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FILED

JUN 29 2012

4 Attorney for Respondent, LAWRENCE DERAK DUIGNAN
5

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES



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8 THE STATE BAR
9 OF THE STATE OF CALIFORNIA
10 HEARING DEPARTMENT - LOS ANGELES

11 In The Matter of) Case Nos. 11-O-11990
12 LAWRENCE DERAK DUIGNAN,) 11-O-12116
No. 110536) 11-O-12118
13) 11-O-13628
14 A Member of the State Bar) 11-O-14393
15) **RESPONSE TO SECOND AMENDED
NOTICE OF DISCIPLINARY CHARGES**

16 **RESPONSE TO NOTICE OF DISCIPLINARY CHARGES**

17 **JURISDICTION**

18 1. Respondent admits the allegations stated in Paragraph 1 with the qualification that
19 Respondent has been on voluntary inactive status since September 26, 2011.

20 **COUNT ONE**

21 2. Respondent denies the allegations stated in Paragraph 2.

22 3. As to Paragraphs 3, 4, 5, 6,7, 8, 9, 10, 11, and 12, Respondent admits Respondent
23 was employed by Godwin to provide legal services related to their property. Respondent
24 presently lacks information or belief or ability to respond and on that basis denies all other
25 allegations contained in said paragraphs.

26 4. Respondent denies the allegations stated in Paragraph 13.

27 **COUNT TWO**

28 5. Respondent denies the allegations stated in Paragraph 14.

1 35. As to Paragraphs 62-72, Respondent presently lacks information or belief or
2 ability to respond and on that basis denies the allegation.

3 36. Respondent denies the allegations stated in Paragraph 73.

4 **COUNT ELEVEN**

5 37. Respondent denies the allegations stated in Paragraph 74.

6 38. Paragraph 75 is unintelligible and Respondent therefore denies this allegation.

7 39. As to Paragraph 76 Respondent presently lacks information or belief or ability to
8 respond and on that basis denies the allegation.

9 40. Respondent denies the allegations stated in Paragraph 77.

10 **COUNT TWELVE**

11 41. Respondent denies the allegations stated in Paragraph 78.

12 42. As to Paragraph 79, Respondent incorporates the responses to Count Eleven by
13 this reference.

14 43. As to Paragraphs 80 and 81, Respondent presently lacks information or belief or
15 ability to respond and on that basis denies the allegations.

16 44. Respondent denies the allegations stated in Paragraph 82.

17 **COUNT THIRTEEN**

18 45. Respondent denies the allegations stated in Paragraph 83.

19 46. As to Paragraphs 84 and 85, Respondent admits that he was engaged by
20 McPherson to provide legal services regarding his property. Respondent presently lacks
21 information or belief or ability to respond and on that basis denies all other allegations contained
22 in said paragraphs.

23 47. As to Paragraphs 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, and 97 Respondent
24 presently lacks information or belief or ability to respond and on that basis denies the allegations.

25 48. Respondent denies the allegations stated in Paragraphs 98 and 99.

26 **COUNT FOURTEEN**

27 45. Respondent denies the allegations stated in Paragraph 100.

28 46. Paragraph 101 is unintelligible as it makes reference to a non-existent "Count

1 Seventeen.” On that basis, Respondent denies the allegation.

2 47. Respondent denies the allegations in Paragraphs 102 and 103.

3 **FIRST AFFIRMATIVE DEFENSE**

4 Respondent is not responsible for the acts or omissions of others not under his control.

5 **SECOND AFFIRMATIVE DEFENSE**

6 Respondent is excused from the allegations stated above by reason of impossibility and/or
7 a high degree of impracticability under circumstances of duress not of his doing.

8 **THIRD AFFIRMATIVE DEFENSE**

9 Respondent’s counsel is informed and believes and thereon alleges on behalf of
10 Respondent that by reason of mental infirmity Respondent is not capable of assisting his counsel
11 in the representation of the member in these proceedings. (State Bar Rule 5.51 and/or Business
12 & Professions Code sec. 6007(b)(1).)

13 **ACCORD AND SATISFACTION**

14 Respondent reached an agreement for the stay of these proceedings pending the further
15 treatment and recovery of Respondent.

16 **MOTION FOR ABATEMENT**

17 Respondent hereby moves this Court to abate these proceedings pursuant to State Bar
18 Rule 5.51 pending further treatment and recovery of Respondent.

