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FIRST AFFIRMATIVE DEFENSE

(Failure to State Sufficient Facts)

The Notice of Disciplinary Charges, and each of its purported counts, fails to state facts sufficient to state a basis for discipline.

SECOND AFFIRMATIVE DEFENSE

(Duplicative Charges)

The Notice of Disciplinary Charges contains inappropriate, unnecessary, and immaterial duplicative charges. *Bates v. State Bar* (1990) 51 Cal.3rd 1056, 1060; *In the Matter of Lilley* (Rev. Dept. 1991) 1 Cal. SB Ct. Rptr. 476, 585.

THIRD AFFIRMATIVE DEFENSE

(Lack of Materiality)

The facts on which some or all of the Notice of Disciplinary Charges are based allege immaterial or irrelevant omissions or statements that do not constitute “misrepresentations” or “concealment.”

FOURTH AFFIRMATIVE DEFENSE

(Charges Do Not Constitute Willful Misconduct)

The facts on which some or all of the Notice of Disciplinary Charges are based constitute mistake, inadvertence, neglect or error and do not rise to the level of willful misconduct.

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1 **FIFTH AFFIRMATIVE DEFENSE**

2 (Lack of Harm)

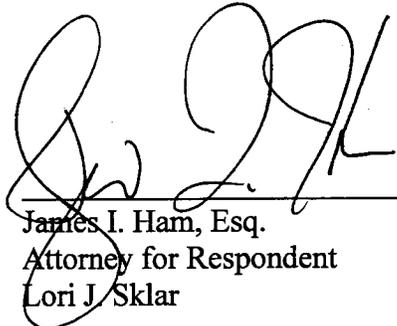
3 No harm resulted from the acts alleged in each and every count in the Notice of Disciplinary
4 Charges.

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6 WHEREFORE, Respondent prays that the Court find that Respondent did not commit acts
7 constituting professional misconduct, and that the Notice of Disciplinary Charges be dismissed.

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9 Respectfully submitted,

10 PANSKY MARKLE HAM, LLP
11 JAMES I. HAM, ESQ.

12 Dated: January 9, 2015

13
14 By: 

15 James I. Ham, Esq.
16 Attorney for Respondent
17 Lori J. Sklar

