consequences of dissolution of corporation, execute

<sup>1</sup> To the extent applicable under Bankruptcy Law, the Law Firm is qualified as a Federal Debt Relief Agency.

dissolution of corporation, examine tax consequences of real property foreclosures, examine and advise about related issues in connection with Client's dissolution of marriage, represent Client with tax entities as may be necessary; evaluate all remedies for tax delinquency.

**O Bankruptcy case:** Advise and consult with client about bankruptcy; guide client toward completion of pre-petition credit counseling; prepare and file the petition, schedules, statement of financial affairs, and other documents required to commence the case; appear at the meeting of creditors with the client; handle reaffirmation negotiations and review; file such amendments to the schedules as may be necessary; advise and consult with client about his/her postpetition duties; cooperate with the trustee in the usual administration of the case.

Services contemplated herein shall be in the form of such written pleadings, court filings, court advocacy, discovery, correspondence, original documents, advice and counsel, negotiation, legal research, notes, and other forms of "work product" as may be appropriate for the task.

Attorney shall provide those legal services reasonably required to represent client and shall take reasonable steps to keep client informed of the status of the matters that are the subject of this agreement, and to respond to client's reasonable inquires by phone, e-mail, fax or in person. This agreement is for purposes of the matters checked-off <INPUT TYPE=\ CHECKBOX CHECKED> MACROBUTTON HTMLDirect above only. To the extent such issues are in connection with other legal matters, it is understood Law Firm does not represent Client in such other matters unless a separate written fee agreement is executed reflecting such representation.

**Not included in bankruptcy cases<sup>2</sup>:**

Representing the client in objections to claims; representing client in defense of trustee actions; representing the client in adversary matters, including complaints to determine dischargeability, and complaints to determine the validity, priority, or extent of liens; motions to strip down or strip off liens in chapter 7 cases; other issues and tasks that may arise that are not deemed in the ordinary administration of a bankruptcy case.

Client has signed:

Power of Attorney  Federal  State  Other \_\_\_\_\_

Release of documents  Federal  State  Other \_\_\_\_\_

This **ATTORNEY-CLIENT FEE CONTRACT** constitutes:

Permission to access credit report Initialed \_\_\_\_\_

Permission to conduct public records search Initialed \_\_\_\_\_

Permission to access \_\_\_\_\_ Initialed \_\_\_\_\_

Other \_\_\_\_\_ Initialed \_\_\_\_\_

Maximum length of POA representation, if signed, is one year, unless renewed through mutual written agreement.

Other matters \_\_\_\_\_

**3. WORK-PRODUCT DEFINED**

<sup>2</sup> Unbundling or "limited engagement" agreements. [In re Slabbinck, 482 B.R. 576 \(Bankr. E.D. Mich., 2012\)](#)

In the event client requests that all of Law Firm's "work product" developed in connection with this matter be provided to Client, it is understood that such work product may or may not be in writing, depending on the nature of the tasks involved. Where services provided necessarily include non-document production such as review of documents and case history, legal research, consultations, negotiations, study of legal issues and/or formation of legal opinions, the product of such work, or a reasonable summary of such product, may be delivered to Client orally or in writing, at the sole discretion of Law Firm. In the event Client wishes such work product to be reduced to writing, Law Firm shall be entitled to charge for the time expended in such task.

#### 4. COMMUNICATION THROUGH EMPLOYEES OR ASSOCIATES OF LAW FIRM

Client understands and agrees that Law Firm may from time to time communicate information or advice, or request information from the client or third parties through one or more of Law Firm's employees, agents, regular associates, paralegals, or other office staff associated with the Law Firm. All such information shall be deemed confidential subject to any waiver of confidentiality provided by this agreement. Persons described as "of counsel" are deemed regular associates of the firm.

#### 5. RETAINER AGREEMENT & ADVANCE PAYMENT<sup>3</sup>

All Fees paid to Law Firm shall be deemed **payment for past services, and to the extent not needed for past services, ADVANCE OR PRESENT PAYMENT FOR FUTURE LEGAL SERVICES**, and shall constitute an **ASSIGNMENT**, under applicable state law governing assignments, of the client's entire right, title and interest in said funds to Law Firm. The client shall retain no interest in the funds, subject to such regulation by the Bankruptcy Court as may apply.<sup>4</sup>

**O HOURLY FEE RETAINER.** This is **NOT** a fixed fee retainer. The services described herein shall be performed and billed on an hourly basis, with a minimum time increment of .10% hr (6 minutes), plus necessary costs, and subject to the provisions below.

