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STATE BAR COURT CLERK'S OFFICE  
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1 STATE BAR OF CALIFORNIA  
 OFFICE OF THE CHIEF TRIAL COUNSEL  
 2 JAYNE KIM, No. 174614  
 CHIEF TRIAL COUNSEL  
 3 JOSEPH R. CARLUCCI, No. 172309  
 DEPUTY CHIEF TRIAL COUNSEL  
 4 SUSAN CHAN, No. 233229  
 ACTING ASSISTANT CHIEF TRIAL COUNSEL  
 5 ROBERT A. HENDERSON, No. 173205  
 SENIOR TRIAL COUNSEL  
 6 180 Howard Street  
 San Francisco, California 94105-1639  
 7 Telephone: (415) 538-2385

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

12 In the Matter of: ) Case Nos.: 12-O-18141 [13-O-10217;  
 13 GERALD BRYAN SMITH, ) 13-O-11014; 13-O-11427; 13-O-11583]  
 No. 152127, ) NOTICE OF DISCIPLINARY CHARGES  
 14 )  
 15 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.

The State Bar of California alleges:

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1 December 2012, and thereafter failing to inform the client that Respondent was withdrawing  
2 from employment in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

3 COUNT FOUR

4 Case No. 13-O-10217

5 Rules of Professional Conduct, rule 3-700(D)(2)  
6 [Failure to Refund Unearned Fees]

7 5. On or about April 12, 2012, Respondent received advanced fees of \$750 from a  
8 client, Dennis Chandler, to perform legal services, namely to negotiate with Hartford Insurance  
9 regarding a disability insurance claim. Respondent performed no services of value on behalf of  
10 the client and therefore earned none of the advanced fees paid. Respondent failed to refund  
11 promptly, upon Respondent's termination of employment in or about December 2012, any part  
12 of the \$750 advanced fee, in willful violation of Rules of Professional Conduct, rule 3-  
13 700(D)(2).

14 COUNT FIVE

15 Case No. 13-O-11014

16 Business and Professions Code, section 6068(b)  
17 [Failure to Maintain Respect to the Court]

18 6. On or about November 1, 2012, Respondent appeared before Judge Christopher  
19 Krueger, in *In the Matter of Gloria Vaughn*, Sacramento Superior Court case no. 04PR01521,  
20 while under the influence of alcohol, and thereby failed to maintain the respect due to the courts  
21 of justice and judicial officers, in willful violation of Business and Professions Code, section  
22 6068(b).

23 COUNT SIX

24 Case No. 13-O-11014

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

27 7. Respondent failed to cooperate and participate in a disciplinary investigation  
28 pending against Respondent by failing to provide a substantive response to the State Bar's letter  
of April 8, 2013, which Respondent received, that requested Respondent's response to the  
allegations of misconduct being investigated in case no. 13-O-11014, in willful violation of  
Business and Professions Code, section 6068(i).

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COUNT SEVEN  
Case No. 13-O-11427  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

8. On September 11, 2001, Kimberly Sosa employed Respondent to perform legal services, namely to file and obtain a dissolution of marriage, which Respondent intentionally recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by the following:

- A) Failing to prepare a formal order terminating the marital status effective March 16, 2004, as ordered by the court; and
- B) Failing to obtain a dissolution of marriage for his client.

COUNT EIGHT  
Case No. 13-O-11427  
Rules of Professional Conduct, rule 3-700(A)(1)  
[Failure to Obtain Court Permission to Withdraw]

9. On or about September 11, 2001, Kimberly Sosa employed Respondent to perform legal services, namely to file and obtain a dissolution of marriage, and thereafter, Respondent appeared as counsel of record for the client in *Sosa vs. Sosa*, San Mateo County Superior Court, case no. 067367. On or about March 16, 2004, Respondent took no further action on behalf of the client after the hearing in the scheduled family law trial of March 16, 2004, and effectively withdrew from the employment. At that time, Respondent did not obtain the permission of the court to withdraw from the client's representation in the case before that court when the rules of the court required that he do so, and Respondent withdrew from employment in a proceeding before a tribunal without its permission, in willful violation of Rules of Professional Conduct, rule 3-700(A)(1).

