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FILED

NOV 20 2012

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

7 STATE BAR COURT
8 HEARING DEPARTMENT – LOS ANGELES

10 In the Matter of)

CASE NO.: 12-O-12214

11 Henry Min Lee,)
No. 156041)

ANSWER TO NOTICE AND DENIAL OF
DISCIPLINARY CHARGES

12 A Member of the State Bar.)
13 _____)
14

15 Respondent Member HENRY M. LEE (“Respondent” or “Lee”) hereby answers
16 the Notice of Disciplinary Charges as follows:

17 **JURISDICTION**

18 1. As to para. 1, Respondent admits the allegations.

19 **COUNT ONE**

20 2. As to para. 2, Respondent denies the allegations.

21 3. As to para. 3, Respondent admits the allegations.

22 4. As to para. 4, Respondent denies that the complaint included one count for
23 sexual discrimination but admits the remaining allegations.

24 5. As to para. 5, Respondent denies there was only one sexual discrimination
25 cause of action, but admits the remaining allegations.

26 6. As to para. 6, Respondent denies the allegations as to an authorized
27 representative, denies refusal to release Ms. Chang’s file, but admits as to a notice.
28

1 23. As to para. 23, the denials of Counts One, Two and Three are incorporated
2 herein by reference.

3 24. As to para. 24, Respondent did not and does not have sufficient information
4 to be able to either admit or deny this allegation and based thereon, denies.

5 25. As to para. 25, Respondent admits a letter was sent, but denies the content
6 of the letter as alleged.

7 26. As to para. 26, Respondent denies the inserted text, denies the context of
8 the allegations, but admits to the remaining quoted language.

9 27. As to para. 27, Respondent denies the allegations.

10 28. As to para. 28, Respondent denies the allegations.

11 29. Respondent also asserts the following facts to support affirmative defenses
12 and factors in mitigation.

13 **FIRST AFFIRMATIVE DEFENSE/MITIGATING FACTORS**

14 **[No Injury to the Client]**

15 30. Respondent is informed and believes in good faith that the Complaining
16 Client/witness Ok Song Chang (“Chang”) who made the subject complaints suffered no
17 injury. Further, prior to and after terminating Respondent’s services, Chang entered into
18 a settlement with the opposing parties in the underlying case, from which she received
19 compensation substantially higher than any settlement offer allegedly made.

20 31. Chang also filed a stipulation with the court advising of her settlement with
21 Defendants, which stipulation reflects Chang did not suffer and will not suffer any injury.
22 Plaintiff is also informed and believes that Chang committed perjury in filing a
23 declaration which recanted prior testimony at trial, which perjury was committed so as to
24 personally profit by obtaining a larger personal recovery at the expense of prejudicing
25 Respondent’s ability to receive the trial court’s fee award.

26 32. Chang was notified of significant developments in her case verbally and in
27 writing, and had authorized rejection of settlement with Defendants prior to trial.
28 Respondent is informed and believes that Chang authorized Respondent to proceed post

1 judgment. Respondent is informed and believes that Chang seeks to receive all or part of
2 Respondent's fee award and through her new attorneys and opposing attorney's unethical
3 threats of using this proceeding, Chang also seeks to gain settlement leverage to obtain all
4 or a portion of Respondent's fee award.

5 **SECOND AFFIRMATIVE DEFENSE/MITIGATING FACTORS**

6 **[Abatement//Related Civil Litigation]**

7 33. Chang and Respondent are currently in the midst of litigation pending in
8 Los Angeles Superior Court, Case No.: BC465694 wherein Chang alleges similar claims
9 set forth in the Notice (except as to Count Four). Plaintiff is informed and believes that
10 resolution of said litigation will resolve the factual disputes and liabilities set forth in
11 Counts One, Two and Three, and resolution thereof will resolve Count Four.

12 **THIRD AFFIRMATIVE DEFENSE/MITIGATING FACTORS**

13 **[No Record of Discipline]**

14 34. Respondent has a 21 year history of service without any discipline, and any
15 potential ethical violation in this matter, if found, is unique, extraordinary, and Plaintiff is
16 informed and believes would be without injury to the client or the public and does not
17 warrant imposition of discipline.

18 **FOURTH AFFIRMATIVE DEFENSE/MITIGATING FACTORS**

19 **[Respondent's Family Problems and Emotional Problems]**

20 35. During the period of representing Chang from May 2010 and lasting for
21 several months thereafter, Respondent's wife suffered from major health issues, requiring
22 extended hospitalization on two separate occasions, which directly affected Respondent's
23 state of mind, emotions, the Chang trial, case and handling. Respondent is no longer
24 suffering from the family problems or related emotional problems.

25 **FIFTH AFFIRMATIVE DEFENSE/MITIGATING FACTORS**

26 **[Inadvertent Loss of Records]**

27 36. After Chang's file was physically transferred, the hard drive onto which the
28 file was copied crashed, resulting in Respondent's loss of the majority of Chang's file

1 copies. As of the date of Respondent's response to the State Bar Inquiry, Respondent did
2 not have the majority of the file when preparing the response. Respondent to date has not
3 been permitted inspection and copying of the entire original file.