Client agrees to pay such **additional fees**, based on the billable hourly rates specified in this agreement, as may arise for non-routine matters connected with this bankruptcy case, including but not limited to contested and adversary proceedings and other litigation, to the extent that the charges for such services exceed the fixed fees paid herein, and to secure such fees client hereby assigns his or her right, title and interest in any tax refunds, and

\_\_\_\_\_, paid to debtor(s) following the filing of the bankruptcy, to the extent such refund is based on client's postpetition income, and law firm shall have an attorney's lien on said funds pursuant to state law.

#### **O FIXED FEE RETAINER FOR CASE ADMINISTRATION<sup>5</sup>**

This is a **FIXED FEE<sup>6</sup>** retainer. Subject to adjustment for unforeseen problems the tasks described herein, consisting of all tasks routinely required both pre- and postpetition for the proper administration of a bankruptcy case, shall be performed for the total set fee of \$\_\_\_\_\_ plus necessary costs.

Client understands and agrees that the law firm that is the subject of this agreement shall not have a lien on funds paid to the law firm, and this agreement is not a security agreement.

<sup>3</sup> [In re Boulder Crossroads, LLC \(Bankr. W.D. Tex., 2010\)](#)

<sup>4</sup> [Lamie v. U.S. Trustee 540 U.S. 526 \(2004\)](#) (payment from the estate prohibited)

<sup>5</sup> Non-refundable retainer invalid [In re Craig 265 B.R. 624 \(Bankr.Mid-dist. Florida 2001\)](#); Issue avoided In [re Apodaca, 401 B.R. 503 \(Bankr. S.D.Fla., 2009\)](#).

<sup>6</sup> [In re Lawson, 437 B.R. 609 \(Bankr. E.D. Tenn., 2010\)](#) (60-page opinion addressing variety of retainer fee issues).

## O DISCHARGE OF UNPAID BALANCE OF FEES<sup>7</sup>

Client is advised that should any of the law firm's services have incurred **billable time prior to filing a bankruptcy**, and are not current as of that date, the unpaid balance of fees shall be **discharged** in the bankruptcy case, assuming a final discharge is entered, and law firm may not attempt to collect such balance once the petition is filed<sup>8</sup>.

However, client agrees that law firm may charge for, and be paid, for any services, representation, advice or counsel, that it provides for the debtor **following the filing of a bankruptcy petition**, as long as such fees are paid out of debtor's postpetition income or assets acquired postpetition, or by a third party, with funds that are **not property of the estate**.

O **For business** and/or **tax related** services Client shall pay a retainer fee in the sum of \$\_\_\_\_\_. Client has paid the sum of \$\_\_\_\_\_-0-\_\_\_\_\_ and shall pay the balance of the retainer fee prior to commencement of services, or within 20 days of execution of this agreement.

O **For Bankruptcy** services Client shall pay an **estimated** total fee of \$\_\_\_\_\_ as follows: an "up front" retainer fee in the sum of \$\_\_\_\_\_ plus an additional \$\_\_\_\_\_ through a chapter 13 plan, plus such additional compensation as may be required subject to applicable court approval. Client has paid the sum of \$\_\_\_\_\_ and shall pay the balance of the "up front" retainer fee prior to commencement of services<sup>9</sup>, or within 15 days of execution of this agreement. If this agreement is for purposes of filing a bankruptcy petition, the pre-petition fee shall include pre-and ordinary administrative post-petition services.

O **Advance payment for future services**. With the exception of fees to be paid through a chapter 13 plan all retainer fees are deemed **advance (or present) payment for future legal services**, and are non-refundable to the extent services have been provided based on an hourly rate as set forth below. Ownership of the funds shall be assigned to and pass to Law Firm upon payment and shall be deemed fully assigned to the Firm.

