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**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

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Attorney for Respondent, CARI DONAHUE

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:

CARI DONAHUE,
No. 273436,

A Member of the State Bar.

Case No.: 14-O-00897

FIRST AMENDED ANSWER OF
RESPONDENT, CARI DONAHUE TO
NOTICE OF DISCIPLINARY CHARGES

COMES NOW Respondent, Cari Donahue (hereinafter referred to as Donahue) and amends her answers and interposes affirmative defenses to the Notice of Disciplinary Charges brought by the State Bar of California as follows:

INTRODUCTION

Respondent, CARI DONAHUE, states in this introduction to the First Amended Response to the Notice of Disciplinary Charges that she was first employed as a special appearance attorney for PACIFIC COAST LAW GROUP APC, DBA WESTSIDE LAW GROUP that had been formed by Attorney, Lennie Alzate. At all times pertinent to the Notice of Disciplinary Charges filed herein was acting as an employee, not the supervising attorney, of Westside Law Group. Her separate office entity was not created until November 25, 2013 with the name of Westside Law APC. The similarity in naming may have created confusion and this introduction is for the purpose of clarification.

In the Matter of CARI DONAHUE; SBC Case No.: 14-O-00897; FIRST AMENDED ANSWER AND AFFIRMATIVE DEFENSES OF RESPONDENT, CARI DONAHUE TO NOTICE OF DISCIPLINARY CHARGES



1 AMENDED ANSWER

2 1. Donahue admits the allegations in paragraph number 1 of the Notice of
3 Disciplinary Charges.

4 AMENDED ANSWER TO COUNT ONE

5 Case No. 14-O-00897
6 Business and Professions Code, section 6106.3
7 [Violation of Civil Code, section 2944.7 (a) (1) - Illegal Advanced Fee]

8 2. Responding to Count One, Donahue is not culpable of any wrongdoing or ethical
9 violations in this case. Donahue, admits that on or about June 19, 2012 Tony and Ghalia Karam
10 (hereinafter referred to as Karam) signed an agreement for prelitigation and litigation legal
11 services with Westside Law Group, and between June 19, 2012 and December 19, 2012
12 Westside Law Group received a total of \$5,000.00 from Karam and except as specifically
13 admitted, denies each, every and all remaining allegations contained in paragraph number 2 of
14 Count One. Donahue specifically denies that she or Westside Law Group charged an advanced
15 fee for a loan modification in this case on the basis that Tony Karam obtained his own loan
16 modification from Bank of America, N.A. prior to engaging her services.

17
18 AMENDED ANSWER TO COUNT TWO

19 Case No. 14-O-00897
20 Rules of Professional Conduct, rule 4-100 (A)
21 [Failure to Deposit and Maintain Client Finds in Trust Account]

22 3. Responding to Count Two, Donahue is not culpable of any wrongdoing or ethical
23 violations in this case. Donahue denies that she received \$8,500.00 from Karam, but asserts that
24 Westside Law Group received an \$8,500.00 check from Karam and except as specifically
25 admitted, denies, every and all remaining allegations contained in paragraph number 3 of Count
26 Two. Donahue asserts that at all times said funds have been segregated and she has had no
27 control of said funds.

1 contained in paragraph six of Count Five. Donahue asserts that she and Westside Law Group has
2 been prevented from inter-pleading these funds into court based upon the statements and
3 representations of the State Bar of California. Respondent, Donahue remains ready, willing and
4 able to direct that these funds be interpleaded and has commenced to do so.

5 AMENDED AFFIRMATIVE DEFENSES

6 AMENDED AFFIRMATIVE DEFENSE TO COUNT ONE

7 Case No. 14-O-00897
8 Business and Professions Code, section 6106.3
9 [Violation of Civil Code, section 2944.7 (a) (1) - Illegal Advanced Fee]

10 7. Donahue is informed and believes and based thereon states that complainants,
11 Karam had already obtained a fully executed permanent loan modification at the time they
12 contacted respondent; their home was scheduled for a foreclosure sale; and there was a second
13 mortgage on their home. The foreclosure sale was rescinded and Donahue was prevented from
14 resolving the second mortgage because Karam failed to cooperate with Donahue.

