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JD
FILED

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5 Attorneys for Member
6 DAVID ALAN SHAFER

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

8 **STATE BAR COURT**
9 **STATE BAR OF CALIFORNIA**
10 **HEARING DEPARTMENT – SAN FRANCISCO**

11 In the Matter of:

Case No. 12-O-18163 PEM

12 DAVID ALAN SHAFER,
13 No. 86436

**RESPONSE OF MEMBER DAVID ALAN
SHAFER TO NOTICE OF DISCIPLINARY
CHARGES**

14 A Member of the State Bar
15

16
17 Member of the State Bar DAVID ALAN SHAFER (“SHAFER” or “RESPONDENT”)
18 responds to the Notice of Disciplinary Charges herein as follows:

19
20 Paragraph 1. RESPONDENT admits he was admitted to the practice of law in the State of
21 California on May 31, 1979, was a member at all times pertinent to these charges, and is currently
22 a member of the State Bar of California.

23 Paragraph 2. RESPONDENT denies accepting representation of STS as alleged on
24 February 2, 2010. Admits that at some point in February or early March 2010 RESPONDENT
25 agreed to incorporate and provide advice to STS, and articles of incorporation were filed on
26 March 25, 2010. However, deny that at the time as alleged in this paragraph that Christopher
27 Mann, John Urrutia and Mann, Urrutia and Nelson (MUN) were a “party” in the STS matter, and
28 deny any willful violation of the Rules of Professional Conduct, rule 3-310(b)(1).

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1 RESPONDENT admits introducing STS to MUN and another CPA firm in February and in
2 March 2010 and asserts that at all relevant times STS and personal counsel for Smith Miller were
3 aware that RESPONDENT had a longstanding personal and business relationship with MUN.

4 Paragraph 3. Denies accepting representation of STS as alleged on March 22, 2010.
5 Admits that at some point in March 2010 RESPONDENT agreed to incorporate and provide
6 advice to STS, and articles of incorporation were filed on March 25, 2010. However, deny that at
7 the time as alleged in this paragraph that Mann, Urrutia and MUN were a "party" in the STS
8 matter at this time, and deny any willful violation of the Rules of Professional Conduct, rule 3-
9 310(b)(1). RESPONDENT admits introducing STS to MUN and another CPA firm in February
10 and in March 2010 and asserts that at all relevant times STS and personal counsel for Smith
11 Miller were aware that RESPONDENT had a longstanding personal and business relationship
12 with MUN.

13 Paragraph 4: Denied by RESPONDENT and RESPONDENT incorporates his response
14 to paragraph 3 above.

15 Paragraph 5. Denied. In further response, STS was represented by independent counsel
16 who reviewed and revised the agreements and the following language was contained in the signed
17 agreements entered into between the parties confirming compliance with 3-310(B)(4):

18 Independent Counsel: The Parties have both been represented by
19 the Shafer Law Group and have executed a written waiver of
20 conflict of interest. The Parties acknowledge they have been
21 advised that they should be represented by Independent legal
22 counsel in the preparation and analysis of this Agreement and
23 further acknowledge they have had the opportunity to be
24 represented by independent counsel; and that they have read this
25 Agreement with care and believe that they are fully aware of and
26 understand its contents and its legal effect.

27 David Shafer of The Shafer Law Group has informed all Parties
28 that he has been presented with the opportunity of becoming an
equity shareholder in Strategic Tax Solutions, a California
corporation following the execution of this Agreement.

Agreement Drafted by The Shafer Law Group. Each of the Parties
hereto acknowledge that the (sic) this Agreement was drafted by
The Shafer Law Group and do thereby acknowledge each of the
following:

- 1 (a) A conflict may exist as The Shafer Law Group has represented
- 2 both MUN and Smith Miller, despite a waiver of conflict
- 3 expressed by each; and
- 4 (b) Each party has been advised by The Shafer Law Group to seek
- 5 the advice of independent counsel; and
- 6 (c) Each party has had the opportunity to seek the advice of
- 7 independent counsel;

7 Paragraph 6. Denied. RESPONDENT incorporates his response to paragraph 5.

8 Paragraph 7. Denied. RESPONDENT incorporates his response to paragraph 5.

9 Paragraph 8. Denied. RESPONDENT incorporates his response to paragraph 5.

10 Paragraph 9. Denied. RESPONDENT incorporates his response to paragraph 5. In
11 further response RESPONDENT was in continuous representation of the clients and the clients
12 had been apprised as reflected above regarding potential conflict and the right to independent
13 counsel, and in fact had independent counsel. The clients never entered into any further
14 agreements negotiated in any respect by RESPONDENT. Moreover, during the ongoing
15 negotiation as alleged the complaining party signed a further waiver of conflict in accordance
16 with Rule 3-310. No further agreements were entered into by the complaining parties during
17 representation by RESPONDENT.

