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9 MAY 19 2015

10 STATE BAR COURT

11 HEARING DEPARTMENT - LOS ANGELES

12 STATE BAR COURT CLERK'S OFFICE
13 SAN FRANCISCO

14 In the Matter of :

Case No. 14-O-03483

15 DAVID DOE-OOK KIM,
16 No. 12830

**RESPONDENT'S VERIFIED ANSWER TO
NOTICE OF DISCIPLINARY CHARGES**

17 A Member of the State Bar

Judge: The Honorable Pat McElroy

18 David D. Kim, Respondent herein, answers the allegations of the Notice of Disciplinary
19 Charges dated November 18, 2014, as being true under penalty of perjury, as follows:

20 **JURISDICTION**

- 21 1. Respondent admits the allegations of paragraph 1 of the Notice of Disciplinary Charges.

22 **COUNT ONE**

23 Case No. 14-O-03483

24 Rules of Professional Conduct rule 4-100(B)(1)

25 [Failure to Notify of Receipt of Client Funds]

- 26 2. Respondent admits the allegations of Paragraph 2, that respondent received six settlement
27 checks totaling \$ 180,000 from opposing counsel in connection with the settlement of a
28 civil matter *Mario Tzmx, et al. v. H. K. Seafood, Inc. et al. (Case No. BC 481799)*.

1 Respondent denies, generally and specifically, that he received the checks *on behalf of*
2 respondent's clients, Mario Tznux and Alecsi Carillo. Rather, Respondent received the said
3 checks in payment of his pro rata portion of the settlement which he has earned through his
4 successful prosecution of the action. Accordingly, Respondent denies, generally and
5 specifically, the allegation of "willful violation of Rules of Professional Conduct, rule 4-
6 100(B)(1).
7

8 **COUNT TWO**

9 Case No. 14-O-03483

10 Rules of Professional Conduct rule 4-100(A)

11 [Failure to Maintain Client Funds in Trust Account]

12 3. Respondent admits the allegations of Paragraph 3 that respondent received six settlement
13 checks totaling \$ 180,000 from opposing counsel in connection with the settlement of a civil matter
14 titled *Mario Tznux, et al. v. H. K. Seafood, Inc. et al. (Case No. BC 481799)*. Respondent denies,
15 generally and specifically, Respondent's clients Mario Tznux and Alecsi Carillo were entitled to
16 \$ 90,000 of this sum or any other portion thereof. Rather, Respondent received the said checks in
17 payment of his pro rata portion of the settlement which he has earned through his successful
18 prosecution of the action. Accordingly, Respondent denies that said checks were deposited into
19 respondent's client trust account *on behalf of respondent's clients*, and as such, generally and
20 specifically, denies the allegation of "willful violation of Rules of Professional Conduct, rule 4-100(A).
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22 **COUNT THREE**

23 Case No. 14-O-03483

24 Business and Professions Code, section 6106

25 [Moral Turpitude-Misappropriation]

26 4. Respondent admits the allegations of Paragraph 2, that respondent received six settlement
27 checks totaling \$ 180,000 from opposing counsel in connection with the settlement of a civil matter
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1 Mario Tznux, et al. v. H. K. Seafood, Inc. et al. (Case No. BC 481799). Respondent denies, generally
2 and specifically, the allegation that he received the checks *on behalf of* respondent's clients, Mario
3 Tznux and Alecsi Carillo, or the allegation that they were entitled to \$ 90,000 of this sum or any
4 portion thereof. Rather, Respondent received the said checks in payment of his pro rata portion of the
5 settlement which he has earned through his successful prosecution of the action. Accordingly,
6 Respondent denies, generally and specifically, the blatantly false allegation that Respondent
7 "dishonestly or grossly negligently misappropriated for Respondent's own purposes" the alleged
8 \$ 90,000 the Respondent's clients were entitled to receive, and thereby committed an act involving
9 moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section
10 6106.

11
12 **COUNT FOUR**

13 Case No. 14-O-03483

14 Business and Professions Code, section 6106

15 [Moral Turpitude-Misrepresentation]

16 5. Respondent admits the allegations of Paragraph 5 that on or about November 20, 2013
17 Respondent stated in writing to Mario Tznux that Mr. Tznux had ruined the settlement agreement and
18 that Mr. Tznux would have to bring a new lawsuit, knowing the statement to be false. Respondent was
19 forced to make the misrepresentation in order to circumvent the clients' malevolent attempt to breach
20 the terms of the retainer agreement, *after* Respondent had performed the services in reliance on the
21 agreement to his financial detriment. As the misrepresentation was made to enforce the terms of a valid
22 retainer contract for the sole purpose of avoiding and mitigating the contractual damages Respondent
23 would clearly have suffered, without the intent to defraud the clients out of their portion of the recovery,
24 Respondent generally and specifically denies the allegation he committed an act involving moral
25 turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

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Respectfully submitted,

Dated: May 19, 2015

By:  _____
David D. Kim, Esq.
In Pro Per