15 AMENDED AFFIRMATIVE DEFENSE TO COUNT TWO

16 Case No. 14-O-00897
17 Rules of Professional Conduct, rule 4-100 (A)
18 [Failure to Deposit and Maintain Client Finds in Trust Account]

19 8. Donahue notified the State Bar of California of the intention to interplead the
20 \$8,500.00 and was told by the State Bar of California not to interplead these funds. These funds
21 have been segregated and preserved and Donahue and Westside Law Group has commenced to
22 interplead these funds. Donahue has a Trust Account registered with the State Bar of California.

23 AMENDED AFFIRMATIVE DEFENSE TO COUNT THREE

24 Case No. 14-O-00897
25 Rules of Professional Conduct, rule 4-100 (B) (4)
26 [Failure to Pay Client Funds Promptly]

27 9. Donahue incorporates paragraph 7 and 8 herein by this reference as fully as
28 though set out at length. Karam never sent a request for a refund to Donahue; Karam never
returned to the office for a refund; Karam refused to participate in mediation service provided by

1 Donahue over the payment of fees and the State Bar of California told and represented to
2 Donahue not to interplead funds in the amount of \$8,500.00.

3 AMENDED AFFIRMATIVE DEFENSE TO COUNT FOUR

4 Case No. 14-O-00897
5 Business and Professions Code, section 6106
6 [Moral Turpitude - Misappropriation]

7 10. Donahue incorporates paragraph numbers 7, 8 and 9 herein by this reference as
8 fully as though set out at length. Said \$8,500.00 are segregated and available and Donahue and
9 Westside Law Group has taken steps to interplead these funds.

10 AMENDED AFFIRMATIVE DEFENSE TO COUNT FIVE

11 Case No. 14-O-00897
12 Rules of Professional Conduct, rule 4-100 (B) (3)
13 [Failure to Render Accounts of Client Funds]

14 11. Respondent incorporates paragraph numbers 7, 8, 9 and 10 herein by this
15 reference as fully as though set out at length. Karam have failed and refused to come to the
16 office for an accounting of funds notwithstanding Donahue has sent an accounting to Karam.
17 Karam has never sent a request for a refund or an accounting to Donahue.

18 FIRST AFFIRMATIVE DEFENSE AS AMENDED AS TO ALL COUNTS

19 (Good Faith Judgment/Professional Judgment)

20 12. The charges against Donahue should be dismissed because Donahue acted in good
21 faith, used reasonable discretion, exercised reasonable and good faith professional judgment in
22 an unclear or debatable area of law, and did not seek or intend to mislead (and did not
23 mislead) the state bar.

24 SECOND AMENDED AFFIRMATIVE DEFENSE AS AMENDED AS TO ALL COUNTS

25 (Lack of Harm)

26 13. No persons were harmed by the acts alleged in each and every count of the Notice
27 of Disciplinary Charges on the basis that Karam never requested a refund, Karam refused to meet
28 Donahue at her office to review accounting or discuss a refund if applicable and refused

1 mediation services by Donahue in accordance to the fee agreement. (A true copy of the
2 termination letter and mediation refusal are attached as Exhibit B)

3 THIRD AFFIRMATIVE DEFENSE AS AMENDED TO ALL COUNTS

4 (Business & Professional Code Rules 6106.3 and 4-100(B)(3)(4) are Unconstitutional as Applied
5 to Vagueness)

6 14. All Counts are defective because Business & Professional Code is void for
7 vagueness as applied to the facts of this case under the Fifth and Fourteenth Amendments of the
8 United States Constitution, and equivalent state law, because Section 6106.3 and 4-
9 100(B)(3)(4) fails to address the conduct as alleged in Counts 1, 2, 3, 4 and 5.

