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STATE BAR COURT
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LOS ANGELES

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10 THE STATE BAR COURT
11 HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of) Case Nos. 05-O-02245;
14 TRACY K. PETERLIN,) [05-O-02839; 05-O-04471;
15 No. 187604,) 05-O-04825]
16 A Member of the State Bar.) NOTICE OF DISCIPLINARY CHARGES

17 **NOTICE - FAILURE TO RESPOND!**

18 IF YOU FAIL TO FILE AN ANSWER TO THIS NOTICE WITHIN THE
19 TIME ALLOWED BY STATE BAR RULES, INCLUDING EXTENSIONS, OR
20 IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL, (1) YOUR
21 DEFAULT SHALL BE ENTERED, (2) YOU SHALL BE ENROLLED AS AN
22 INACTIVE MEMBER OF THE STATE BAR AND WILL NOT BE
23 PERMITTED TO PRACTICE LAW UNLESS THE DEFAULT IS SET ASIDE
24 ON MOTION TIMELY MADE UNDER THE RULES OF PROCEDURE OF
25 THE STATE BAR, (3) YOU SHALL NOT BE PERMITTED TO
26 PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOUR
27 DEFAULT IS SET ASIDE, AND (4) YOU SHALL BE SUBJECT TO
28 ADDITIONAL DISCIPLINE.

24 STATE BAR RULES REQUIRE YOU TO FILE YOUR WRITTEN
25 RESPONSE TO THIS NOTICE WITHIN TWENTY DAYS AFTER SERVICE.

26 IF YOUR DEFAULT IS ENTERED AND THE DISCIPLINE IMPOSED BY
27 THE SUPREME COURT IN THIS PROCEEDING INCLUDES A PERIOD OF
28 ACTUAL SUSPENSION, YOU WILL REMAIN SUSPENDED FROM THE
PRACTICE OF LAW FOR AT LEAST THE PERIOD OF TIME SPECIFIED
BY THE SUPREME COURT. IN ADDITION, THE ACTUAL SUSPENSION
WILL CONTINUE UNTIL YOU HAVE REQUESTED, AND THE STATE

1 to Zamudio in the amount of \$957.50 made payable to Zamudio. On or about December 12,
2 2005, Respondent paid Zamudio \$1,542.50 by Respondent's personal check.

3 16. By not performing the services she was employed to perform and by then failing
4 to promptly refund and account for client's advanced fees as requested by her client, Respondent
5 failed to refund promptly any part of a fee paid in advance that has not been earned.

6 COUNT FOUR

7 Case No. 05-O-02245
8 Business and Professions Code, section 6106
9 [Moral Turpitude]

10 17. Respondent wilfully violated Business and Professions Code, section 6106, by
11 committing an act involving moral turpitude, dishonesty or corruption, as follows:

12 18. The allegations of paragraphs 3 through 8, and 15 are incorporated by reference.

13 19. On or about June 23, 2005, Respondent wrote a letter to the State Bar stating that
14 she had received certain court records in the Zamudio matter which were incomplete and which,
15 therefore, caused her difficulty in completing the Zamudio matter. Attached to Respondent's
16 June 23, 2005 letter is an accounting of the work Respondent allegedly performed.

17 Respondent's accounting indicates that she spent 2 hours reviewing the file and 2 hours
18 searching the court file in San Diego.

19 20. Respondent did not search the court file.

20 21. By making a material misrepresentation to the State Bar, Respondent committed
21 an act involving moral turpitude, dishonesty or corruption.

22 COUNT FIVE

23 Case No. 05-O-02839
24 Rules of Professional Conduct, rule 3-110(A)
25 [Failure to Perform with Competence]

26 22. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by
27 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
28 follows:

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1 23. On or about February 4, 2005, Gene Monper ("Monper") employed Respondent
2 to represent his son, Kyle Monper, in a juvenile court proceeding. Monper and Respondent
3 executed a written fee agreement and Monper paid Respondent \$2,500.

4 24. In or about February 2005, Monper telephoned Respondent to inform her of a
5 scheduled meeting with the Los Angeles County Probation Department, ("Probation
6 Department") on March 11, 2005, and to seek advice on what to do. Monper left two messages
7 on Respondent's telephone answering machine, Respondent received the two messages, but
8 Respondent did not return either of the two calls.

9 25. On or about February 23, 2005, Monper's father, Eugene Monper, who lived
10 relatively close to Respondent's office, at Monper's direction, personally went to Respondent's
11 law offices and handed a copy of the Probation Department's February 16, 2005 letter to
12 Respondent's secretary. On Monper's behalf, Eugene Monper left a message with Respondent's
13 secretary requesting that Respondent call Monper. Respondent received the message, but
14 Respondent did not contact Monper.

