

FILED

SEP 29 2011

STATE BAR COURT CLERK'S OFFICE
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5 Attorney for Respondent
6 COLIN C. SWAINSTON

8 STATE BAR COURT
9 HEARING DEPARTMENT- LOS ANGELES

10 In the Matter of) Case no(s): 10-O-05923, 10-O-07529,
11 COLIN C. SWAINSTON) 10-O-07809, 11-O-10865
12 No. 140800) RESPONSE TO NOTICE OF DISCIPLINARY
13 A Member of the State Bar) CHARGES
14) [Rule of Procedure 5.43]

14 **Address for Service**

15 All documents in this matter should be served on respondent's counsel at the
16 address above.

18 **Response to Allegations**

19 1. Respondent admits the allegations of paragraph 1.

21 **Case no. 10-O-05923 (Diaz)**

22 **Count 1 (Rule 4-100(b)(3))**

- 23 2. Respondent denies the allegations of paragraph 2.
- 24 3. Respondent admits the allegations of paragraph 3.
- 25 4. Respondent admits the allegations of paragraph 4.
- 26 5. Respondent denies the allegations of paragraph 5.
- 27 6. Respondent denies the allegations of paragraph 6.
- 28 7. Respondent denies the allegations of paragraph 7.

- 1 8. Respondent denies the allegations of paragraph 8.
- 2 9. Respondent denies the allegations of paragraph 9.
- 3 10. Respondent denies the allegations of paragraph 10.
- 4 11. Respondent denies the allegations of paragraph 11.

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Case no. 10-O-05923 (Diaz)

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Count 2 (Rule 4-100(b)(4))

- 8 12. Respondent denies the allegations of paragraph 12.
- 9 13. Respondent incorporates his previous responses to the referenced paragraphs.
- 10 14. Respondent denies the allegations of paragraph 14.
- 11 15. Respondent denies the allegations of paragraph 15.
- 12 16. Respondent denies the allegations of paragraph 16.

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Case no. 10-O-05923 (Diaz)

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Count 3 (Bus. & Pro. Code section 6068(i))

- 16 17. Respondent denies the allegations of paragraph 17.
- 17 18. Respondent incorporates his previous responses to the referenced paragraphs.
- 18 Respondent denies the allegations of paragraph 19.
- 19 19. Respondent denies the allegations of paragraph 20.
- 20 20. Respondent denies the allegations of paragraph 21.
- 21 21. Respondent denies the allegations of paragraph 22.
- 22 22. Respondent incorporates his previous responses to the referenced paragraphs.
- 23 23. Respondent denies the allegations of paragraph 24.
- 24 24. Respondent denies the allegations of paragraph 25.
- 25 25. Respondent denies the allegations of paragraph 26.

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1 **Case no. 10-O-07529 (Guerrero)**

2 **Count 4 (Rule 3-110(A))**

- 3 26. Respondent denies the allegations of paragraph 27.
4 27. Respondent denies the allegations of paragraph 28
5 28. Respondent denies the allegations of paragraph 29.
6 29. Respondent denies the allegations of paragraph 30.
7 30. Respondent denies the allegations of paragraph 31
8 31. Respondent denies the allegations of paragraph 32.

9
10 **Case no. 10-O-07529 (Guerrero)**

11 **Count 5 (Bus. & Pro. Code section 6068(m))**

- 12 32. Respondent denies the allegations of paragraph 33
13 33. Respondent denies the allegations of paragraph 34.
14 34. Respondent incorporates his previous responses to the referenced paragraphs.
15 35. Respondent denies the allegations of paragraph 35.
16 36. Respondent denies the allegations of paragraph 36.
17 37. Respondent denies the allegations of paragraph 37.
18 38. Respondent denies the allegations of paragraph 38.

19
20 **Case no. 10-O-07529 (Guerrero)**

21 **Count 6 (Rule 4-100(b)(3))**

- 22 39. Respondent denies the allegations of paragraph 39.
23 40. Respondent incorporates his previous responses to the referenced paragraphs.
24 41. Respondent denies the allegations of paragraph 41
25 42. Respondent denies the allegations of paragraph 42.
26 43. Respondent denies the allegations of paragraph 43.

