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NOV 20 2009

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

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7 STATE BAR COURT

8 HEARING DEPARTMENT-SAN FRANCISCO

9 In the Matter of: Case No.: 08-0-14780
10)
PHYLLIS D. LOYA, No. 111767) Response to Notice of Disciplinary Charges
11)
12 A Member of the State Bar ,)
13)

14 PHYLIS D. LOYA, Respondent answers the Notice of Disciplinary Charges as follows:

15 **JURISDICTION**

- 16 1. Phyllis D. Loya, hereinafter referred to as Respondent agrees that
17 the jurisdictional facts in paragraph 1 are true.

18 **COUNT ONE (A)**

19 Francisco Garcia Alcantar
Case No. 08-0-14780
Rules of Professional Conduct, rule 3-110 (A)
20 [Failure to Perform With Competence]

- 21 2. Respondent denies the allegations of paragraph 2 in Count One (A).
22 3. Respondent admits the allegations of paragraph 3 in Count One (A).
23 4. Respondent specifically denies the allegation of paragraph 4 in Count One
24 (A) that she was served and received the Motion filed on December 5, 2006
25 and denies any knowledge that there was a hearing scheduled for February
26 26, 2007.
27 5. Respondent, based on information and belief, admits there was a hearing
28 on the Motion for Modification of Child Support. Respondent did not appear
because she had not been served with notice of the hearing nor did



1 Francisco Garcia Alcantar notify respondent of hearing, thus Respondent
2 had no notice of any kind that a hearing on February 26, 2007 was
3 scheduled. Respondent, based on information and belief, admits the Motion
4 proceeded by default resulting in increased support obligations for
5 Francisco Garcia Alcantar. Respondent admits she never attempted to set
6 aside the default as once Respondent learned the true facts of
7 communication that occurred between Francisco Garcia Alcantar and the
8 Department of Child Support Services prior to the default hearing, none of
9 which she was informed of, Respondent could not ethically file a CCP 473
10 motion to set aside the default on Francisco Garcia Alcantar's behalf.

- 11 6. Respondent denies the allegations of paragraph 6 in Count One (A).
12 7. Respondent admits the allegations of paragraph 7 in Count One (A) but
13 clarifies that the resetting of the hearing for May 20, 2008 was at the
14 behest of the Court and not the Respondent.
15 8. Respondent admits the allegations of paragraph 8 in Count One (A).
16 9. Respondent denies the allegations of paragraph 9 in Count One (A).

17 **COUNT ONE (B)**

18 Francisco Garcia Alcantar
19 Case No. 08-0-14780
20 Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

- 21 10. Respondent denies the allegations of paragraph 10 in Count One (B).
22 11. Respondent's admissions, denials, and clarifications to the allegations
23 contained in Count One (A) are hereby incorporated by reference.
24 12. Respondent denies the allegations of paragraph 12 in Count One (B).
25 13. Respondent denies the allegations of paragraph 13 in Count One (B).

26 **COUNT ONE (C)**

27 Francisco Garcia Alcantar
28 Case No. 08-0-14780
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

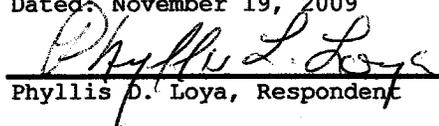
1 14. Respondent admits the allegations of paragraph 14 in Count One (C), and
2 affirmatively asserts that there were mitigating factors to respondent not
3 filing a written response as respondent was suffering from serious health
4 problems which have been life-threatening and have resulted in
5 hospitalization in intensive care units.

6 15. Respondent admits, based upon information and belief, the allegations of
7 paragraph 15 in Count One (C),

8 16. Respondent admits the allegations of paragraph 16 in Count One (C), and
9 affirmatively asserts that there were mitigating factors to respondent not
10 filing a written response as respondent was suffering from serious health
11 problems which were life-threatening and have resulted in hospitalization
12 in intensive care units.

13 17. Respondent admits the allegations of paragraph 17 in Count One (C)
14 regarding the failure to file a written response and that she did not
15 fully cooperate in a disciplinary investigation, and affirmatively asserts
16 that there were mitigating factors to respondent not filing a written
17 response and fully cooperating as respondent was suffering from serious
18 health problems which were life-threatening and have resulted in
19 hospitalization in intensive care units.

20 Dated: November 19, 2009

21 
22 Phyllis D. Loya, Respondent

PROOF OF PERSONAL SERVICE

I, the undersigned, am a person over eighteen and not a party to the action. I am readily familiar with the requirements for service by hand and on November 20, 2009, at 3:45 pm hand delivered a copy of Respondent's Response to Notice of Disciplinary Charges in Case No 08-0-14780, In the Matter of Phyllis D. Loya , to the State Bar of California to Office of Trial Council directed to the attention of Mark Hartman, Assigned Deputy Trial Council at his office located at 180 Howard Street, San Francisco, California. My address is

50 California St, 28th Fl, San Francisco CA 94111

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 11/20/2009



Sharon Edwards