## 6. ASSIGNMENT TO SECURE PAYMENT

To secure payment of said fees client hereby assigns all of his or her right, title and interest in such **tax refunds** as may be paid following the filing of the bankruptcy case, and arising from client's income prior to filing the bankruptcy, and attorney shall have an attorney's lien on such refunds pursuant to state law.

o **Other assignment:** Client assigns all of his or her right, title and interest in the following additional property or funds to Law Firm:

o Tax refund    o Receivables    o Other \_\_\_\_\_.

For hourly billed cases the retainer fee may be an estimated total fee, but is not necessarily the actual total fee, depending on the nature of the problem and the legal services provided.

**When fees shall be deemed security.** In the event the retainer fee described above is held by a court of proper jurisdiction to be not-assignable to the Law Firm to the extent that the client retains an interest in the funds so transferred and assigned, then the fees shall be deemed security for payment for services performed pursuant to a valid attorney's lien against the funds in Law Firm's possession pursuant to applicable state law.

<sup>7</sup> [In re Rittenhouse, 404 F.3d 395 \(6<sup>th</sup> Cir. 2005\).](#)

<sup>8</sup> [In re McTyeire, 357 B.R. 898 \(Bankr.M.D.Ga., 2006\)](#)

<sup>9</sup> Taking pre-petition, post-dated checks to be executed after the petition is filed, to pay for postpetition services prohibited; [In re Lawson, 437 B.R. 609 \(Bankr. E.D. Tenn., 2010\)](#)

**7. PAYMENT OF FEES "IN KIND"**

**0 PAYMENT "IN KIND."** Fee/cost payment "in trade" or "in kind": Some or all of the fees described above may be paid "in trade" or "in kind" with products or services provided to Law Firm by client. It is contemplated that the following amount may be paid "in trade" or "in kind" \$ 5,500. Client's products or services of equal value shall be:

\_\_\_\_\_  
\_\_\_\_\_

**0 ADVICE OF COUNSEL.** If applicable, in connection with "in trade" or "in kind" payment client has been given an opportunity and sufficient time to consult independent counsel (another lawyer of his/her choosing) to be advised as to the consequences of payment "in trade" or "in kind" described above, and has thereafter consented in writing to the terms of the transaction, as evidenced by his/her execution of this agreement.

**8. SUBSEQUENT BILLINGS - BALANCE PAYABLE – INTEREST ACCRUED**

In the event future services use up this retainer fee based hourly rates explained below, additional funds will be required to pay for additional services. At Law Firm's discretion, and subject to applicable compensation guidelines pursuant to state or federal law, such additional fee shall be a new retainer fee to be paid before additional services are provided, or shall be billed and become payable following additional services:

Client agrees to pay any balance due within 15 days of receipt of billing statement. Any balance billed and not paid within 15 days shall incur interest thereon at the rate of 18% per annum.

**0 TAX CASES:** Client authorizes Law Firm to charge credit card for balances due as incurred. Law Firm agrees to obtain consent of Client before debiting any sum exceeding \$ \_\_\_\_\_ within any 30-day period.

**9. HOURLY RATES**

**0** The Law Firm shall bill hourly at the following rates:

Morgan D. King \$425.00/hr  
Morgan D. King travel time \$295/hr  
Associate attorney \$325.00  
Paralegal \$150.00

Hourly rate is subject to adjustment up or down with client consent. Excessive inquiries, or demands made in off-hours, i.e., after 6 pm weekdays, or weekends and national holidays, shall be billed at an hourly rate of one and a half regular time agreed.

Where subsequent additional fees and costs due to Law Firm are subject to state or federal court proceedings to approve such fees or costs, Law Firm shall be entitled to bill for the time and expense of preparing and performing such proceedings, including time in court, at the reduced hourly rate of \$250/hr.

**10. COSTS**

In addition to paying legal fees as described above, Client shall reimburse Law Firm for all costs (i.e., out-

of-pocket expenses) reasonably incurred by Law Firm in connection with Client's matter, including but not limited to fees fixed by law or assessed by public agencies, court filing costs, service of process fees, court reporter and deposition fees, Internet charges directly related to this matter; long-distance telephone calls, messenger, courier or delivery services, in-office photocopying at \$.50 per page, out-of-office photocopying at actual costs; parking; mileage at the current IRS financial standards mileage rate, consultant's fees and other similar items. Client authorizes Law Firm to incur all reasonable costs and to hire any investigators, associates, or consultants reasonably necessary in Law Firm's judgment.