4 **SIXTH AFFIRMATIVE DEFENSE/MITIGATING FACTORS**

5 **[No Injury and No Risk of Injury to the Public]**

6 37. Respondent has a 21 year history without any discipline. Plaintiff is
7 informed and believes there was and is no injury to Chang. The conduct in question only
8 involved a private transaction with a single client, and there is a good faith dispute as to
9 what occurred in the underlying transactions for each Count. Thus, there is no injury and
10 no risk of injury to the public.

11 **SEVENTH AFFIRMATIVE DEFENSE/MITIGATING FACTORS**

12 **[Lack of Due Process, Lack of Notice of Details of Alleged Misconduct]**

13 38. The State Bar's inquiry letter requested a response to specific settlement
14 offers allegedly made, including offers "for the amount claimed," to which Respondent
15 provided a response to address the specific settlement demands in the inquiry.
16 Respondent is informed and believes the allegations in the Notice of Disciplinary Charges
17 are based on different alleged settlement offers, which facts were never brought to
18 Respondent's attention and of which Respondent did not have any notice beforehand.
19 Counts Two, Three and Four are based on alleged settlement offers of which notice was
20 never served upon Respondent's prior to the Notice of Disciplinary Charges being filed.
21 Therefore, Respondent was deprived of due process to respond to the allegations prior to
22 the Notice of Disciplinary Charges being filed. The Notice of Disciplinary Charges fails
23 to provide sufficient notice of the facts constituting any alleged violations, fails to cite the
24 Statutes and/or Rules which were allegedly violated, and the facts of such violations.

25 **EIGHTH AFFIRMATIVE DEFENSE/MITIGATING FACTORS**

26 **[Full Cooperation, Candor, Disclosure, and Assistance to Chang]**

27 39. Respondent was and remains responsive and cooperated with the State Bar
28 investigation, disclosed requested information, with candor and timeliness. Respondent

1 also made unsolicited offers to assist and cooperate with Chang to address, resolve and
2 alleviate any issues, disputes, claims that Chang may have arising from any services
3 Respondent provided, including but not limited to collection of the judgment in her favor,
4 waiver of costs Chang owes to Respondent, indemnification of Chang for any monies that
5 she allegedly may owe to opposing parties relating to the underlying A-Ju Tours Lawsuit.
6 All of Respondent's offers to assist Chang were rejected, without any alternative
7 proposals made by Chang.

8 **NINTH AFFIRMATIVE DEFENSE/MITIGATING FACTORS**

9 **[Change of Procedures]**

10 40. Respondent promptly instituted an enhancement to internal administrative
11 procedures wherein any settlement offers are promptly forwarded to clients both verbally
12 via telephone and in writing via email within minutes of receipt as a top priority. If
13 clients cannot be contacted before the end of the business day on which a settlement offer
14 is received, a written letter is also sent to the client as a third follow up. For all settlement
15 offers, written confirmation of the Client's response is either emailed or mailed to the
16 client. To date, the enhanced procedures have not required more than the initial telephone
17 call and email to obtain Client response. The email threads constitute better records of
18 the timeliness and details of settlement offers communicated to Clients.

19 **VERIFICATION**

20 I have personal knowledge of the facts stated above, except as to those matters
21 stated on information or belief or based on lack of information, and such responses are
22 provided in good faith based on available information or belief. I declare under penalty
23 of perjury that the foregoing answer is true and correct to the best of my ability and on the
24 information, belief or lack of information available at this time. Executed at Los Angeles,
25 California.

26 DATED: November 20, 2012

27 By: _____

28 Henry M. Lee
Respondent

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PROOF OF SERVICE

I am employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the within action. My business address is **3530 Wilshire Blvd, Suite 1710, Los Angeles, CA 90010**. On **November 20, 2012**, I caused the foregoing document described as:

ANSWER TO NOTICE AND DENIAL OF DISCIPLINARY CHARGES

to be personally served on the party in this action by placing a true copy thereof in a sealed envelope addressed as follows:

Ashod Mooradian, Deputy Trial Counsel
Jayne Kim, Chief Trial Counsel
Joseph Carlucci, Deputy Chief Trial Counsel
Melanie J. Lawrence, Assistant Chief Trial Counsel
1149 South Hill Street
Los Angeles, CA 90015-2299

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

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Jae Lee
Name

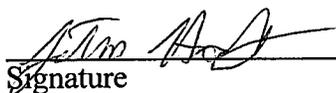

Signature

I am employed by A Plus Legal Service and am not a party to this action. My business address is **8417 Clanton St., San Gabriel, CA 91776**. On **November 20, 2012**, I personally hand delivered the above document to the addresses noted above.

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

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Justin Hernandez
Name


Signature