

1 MICHAEL G. GERNER SBN 65906
2 A Professional Law Corporation
3 425 South Beverly Drive
4 Suite 210
5 Beverly Hills, CA 90212
6 (310) 556-1300
7 FAX (310) 788-0793

8 Attorney for Respondent
9 Joseph Sciafani

FILED *JD*

JAN 25 2012

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO



10 THE STATE BAR COURT
11 HEARING DEPARTMENT - LOS ANGELES

12 In the Matter of)

Case No.: 10-O-06776

13 JOSEPH SCLAFANI)

14 No. 134026)

RESPONSE TO NOTICE OF
DISCIPLINARY CHARGES

15 A Member of the State Bar,
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18 Joseph Sciafani , Respondent (hereinafter "Respondent"), a member of the State Bar of
19 California, by and through his counsel of record, Michael G. Gerner, in response to the Notice of
20 Disciplinary Charges (hereinafter "NDC") on file herein, admits, denies and alleges as follows:

21 JURISDICTION

- 22 1. Respondent admits the allegations contained in Paragraph 1 of the NDC.

23 COUNT ONE

24 Case No. 10-O-06776

- 25 2. Respondent specifically denies each and every allegation contained in Paragraph 2 of
26 Count One of the NDC.
27 3. Respondent specifically denies each and every allegation contained in Paragraph 3 of
28 Count One of the NDC. Respondent was engaged by Hajime Shimizu and Ayumi

1 Shimizu ("Shimizus") to review Case Nos. e-200919K-0569-00s and ADJ7016206
2 preliminary to the Shimizus engaging Respondent to represent them in the matters.

- 3 4. Respondent has insufficient information to admit or specifically deny and based upon
4 such insufficient information specifically denies each and every allegation contained
5 in Paragraph 4 of Count One of the NDC.
- 6 5. Respondent specifically denies each and every allegation as pled in Paragraph 5 of
7 Count One of the NDC. The Shimizus paid Respondent \$750 as a non-refundable fee
8 in Case No. e-200919K-0569-00s and \$750 as a non-refundable fee in Case No.
9 ADJ7016206 to review and discuss his analysis and strategy preliminary to being
10 engaged to represent them in one or both of said matters.
- 11 6. Respondent specifically denies each and every allegation contained in Paragraph 6 of
12 Count One of the NDC.
- 13 7. Respondent specifically denies each and every allegation contained in Paragraph 7 of
14 Count One of the NDC. Respondent had not been hired to proceed with the matters.
15 He was given the above fees to review and provide an analysis to the Shimizus, who
16 would determine if they wanted Respondent to represent them in the matters. It was
17 Respondent's position that he had fully earned the \$750 in each case.
- 18 8. Respondent specifically denies each and every allegation contained in Paragraph 8 of
19 Count One of the NDC. Mr. Johnson telephonically contacted Respondent and
20 demanded the return of the files and an accounting. Respondent explained that he had
21 done preliminary analysis work and had fully earned the fee. Respondent offered to
22 return \$750 of the monies paid by the Shimizus. Respondent thereafter made the same
23 offer to the Shimizus at Mr. Johnson's request. Mr. Shimizu was initially willing to
24 accept that amount, but Mrs. Shimizu rejected it.
- 25 9. Respondent specifically denies each and every allegation contained in Paragraph 9 of
26 Count One of the NDC. Respondent provided Mr. Johnson with an oral accounting of
27 his fees, stating that he had fully earned each of the \$750 payments made by the
28 Shimizus.

1 10. Respondent has insufficient information to admit or specifically deny and based upon
2 such insufficient information specifically denies each and every allegation
3 contained in Paragraph 10 of Count One of the NDC.

4 11. Respondent specifically denies each and every allegation contained in Paragraph 11
5 of Count One of the NDC.

6 COUNT TWO

7 Case No. 10-O-06776

8 12. Respondent specifically denies each and every allegation contained in Paragraph 12
9 of Count Two of the NDC.

10 13. Respondent admits and specifically denies the allegations contained in Count One of
11 the NDC and incorporates such admissions and specific denials by reference in
12 Paragraph 13 of Count Two of the NDC.

13 14. Respondent specifically denies each and every allegation contained in Paragraph 14
14 of Count Two of the NDC.

15 15. Respondent specifically denies each and every allegation contained Paragraph 15 of
16 Count Two of the NDC.

17 COUNT THREE

18 Case No. 10-O-06776

19 16. Respondent specifically denies each and every allegation contained in Paragraph 16
20 of Count Three of the NDC.

21 17. Respondent admits and specifically denies the allegations contained in Count One of
22 the NDC and incorporates such admissions and specific denials in Paragraph 17 of
23 Count Three of the NDC.

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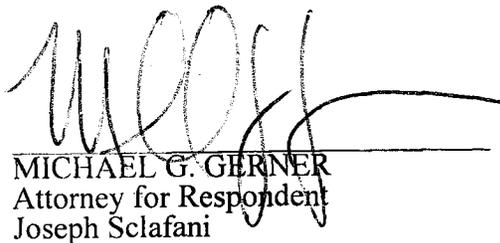
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1 18. Respondent specifically denies each and every allegation contained in Paragraph 18
2 of Count Three of the NDC.
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5 DATED: January 23, 2011

6 Respectfully submitted.
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11 MICHAEL G. GERNER
12 Attorney for Respondent
13 Joseph Sclafani
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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within action. My business address is 425 South Beverly Drive, Suite 210, Beverly Hills, California 90212.

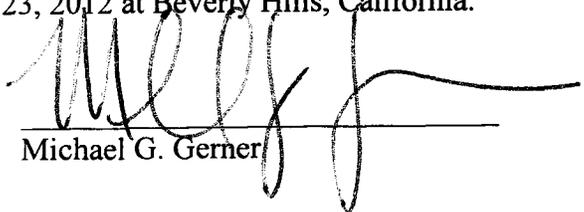
On January 23, 2012 I caused to be served the documents described as:

RESPONSE TO NOTICE OF DISCIPLINARY CHARGES

By placing a true copy thereof in a sealed envelope addressed and personally served as follows:

William Todd, Deputy Trial Counsel
State Bar of California
1149 S. Hill Street
Los Angeles, CA 90015

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 23, 2012 at Beverly Hills, California.



Michael G. Gerner