Costs also include reasonable processing fees charged to Attorney by financial institutions for credit card and/or merchant processing of fees paid by credit card or debit card.

There shall be no specified amount reserved or set aside for costs or deposited in a trust account; costs shall be assessed against the retainer fee, and subsequent fees, paid pursuant to this agreement

### 11. BILLING LOG

Law Firm shall maintain an itemized billing log for which the minimum time-increment shall be 10% of an hour (i.e., 6 minutes). Each telephone conference or e-mail communication shall be logged with the actual time the event lasted, but the minimum increment entry for any such communication shall be 10% (6 minutes). A reasonably current copy of the billing agreement shall be provided to Client upon request.

### 12. CONFLICTS

From time to time Law Firm represents multiple parties which may create a conflict of interest. If applicable, by signing this fee agreement Client acknowledges this potential conflict of interest and expressly authorizes Law Firm to represent Client in this matter.

Until Law Firm is notified in writing otherwise, Client specifically authorizes the Law Firm to discuss with, and share information with, the following individuals:

Current spouse.     Previous spouse.     CPA or enrolled agent.

Doctor \_\_\_\_\_

Attorney: \_\_\_\_\_

Other: \_\_\_\_\_

To the extent allowed by law, and subject to paragraph 14 below, communications with the above designated individuals shall not be deemed waiver of the attorney-attorney, work-product, or Fifth Amendment confidentiality privileges.

### 13. ADVICE BETWEEN SPOUSES

Client(s) acknowledge that Law Firm cannot take sides in any dispute between spouses regarding any tax matter affecting either or both of them. Client(s) waive any conflict of interest that may arise in regard to such dispute. It is agreed that any information communicated to one spouse by Law Firm shall be deemed communicated to both spouses.

### 14. AUTHORITY TO ASSOCIATE OR OUTSOURCE TO OTHER PROFESSIONALS<sup>10</sup>

<sup>10</sup> Article: King, [Fee Splitting: Between the Devil and a Boulder](#), Westlaw, 2012 No. 7 Norton Bankr. L. Adviser 1 (July

Attorney may at his or her sole discretion associate other professional counsel or qualified paralegal<sup>11</sup> services in representing Client's interests or in giving relevant legal advice or assistance in providing services. For purposes of this legal matter Law Firm is deemed a regular associate of the law firm \_\_\_\_\_ . An attorney identified with Law Firm as "of counsel" shall be deemed a regular associate of Law Firm.

Other lawyers who may appear on behalf of this firm's matter with Client at meetings or court hearings include: \_\_\_\_\_.

#### 15. CONSENT TO OBTAIN DOCUMENTS OR INFORMATION

Client hereby gives his/her consent for Law Firm to obtain:

- State and federal tax records
- Credit reports
- Mortgage information
- Business/personal bank records
- Court documents
- Public records
- Bank records
- Payroll information from employer
- Accounting or bookkeeping records

#### 16. WAIVER OF ATTORNEY-CLIENT PRIVILEGE IN BANKRUPTCY MATTERS

By signing this fee agreement Client agrees to waive his/her attorney-client privilege of confidentiality, and work-product privilege, to the extent such waiver may be required under bankruptcy law and waived by the bankruptcy trustee and or court, or other applicable law. Subject to the below paragraph, attorney shall be free to inform a bankruptcy trustee or Bankruptcy Court of any fraudulent, unethical, or inappropriate conduct by Client following date of execution of this agreement.

It is understood, however, that no information or communication between client and Law Firm that may bear on any criminal proceeding existing as of the date of this agreement shall be provided to any third person without client's written consent; By signing this agreement Client does not waive his privilege against self-incrimination under the Fifth Amendment of the United States Constitution.

#### 17. CLIENT ACCESS TO FILE

During the period that Law Firm is representing Client or otherwise providing legal services in connection with the matter described herein, it is agreed Law Firm shall have sole control over access to documents contained in files or binders. In the event Client wishes to review the file, such review shall be done in the presence and with the assistance of Attorney or staff. Client may remove documents from the file or binder only at the sole discretion of Attorney. Subject to the above Attorney agrees to not unreasonably withhold Client's access to the files or binders or provide copies.