10 FOURTH AFFIRMATIVE DEFENSE AS AMENDED TO ALL COUNTS

11 (Equal Protection/Due Process Violation Based upon Prosecutor's Unilateral Deprivation of
12 Respondents Right to Private Disposition at an ENEC Meeting

13 15. To the extent any discipline is appropriate, which Donahue disputes, the instant
14 proceeding has violated Donahue's rights to equal protection and substantive and procedural due
15 process. In the instant case, Donahue's counsel timely and on multiple occasions by email and
16 by telephone requested an ENEC meeting to discuss settlement options before formal charges
17 were filed on the basis of preexisting trial conflicts. A decision was made by the Office of Chief
18 Trial Counsel to file public charges legally depriving Donahue from an ENEC conference and the
19 right to a private disposition. The laws, policies and procedures pursuant to this action do not
20 allow the Office of the Chief Bar Counsel to deprive Donahue of the right to a private disposition
21 of a matter in appropriate circumstances as in the instant case.

22 AMENDED PRAYER

23 Wherefore, Respondent, Donahue prays that the Court find that Donahue did not

24 ////

25 ////

26 ////

1 commit acts constituting professional misconduct, and that the Notice of Disciplinary Charges
2 be dismissed

3
4 Dated: 08/16/2015

Respectfully submitted,

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6 
Terry John Walker, Attorney for
7 Respondent, Cari Donahue

8 VERIFICATION

9 I, Cari Donahue, am the respondent in this action. I have read the foregoing First
10 Amended Answer to the Notice of Disciplinary Charges and know its contents. The matters
11 stated are true of my own knowledge, except those stated on information and belief, and as to
12 those matters, I believe them to be true.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct. Signed this 17 day of August 2015 at Oceanside,
15 California.

16
17 
18 Cari Donahue

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Terry John Walker (SBN 78478) Law Office of Terry John Walker 3200 Fourth Avenue, Suite 208 San Diego, CA 92103-5716</p> <p>TELEPHONE NO.: (619) 291-3701 FAX NO. (Optional): (619) 297-0808 E-MAIL ADDRESS (Optional): terryjohnwalker@aol.com ATTORNEY FOR (Name): Cari Donahue</p>	<p style="text-align: center;">FOR COURT USE ONLY</p> <p style="font-size: 2em; font-weight: bold; text-align: center;">FILED</p> <p style="font-size: 1.5em; text-align: center;">AUG 17 2015</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF State Bar of California</p> <p>STREET ADDRESS: 845 South Figueroa Street, Third Floor MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90017-2515 BRANCH NAME:</p>	
<p>PETITIONER/PLAINTIFF: State Bar of California</p> <p>RESPONDENT/DEFENDANT: Cari Donahue</p>	
<p>PROOF OF PERSONAL SERVICE—CIVIL</p>	<p>CASE NUMBER: 14-O-00897</p>

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action.
2. I served the following documents (specify):
 First Amended Answer of Respondent, Cari Donahue to Notice of Disciplinary Charges

The documents are listed in the Attachment to Proof of Personal Service—Civil (Documents Served) (form POS-020(D)).

3. I personally served the following persons at the address, date, and time stated:
 - a. Name: Angela Carpenter, Case Manager
 - b. Address: 845 S. Figueroa Street, Third Floor, Los Angeles, CA 90017-2517
 - c. Date:
 - d. Time:

The persons are listed in the Attachment to Proof of Personal Service—Civil (Persons Served) (form POS-020(P)).

4. I am,
 - a. not a registered California process server.
 - b. a registered California process server.
 - c. an employee or independent contractor of a registered California process server.
 - d. exempt from registration under Business & Professions Code section 22350(b).

5. My name, address, telephone number, and, if applicable, county of registration and number are (specify):

6. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7. I am a California sheriff or marshal and certify that the foregoing is true and correct.

Date: 8-17-15

JOEL F. GUERRA
 (TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)


 (SIGNATURE OF PERSON WHO SERVED THE PAPERS)

SHORT TITLE: State Bar of California vs Cari Donahue	CASE NUMBER: 14-O-00897
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ATTACHMENT TO PROOF OF PERSONAL SERVICE—CIVIL (PERSONS SERVED)

(This Attachment is for use with form POS-020)

<u>Name of Person Served</u>	<u>Address (number, street, city, and zip code)</u>	<u>Date and Time of Service</u>
Diane Meyers	845 S. Figueroa Street, Third Floor, Los Angeles, CA 90017-2515	Date: _____ Time: _____
		Date: _____ Time: _____