19 **MOTION FOR CONSOLIDATION**

20 There are now pending additional Complaints under investigation also involving
21 Respondent emotional collapse and the resulting closing of his law practice and voluntary
22 application for inactive status with the Bar. Said additional charges were incorporated into the
23 prior ENEC and the accord and satisfaction reached at that time. In the event any of the
24 additional Complaints have been or were hereafter to be formally charged, Respondent hereby
25 moves the Court to consolidate any subsequently-filed Charges with the charges into this one
26 action.

27 **MOTION TO DE-PUBLISH ORIGINAL CHARGES**

28 The original Charges filed in this action on April 13, 2012 contained false allegations to

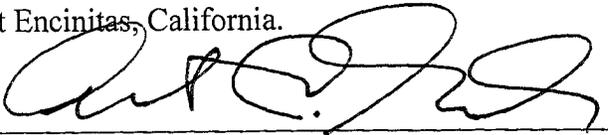
1 the effect that Respondent's wife, Gina Lacagnina, and Respondent's attorney, Anton C.
2 Gerschler, Esq. had failed to cooperate in the State Bar investigation. Upon ample proof to the
3 contrary, the Office of the Chief Trial Counsel of the State Bar, by and through Anthony J.
4 Garcia, Esq., Deputy Trial Counsel, agreed to file amended charges and did so on April 18, 2012.
5 The Amended and Second Amended Notices of Disciplinary Charges contain no such allegations
6 as to Respondent's wife or Respondent's attorney, yet the original initiating Charges have been
7 posted and remain posted publicly on the State Bar website, falsely and publicly impugning the
8 conduct of Respondent's counsel and Respondent's wife (also a member of the State Bar). On
9 this basis, the Court is respectfully requested to order the original erroneous charges to be de-
10 published forthwith and replaced instead by the April 18, 2012 Amended Notice of Disciplinary
11 Charges and May 23, 2012 Second Amended Notice of Disciplinary Charges.

12 **DECLARATION OF RESPONDENT'S COUNSEL**

13 I, Anton C. Gerschler, am a duly licensed California attorney and I represent Respondent
14 in this action. Mr. Duignan is currently under the care and treatment of mental health care
15 professionals and has been for many months now. He was previously determined to be disabled
16 from working and went voluntarily to inactive status with the Bar last September. He has not
17 been able to effectively assist me in his representation in this matter. Mr. Duignan is presently in
18 the process of an updated and comprehensive forensic mental evaluation.

19 I personally prepared this Response and I declare under penalty of perjury under the laws
20 of the State of California that all of the averments contained therein are true and correct and
21 made upon my personal knowledge except as to those matters stated upon information and belief,
22 and as to those matters, I believe them to be true.

23 Executed this ^{27th} 18th day of June, 2012 at Encinitas, California.
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26 Anton C. Gerschler, Esq.
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THE STATE BAR OF THE STATE OF CALIFORNIA HEARING DEPARTMENT -- LOS ANGELES		FOR COURT USE ONLY
TITLE OF CASE (Abbreviated) In Re The Matter of Lawrence Derak Duignan		
ATTORNEY(S) NAME AND ADDRESS Anton C. Gerschler, Esq., sbn #98682 914-A North Coast Highway 101 Encinitas, CA 92024		TELEPHONE (760) 633-4060
ATTORNEY(S) FOR: Lawrence Derak Duignan		CASE NUMBER ^S 11-O-11990, 11-O-12116, 11-O-12118, 11-O-13628, 11-O-14393

DECLARATION OF SERVICE
[C.C.P. §§ 1013A and 2015.5]

I, the undersigned, declare that I am, and was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to this action. My business address is 914-A N. Coast Highway 101, Encinitas, CA 92024. I served the following document(s):

RESPONSE TO SECOND AMENDED NOTICE OF DISCIPLINARY CHARGES

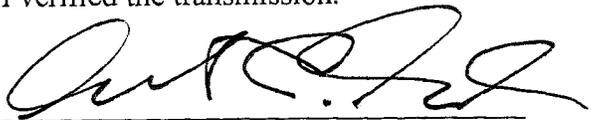
on the parties in this action addressed as follows:

State Bar of California
Office of the Chief Trial Counsel
Anthony J. Garcia, Esq. Deputy Trial Counsel
1149 South Hill Street
Los Angeles, CA 90015-2299
Fax: (213) 765-1319

State Bar of California
Clerk of the Hearing Department
1149 South Hill Street, 5th Floor
Los Angeles, CA 90015-2299

 X **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on June 27, 2012. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 27, 2011, Encinitas, California.

 BY FACSIMILE: On _____, I personally sent to the addressee's telecopier number above a true copy of the above-described document(s). Thereafter, I verified the transmission.


 Anton C. Gerschler, Esq., Declarant