#### 18. WITHDRAWAL FROM REPRESENTATION<sup>12</sup>

2012); [In re Greer, 271 B.R. 426 \(Bankr.Mass., 2002\)](#); [Tanzi v. Shulkin, No. C05-5825 FDB, 2006 WL 2927660](#), at \*7 (W.D. Wash. Oct. 12, 2006) ("The [Bankruptcy] Court disallowed these fees for failure of Shulkin to advise the Debtors of the hiring, billing rates, or methods of payment of contract attorneys, or to have the contract attorneys employment approved by the Court.").

<sup>11</sup> [In re Tarasiak, 280 B.R. 791 \(Bankr.Mass., 2002\)](#) ("The paralegal at issue here does not fit into any of the categories exempting the sharing of compensation; she is not a member, partner, or regular associate of Aframe's law firm. She is not an employee of the firm.<sup>2</sup> She is an independent contractor hired by Aframe to prepare bankruptcy petitions and schedules. Therefore, Aframe cannot share his compensation with her and was required to obtain prior Court approval of her employment ...")

<sup>12</sup> [In re Wilson, 282 B.R. 278 \(Bkrcty.Vermont 2000\)](#)

Attorney may withdraw from this matter with the Client's consent, or for good cause.

Good cause may include; Client's failure to pay fees within the time provided by this agreement; Client's failure to pay any additional advance retainer fee as request by Law Firm; Client's refusal to cooperate with attorney or his staff; Client's failure or refusal to follow Attorney's advice; Client verbal abuse of Attorney or staff in person, or by phone, or other rude, hostile or other inappropriate demeanor or communication to Attorney or staff; Any other fact, request or conduct that would render Attorney's continuing representation unfeasible, futile, unlawful or unethical. Upon withdrawal with client's consent or for cause, all unpaid balances due for fees and costs shall be immediately payable.

**19. CONCLUSION OF SERVICES**

When Law Firm's services conclude all unpaid balances due for fees and costs shall be immediately payable. After services conclude, Law Firm will, upon Client's request, deliver Client's file to client, along with any Client funds or property in Attorney's possession not subject to assessment for fees or costs.

If not turned over to the possession of Client, the file or binders shall be kept in storage at the expense of Law Firm for a period of 5 years. If turnover of the files or binders is not requested by Client within that period, at the end of such period Law Firm, at its sole discretion, may dispose of such materials.

**20. COLLECTION COSTS**

In the event Attorney institutes any action or proceeding against Client to collect unpaid balances due pursuant to this agreement, Client shall pay all attorney's fees and other costs reasonably incurred by Law Firm for such collection efforts.

**21. NO GUARANTEE OF RESULTS**

Nothing in this Agreement and nothing in Law Firm's statements to Client shall be deemed or construed as a promise or guarantee about the outcome of Client's matter. Neither Attorney nor Law Firm makes such promises or guarantees. Utterances of Attorney or other staff are merely such persons opinions.

**22. CLIENT HAS READ B&P ¶ 6148**

Client has received a copy of, and has read, Cal. Business & Professions Code ¶ 6148 (copy attached at end of this Agreement).

**23. LAW FIRM IS SELF-INSURED**

The law firm does not carry errors and omissions (malpractice) insurance.

**24. EFFECTIVE DATE**

This Agreement will take effect upon the most recent date Client's and Attorney's signatures are affixed hereto, or when Law Firm, with Client's knowledge and consent, performs such urgent services as are reasonable under the circumstances.

**25. PARTIAL INVALIDITY**

No partial invalidity of this Agreement shall affect the remainder of the Agreement.

**26. VENUE**



Any action to enforce this Agreement shall be brought in Alameda County, State of California.

**27. AMENDMENTS AND ADDITIONS TO THIS AGREEMENT SHALL BE DATED AND INITIALED BY ALL PARTIES IN THE MARGINS OF THE RELEVANT TEXT.**

**IN WITNESS WHEREOF THE FOLLOWING PERSONS AFFIX THEIR SIGNATURES:**

DATED: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
FOR THE LAW FIRM

DATED: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
CLIENT

DATED: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
CLIENT