1 **Case no. 10-O-07529 (Guerrero)**

2 **Count 7 (Rule 3-700(D)(2))**

3 44. Respondent denies the allegations of paragraph 44.

4 45. Respondent incorporates his previous responses to the referenced paragraphs.

5 46. Respondent denies the allegations of paragraph 46

6 47. Respondent denies the allegations of paragraph 47.

7
8 **Case no. 10-O-07529 (Guerrero)**

9 **Count 8 (Bus. & Prof. Code section 6068(i))**

10 48. Respondent denies the allegations of paragraph 48.

11 49. Respondent incorporates his previous responses to the referenced paragraphs.

12 50. Respondent denies the allegations of paragraph 50.

13 51. Respondent denies the allegations of paragraph 51.

14 52. Respondent denies the allegations of paragraph 52

15 53. Respondent denies the allegations of paragraph 53.

16 54. Respondent denies the allegations of paragraph 54.

17 55. Respondent denies the allegations of paragraph 55.

18 56. Respondent denies the allegations of paragraph 56.

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20 **Case no. 10-O-07809 (Fenton)**

21 **Count 9 (Rule 4-100(B)(4))**

22 57. Respondent denies the allegations of paragraph 57.

23 58. Respondent denies the allegations of paragraph 58.

24 59. Respondent denies the allegations of paragraph 59.

25 60. Respondent denies the allegations of paragraph 60.

26 61. Respondent denies the allegations of paragraph 61.

27 62. Respondent denies the allegations of paragraph 62.

1 **Case no. 10-O-07809 (Fenton)**

2 **Count 10 (Bus. & Prof. Code section 6106)**

- 3 63. Respondent denies the allegations of paragraph 63.
4 64. Respondent incorporates his previous responses to the referenced paragraphs.
5 65. Respondent denies the allegations of paragraph 65
6 66. Respondent denies the allegations of paragraph 66.

7
8 **Case no. 10-O-07809 (Fenton)**

9 **Count 11 (Bus. & Prof. Code section 6068(i))**

- 10 67. Respondent denies the allegations of paragraph 67.
11 68. Respondent incorporates his previous responses to the referenced paragraphs.
12 69. Respondent denies the allegations of paragraph 69.
13 70. Respondent denies the allegations of paragraph 70.
14 71. Respondent denies the allegations of paragraph 71.
15 72. Respondent denies the allegations of paragraph 72.
16 73. Respondent denies the allegations of paragraph 73.
17 74. Respondent denies the allegations of paragraph 74.
18 75. Respondent denies the allegations of paragraph 75.

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20 **Case no. 11-O-010865 (Torrijos)**

21 **Count 12 (Bus. & Prof. Code section 6068(m))**

- 22 76. Respondent denies the allegations of paragraph 76.
23 77. Respondent denies the allegations of paragraph 77.
24 78. Respondent denies the allegations of paragraph 78.
25 79. Respondent denies the allegations of paragraph 79.
26 80. Respondent denies the allegations of paragraph 80.
27 81. Respondent denies the allegations of paragraph 81.
28 82. Respondent denies the allegations of paragraph 82.

1 83. Respondent denies the allegations of paragraph 83.

2 84. Respondent denies the allegations of paragraph 84.

3 85. Respondent denies the allegations of paragraph 85.

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5 **Case no. 11-O-10865 (Torrijos)**

6 **Count 13 (Rule 3-110(A))**

7 86. Respondent denies the allegations of paragraph 86.

8 87. Respondent incorporates his previous responses to the referenced paragraphs.

9 88. Respondent denies the allegations of paragraph 88

10 89. Respondent denies the allegations of paragraph 89.

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12 **Case no. 11-O-10865 (Torrijos)**

13 **Count 14 (Rule 3-700(d)(2))**

14 90. Respondent denies the allegations of paragraph 90.