15 26. On or about March 11, 2005, Monper attended the scheduled meeting with a Los
16 Angeles County Probation Deputy. Respondent did not attend this meeting. At the end of the
17 meeting, the case against Kyle Monper was dismissed. Following the meeting, Monper called
18 Respondent and left a message for Respondent requesting a refund of the \$2,500 in fees he had
19 paid Respondent. Respondent received the message, but did not return Monper's telephone call.

20 27. On or about March 18, 2005, Monper again called Respondent's office and left a
21 message for Respondent requesting a refund of the fees he had paid Respondent. Respondent
22 received the message, but did not return Monper's telephone call.

23 28. As of on or about March 30, 2005, Respondent was still unaware that
24 Monper had resolved his son's case with the Probation Department.

25 29. On or about April 7, 2005, and on or about April 14, 2005, Monper went
26 to Respondent's office and spoke with Respondent's secretary. On both occasions, Monper
27 requested a return telephone call from Respondent. Respondent received the messages, but did
28 not respond.

1 could arrange to sign her declaration. Respondent received the message and Respondent did not
2 respond.

3 46. On or about August 2, 2005, and August 3, 2005, Zamora again telephoned
4 Respondent and left messages with Respondent's staff person, Jamie, requesting that Respondent
5 call her back regarding the modification. Respondent received the message and Respondent did
6 not respond.

7 47. On or about August 4, 2005, Zamora telephoned Respondent and left a message
8 on Respondent's answering machine requesting that Respondent call her back regarding the
9 modification. Respondent received the message and Respondent did not respond.

10 48. On or about August 9, 2005, Zamora telephoned Respondent and left a message
11 with Respondent's staff person, Jamie, requesting that Respondent call her back regarding the
12 modification. Respondent received the message and Respondent did not respond.

13 49. On or about August 30, 2005, Zamora telephoned Respondent and was told by
14 one of Respondent's staff, Laurie, that Zamora's child custody modification pleading was ready
15 to be signed. Zamora asked to speak to Respondent, but was told that Respondent was not
16 available.

17 50. On or about September 13, 2005, Zamora telephoned Respondent and was able to
18 finally speak to Respondent. Zamora fired Respondent over the telephone and requested a
19 refund of the \$2,500 Zamora had paid.

20 51. By failing to prepare and file a modification of child custody pleading for
21 Zamora, and by unnecessarily delaying the filing of Zamora's child custody matter, Respondent
22 intentionally, recklessly, or repeatedly failed to perform legal services with competence.

23 COUNT NINE

24 Case No. 05-O-04471
25 Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

26 52. Respondent wilfully violated Business and Professions Code, section 6068(m), by
27 failing to respond promptly to reasonable status inquiries of a client, as follows:

28 53. The allegations of paragraphs 43 through 50 are incorporated by reference.

1 demanded that Respondent replace check no. 2031 with a cashier's check or cash including a
2 \$6.00 service charge from Fleming Bank. In response to Fleming's demand, Respondent paid
3 Fleming and Ashkar \$2,050 on or about October 27, 2005, with a cashier's check.

4 70. On or about December 15, 2005, Respondent replied to a State Bar investigation
5 inquiry from Investigator Podina Brown ("Brown") regarding the *Ashkar* case. In her reply to
6 Brown, Respondent stated that she had stopped payment on Wells Fargo Bank check no. 2031
7 and had notified Fleming's office of the stop payment.

8 71. Respondent's bank records for Wells Fargo Bank, account no. 076-1882539 show
9 that on June 30, 2005, Respondent had a balance of \$279.30, and that on July 1, 2005,
10 Respondent's account did not have funds on deposit to cash check no. 2031. Therefore, on July
11 5, 2005, Wells Fargo Bank posted a "check reversal transaction" and charged Respondent's
12 account an "NSF Return Check Fee" of \$30.00.

13 72. Respondent failed to perform the legal services for which she was employed and
14 when she constructively withdrew from Ashkar's case and Respondent failed to promptly refund
15 \$2,050 of Ashkar's unearned advanced fees from June 29, 2005 until October 27, 2005, and
16 failed to refund \$450 of Ashkar's fees paid in advance but not earned.

17 COUNT THIRTEEN

18 Case No. 05-O-04825
19 Business and Professions Code, section 6106
[Moral Turpitude]

20 73. Respondent wilfully violated Business and Professions Code, section 6106, by
21 committing an act or acts involving moral turpitude, dishonesty or corruption, as follows:

22 74. The allegations of paragraphs 66 through 71 are incorporated by reference.

23 75. By failing to refund all of her client's unearned fees after her constructive
24 withdrawal, by paying a refund check to her client from an account that did not contain sufficient
25 funds to cash her check, and by intentionally misrepresenting to a State Bar investigator that her
26 check was not honored because she put a stop payment on the check, Respondent committed an
27 act or acts involving moral turpitude, dishonestly or corruption.

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NOTICE - INACTIVE ENROLLMENT!

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT. SEE RULE 101(c), RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10. SEE RULE 280, RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

Dated: March 30, 2006

By: William F. Stralka
William F. Stralka
Deputy Trial Counsel