COUNT NINE  
Case No. 13-O-11427  
Rules of Professional Conduct, rule 3-700(D)(2)  
[Failure to Refund Unearned Fees]

10. On or about September 11, 2001, Respondent received advanced fees of \$3,500 from a client, Kimberly Sosa, to perform legal services, namely to file and obtain a dissolution of marriage. Respondent performed no services of value on behalf of the client and therefore

1 earned none of the advanced fees paid. Respondent failed to refund promptly, upon  
2 Respondent's termination of employment on or about March 16, 2004, any part of the \$3,500  
3 advanced fee, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

4 COUNT TEN  
5 Case No. 13-O-11427  
6 Business and Professions Code, section 6068(m)  
7 [Failure to Inform Client of Significant Development]

8 11. Respondent failed to keep Respondent's client, Kimberly Sosa, reasonably informed  
9 of significant developments in a matter in which Respondent had agreed to provide legal  
10 services, *Sosa vs. Sosa*, San Mateo County Superior Court, case no. 067367, in willful violation  
11 of Business and Professions Code, section 6068(m), by failing to inform the client of the  
12 following:

- 13 A) That the court on or about March 16, 2004, ordered Respondent to prepare a formal  
14 order wherein the court found irreconcilable differences exist which caused an  
15 irremediable breakdown of the marriage and that the marital status was terminated on  
16 March 16, 2004;  
17 B) That Respondent failed to prepare the order as directed by the court on March 16,  
18 2004; and  
19 C) That the marriage was not terminated because no order was prepared.

20 COUNT ELEVEN  
21 Case No. 13-O-11583  
22 Rules of Professional Conduct, rule 3-700(D)(2)  
23 [Failure to Refund Unearned Fees]

24 12. On or about October 3, 2012, Respondent received advanced fees of \$1,500 from  
25 Mark and Sheri Yeadaker, for Respondent to file a Motion to Dismiss their Bankruptcy.  
26 Respondent performed no services of value on behalf of the clients and therefore earned none of  
27 the advanced fees paid. Respondent failed to refund promptly, upon Respondent's termination of  
28 employment on or about December 10, 2012, any part of the \$1,500 advanced fee, in willful  
violation of Rules of Professional Conduct, rule 3-700(D)(2).

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COUNT TWELVE  
Case No. 13-O-11583  
Business and Professions Code, section 6103  
[Failure to Obey a Court Order]

13. Respondent disobeyed or violated an order of the court requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession which Respondent ought in good faith to do or forbear by failing to comply with the March 22, 2013, Order for Disgorgement of Fees Paid to Attorney Gerald Bryan Smith, in *In re Yeadaer*, United States Bankruptcy Court Northern District of California San Francisco Division, case no. 10-33304, in willful violation of Business and Professions Code, section 6103.

COUNT THIRTEEN  
Case No. 13-O-11583  
Business and Professions Code, section 6068(m)  
[Failure to Respond to Client Inquiries]

14. Respondent failed to respond promptly to multiple telephone messages between on or about November 7, 2012, and on or about December 10, 2012, that Respondent received in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

**NOTICE - INACTIVE ENROLLMENT!**

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

**NOTICE - COST ASSESSMENT!**

**IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS**

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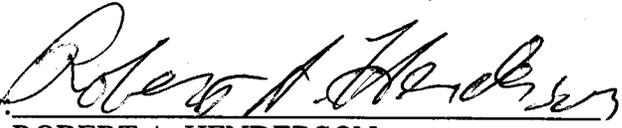
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**INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING  
AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND  
PROFESSIONS CODE SECTION 6086.10.**

Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: November 8, 2013

By:   
ROBERT A. HENDERSON  
Senior Trial Counsel

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

CASE NOS.: 12-O-18141; [13-O-10217; 13-O-11014 ; 13-O-11427; 13-O-11583]

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

**NOTICE OF DISCIPLINARY CHARGES**

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

**Article No.: 7196 9008 9111 6240 1270**

Gerald B. Smith  
Bryan Smith, Attorney at Law  
2020 Marconi Ave.  
Sacramento, CA 95821

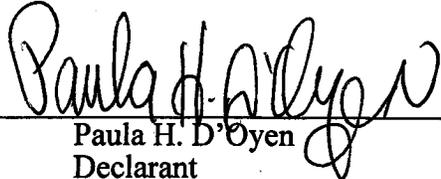
in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

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

DATED: November 8, 2013

Signed: \_\_\_\_\_

  
Paula H. D'Oyen  
Declarant