15 91. Respondent incorporates his previous responses to the referenced paragraphs.

16 92. Respondent denies the allegations of paragraph 92.

17 93. Respondent denies the allegations of paragraph 93.

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19 **Case no. 11-O-10865 (Torrijos)**

20 **Count 12 (Bus. & Prof. Code section 6068(i))**

21 94. Respondent denies the allegations of paragraph 94.

22 95. Respondent incorporates his previous responses to the referenced paragraphs.

23 96. Respondent denies the allegations of paragraph 96.

24 97. Respondent denies the allegations of paragraph 97.

25 98. Respondent denies the allegations of paragraph 98.

26 99. Respondent denies the allegations of paragraph 99.

27 100. Respondent denies the allegations of paragraph 100.

28 101. Respondent denies the allegations of paragraph 101.

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First Affirmative Defense

The notice of disciplinary charges, and each count in it, fails to state a disciplinable offense.

Second Affirmative Defense

With respect to Count 1, Respondent's conduct was not willful.

Third Affirmative Defense

With respect to Count 2, Respondent's conduct was not willful.

Fourth Affirmative Defense

With respect to Count 3, Respondent's conduct was not willful.

Fifth Affirmative Defense

With respect to Count 4, Respondent's conduct was not willful.

Sixth Affirmative Defense

With respect to Count 5, Respondent's conduct was not willful.

Seventh Affirmative Defense

With respect to Count 6, Respondent's conduct was not willful.

Eighth Affirmative Defense

With respect to Count 7, Respondent's conduct was not willful.

Ninth Affirmative Defense

With respect to Count 8, Respondent's conduct was not willful.

Tenth Affirmative Defense

With respect to Count 9, Respondent's conduct was not willful.

Eleventh Affirmative Defense

With respect to Count 10 Respondent's conduct was not willful.

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Twelfth Affirmative Defense

With respect to Count 11 Respondent's conduct was not willful.

Thirteenth Affirmative Defense

With respect to Count 12. Repondent's conduct was not willful.

Fourteenth Affirmative Defense

With respect to Count 13 Respondent's conduct was not willful.

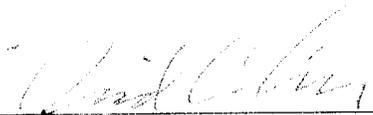
Fifteenth Affirmative Defense

With respect to Count 14, Respondent's conduct was not willful.

Sixteenth Affirmative Defense

With respect to Count 15, Respondent's conduct was not willful.

Dated: September 28, 2011

By: 
David Cameron Carr
Counsel for Respondent
COLIN C. SWAINSTON

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DECLARATION OF SERVICE

I am employed in the County of San Diego, State of California. I am over the age of eighteen and not a party to the within action; my business address is: 530 B Street, Suite 1410, San Diego, California 92101

On September 28, 2011, I served the following documents described as:

09-O-19235 RESPONSE TO NOTICE OF DISCIPLINARY CHARGES

10-O-05923, 10-O-07529, 10-O-07809, 11-O-10865 RESPONSE TO NOTICE OF DISCIPLINARY CHARGES

VIA FIRST CLASS MAIL -- CCP §§ 1013(a); 2015.5: By placing a true copy thereof enclosed in a sealed envelope(s) addressed as indicated in attached service list, and placing each for collection and mailing with the United States Postal Service on the date following ordinary business practices for the posting of first class mail. I am readily familiar with my firm's business practice and collection and processing of first class mail with the United States Postal Service and correspondence placed for collection and mailing would be deposited with the United States Postal Service at San Diego, California, with postage thereon fully prepaid that same day in the ordinary course of business.

BY FACSIMILE to (213) 765-1442

BY EMAIL to

SEE SERVICE LIST BELOW

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

Executed on September 28, 2011, at San Diego, California.



David Cameron Carr

SERVICE LIST

Deputy Trial Counsel Margaret Warren
Office of the Chief Trial Counsel
The State Bar of California
1149 South Hill Street
Los Angeles CA 90015-2212