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STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of:)	Case No. 11-O-16347
)	
AFTON L. HARRINGTON,)	
No. 155095,)	NOTICE OF DISCIPLINARY CHARGES
)	
A Member of the State Bar.)	

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. AFTON L. HARRINGTON ("Respondent") was admitted to the practice of law
4 in the State of California on December 17, 1991, was a member at all times pertinent to these
5 charges, and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 11-O-16347
8 Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

9 2. Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3), by
10 failing to render appropriate accounts to a client regarding all funds coming into respondent's
11 possession, as follows:

12 3. On or about May 2006, Susan Phelps employed respondent to represent her in the
13 marital dissolution matter *In the Marriage of Phelps*, Placer County Superior Court, case
14 number SDR-27240. Ms. Phelps and respondent entered into an hourly rate fee agreement.

15 4. Between in or about May 2006 and in or about May 2010, Ms. Phelps paid
16 respondent approximately \$100,000 for legal services.

17 5. On or about May 24, 2010, Ms. Phelps left respondent a telephone message
18 requesting that respondent provide her with a complete accounting, including an itemization of
19 all services provided and the amount charged for each service. Although respondent received
20 the request, respondent failed to provide Ms. Phelps with an accounting.

21 6. On or about May 25, 2010, Ms. Phelps provided respondent with a substitution of
22 attorney and some invoices. However, the invoices only covered a limited time period and
23 failed to include time entries for each task. Instead, it only included the total time charged for
24 the invoice period, without identifying who performed each task, the billing rate for the person
25 performing the task and the total charged per task. Respondent failed to provide Ms Phelps
26 with a complete accounting.

7. By failing to provide a complete accounting to Ms. Phelps, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession.

COUNT TWO

Case No. 11-O-16347

Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

8. Respondent willfully violated Business and Professions Code, section 6068(m), by failing to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, as follows:

9. Count One is incorporated by reference as if fully set forth herein.

10. Prior to on or about June 11, 2008, Mr. Phelps's counsel sent respondent a draft marital settlement agreement ("MSA"). Although respondent received the MSA, she failed to inform Ms. Phelps that she had received it, failed to inform her of its terms and failed to provide her with a copy of it.

11. In or about June 2010, Ms. Phelps discovered the MSA after she retrieved her files from respondent.

12. The draft MSA was a significant development in the matter. If Ms. Phelps had known of the MSA, it would have impacted the resolution of the matter.

13. By failing to inform Ms. Phelps of the MSA, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services.

COUNT THREE

Case No. 11-O-16347

Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

14. Respondent wilfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent, as follows:

1 15. The allegations of Counts One and Count Two are incorporated by reference as if
2 fully set forth herein.

3 16. On or about June 1, 2011, the State Bar opened an investigation in the Phelps
4 matter.

5 17. On or about November 4, 2011, a State Bar Investigator sent to respondent's
6 counsel, Bruce Ebert, a letter regarding respondent's conduct in this matter by placing the letter
7 in a sealed envelope correctly addressed to respondent's counsel at his address as maintained
8 by the State Bar in accordance with Business and Professions Code section 6002.1. The letter
9 requested that respondent respond in writing to specified allegations of misconduct being
10 investigated by the State Bar in this matter. Respondent's counsel received the letter.

11 18. At no time did respondent provide a written response to the allegations of
12 misconduct in this matter.

13 19. By failing to provide a written response to the allegations regarding
14 respondent's conduct in this matter or otherwise failing to cooperate in the investigation of this
15 matter, respondent failed to cooperate in a disciplinary investigation pending against her.

16 **NOTICE - INACTIVE ENROLLMENT!**

17 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**
18 **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**
19 **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**
20 **THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE**
21 **PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE**
22 **MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD**
23 **BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.**
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Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

By:

BRUCE ROBINSON
Assigned Deputy Trial Counsel

1 **DECLARATION OF SERVICE BY CERTIFIED AND REGULAR MAIL**

2 **CASE NUMBER: 11-O-16347**

3 I, the undersigned, over the age of eighteen (18) years, whose business address and place of
4 employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105,
5 declare that I am not a party to the within action; that I am readily familiar with the State Bar of
6 California's practice for collection and processing of correspondence for mailing with the United
7 States Postal Service; that in the ordinary course of the State Bar of California's practice,
8 correspondence collected and processed by the State Bar of California would be deposited with
9 the United States Postal Service that same day; that I am aware that on motion of party served,
10 service is presumed invalid if postal cancellation date or postage meter date on the envelope or
11 package is more than one day after date of deposit for mailing contained in the affidavit; and that
12 in accordance with the practice of the State Bar of California for collection and processing of
13 mail, I deposited or placed for collection and mailing in the City and County of San Francisco,
14 on the date shown below, a true copy of the within

9 **NOTICE OF DISCIPLINARY CHARGES**

10 in a sealed envelope placed for collection and mailing as ***certified mail, return receipt***
11 ***requested***, and in an additional sealed envelope as ***regular mail***, at San Francisco, on the date
12 shown below, addressed to:

12 **Article No.: 7160 3901 9849 1845 9468**

13 Bruce W. Ebert
14 300 Harding Blvd., Ste. 116
15 Roseville, CA 95678

15 in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

16 N/A

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

20 DATED: January 19, 2012

Signed: _____

Paula H. D'Oyen
Declarant