18 Paragraph 10. Denied. RESPONDENT incorporates his response to paragraph 5. In
19 further response RESPONDENT was in continuous representation of the clients and the clients
20 had been apprised as reflected above regarding potential conflict and the right to independent
21 counsel, and in fact had independent counsel. The clients never entered into any further
22 agreements negotiated in any respect by RESPONDENT. Moreover, during the ongoing
23 negotiation as alleged the complaining party signed a further waiver of conflict in accordance
24 with Rule 3-310. No further agreements were entered into by the complaining parties during
25 representation by RESPONDENT.

26 Paragraph 11. Denied. RESPONDENT incorporates his response to paragraph 5. In
27 further response RESPONDENT was in continuous representation of the clients and the clients
28 had been apprised as reflected above regarding potential conflict and the right to independent

1 counsel, and in fact had independent counsel. The clients never entered into any further
2 agreements negotiated in any respect by RESPONDENT. Moreover, during the ongoing
3 negotiation as alleged the complaining party signed a further waiver of conflict in accordance
4 with Rule 3-310. No further agreements were entered into by the complaining parties during
5 representation by RESPONDENT.

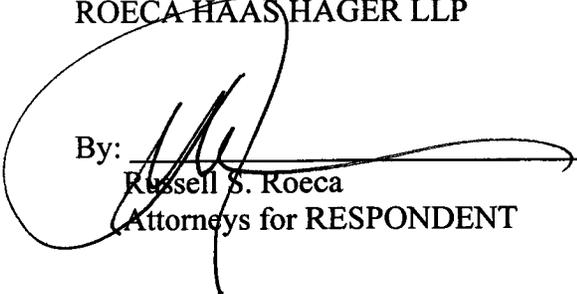
6 Paragraph 12. Denied. RESPONDENT incorporates his response to paragraph 5. In
7 further response RESPONDENT was in continuous representation of the clients and the clients
8 had been apprised as reflected above regarding potential conflict and the right to independent
9 counsel, and in fact had independent counsel. The clients never entered into any further
10 agreements negotiated in any respect by RESPONDENT. Moreover, during the ongoing
11 negotiation as alleged the complaining party signed a further waiver of conflict in accordance
12 with Rule 3-310. No further agreements were entered into by the complaining parties during
13 representation by RESPONDENT. Moreover, although the allegations of this paragraph never
14 materialized as no other agreements were concluded, the clients were aware of the issuance of
15 stock as it was recorded and signed as part of the STS minutes and this interest was disclosed in
16 2010.

17 Paragraph (sic). Denied. RESPONDENT further incorporates his response to paragraph
18 12.

19 Paragraph 13. RESPONDENT denies any violation of Business & Professions Code §
20 6068(a) as alleged.

21
22 Dated: July 29, 2015

ROECA HAAS HAGER LLP

23
24 By: 
25 Russell S. Roeca
26 Attorneys for RESPONDENT
27
28

PROOF OF MAILING

I, Sylvia Bernardino, hereby declare:

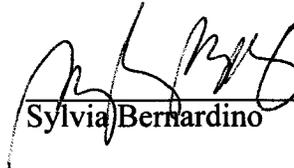
I am over the age of 18 years and not a party to or interested in the within entitled cause. I am an employee of Roecca Haas Hager LLP and my business address is 250 Montgomery Street, Suite 1410, San Francisco, CA 94104. On the date stated below, I served a true copy of:

RESPONSE OF MEMBER DAVID ALAN SHAFER TO NOTICE OF DISCIPLINARY CHARGES

(X) By mail, by placing said document(s) in an envelope addressed as shown below. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Said correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope and placed it for collection and mailing on the date stated below to the addressee stated below, following the firm's ordinary business practices.

Esther J. Rogers
State Bar of California
State Bar Office of the Chief Trial
Counsel
180 Howard Street
San Francisco, CA 94105-1639

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 at San Francisco, California on July 29, 2015.


Sylvia Bernardino

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