

FILED

OCT 20 2015

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

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2 **HELANE A. SIMON (CAL BAR 200946)**
3 **3528 EMERY STREET**
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8 **ATTORNEY FOR CATHERINE IRENE DENEVI**

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12 **STATE BAR COURT OF CALIFORNIA**
13 **HEARING DEPARTMENT-LOS ANGELES**

14 **IN THE MATTER OF CATHERINE) CASE NO:-14-O-03661-WK**
15 **IRENE DENEVI)**
16 **MEMBER NO.: 222539) ANSWER TO NOTICE OF**
17 **A MEMBER OF THE STATE BAR) DISCIPLINARY CHARGES**
18 **) INITIAL STATUS CONFERENCE**
19 **) DATE-OCTOBER 20, 2015**
20 **) TIME-130 PM**
21 **) DEPT-D**
22 **)**
23 **)**
24 **ANSWER**

25 **IN ANSWERING COUNT ONE OF THE DISCIPLINARY CHARGES ON THE ABOVE**
26 **CASE, THE MEMBER DENIES THE ALLEGATIONS.**

27 **IN ANSWERING COUNT TWO OF THE DISCIPLINARY CHARGE OF THE ABOVE**
28 **CASE, THE MEMBER DENIES THE ALLEGATIONS.**

AFFIRMATIVE DEFENSES

AFFIRMATIVE DEFENSES TO COUNT ONE-

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1-WHEN THE MEMBER DISCOVERED THE MISTAKE OF FACT, ALL MONIES WERE RETURNED TO THE TRUST FUND.

2-THE MEMBER BELIEVED THE MATTER WAS FULLY RESOLVED AT THE TIME THE FUNDS WERE WITHDRAWN.

3-THE CLIENT FAILED TO RESPOND TO ANY AND ALL ATTEMPTS AT CONTACT

4-ACCORD AND SATISFACTION-THE CLIENT CASHED THE CHECK FROM MEMBER WITHOUT FILING ANY COMPLAINT OR MAKING ANY MARK ON THE CASHIER CHECK THAT THE CASHING OF THE CASHIER CHECK WAS DONE "UNDER PROTEST" OR "NOT AS AN ACCORD AND SATISFACTION" THEREBY MAKING THE CASHING OF THE CASHIER CHECK ON DECEMBER 24, 2015 PAYMENT IN FULL OF FEAGIN'S PROCEEDS FROM THE SALE OF THE PROPERTY. EXHIBIT A.

5-THE CLIENT FAILED TO SERVE THE ANSWER OR CROSS COMPLAINT ON MEMBER.

6-COURT E-RECORDS DID NOT INDICATE ANY FILING OR SERVICE OF ANSWER OR CROSS COMPLAINT

7-THIS IS MEMBERS FIRST TIME BEING CHARGED AND DOES NOT CONSTITUTE GROSS, HABITUAL, OR PERVASIVE NEGLIGENCE AS REQUIRED AS A BASIS FOR DISCIPLINE PER INNIS V. STATE BAR, 20 CAL.3D 552, 556 (1978 AND IN THE MATTER OF TORRES, CAL.STATE BAR CT. RPTR 138 (REV. DEPT. 2004)

1 **AFFIRMATIVE DEFENSES TO COUNT TWO**

2
3 **1-WHEN THE MEMBER DISCOVERED THE MISTAKE OF FACT, ALL MONIES**
4 **WERE RETURNED TO THE TRUST FUND.**

5 **2-THE MEMBER BELIEVED THE MATTER WAS FULLY RESOLVED AT THE TIME**
6 **THE FUNDS WERE WITHDRAWN.**

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8 **3-THE CLIENT FAILED TO RESPOND TO ANY AND ALL ATTEMPTS AT CONTACT**

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10 **4-ACCORD AND SATISFACTION-THE CLIENT CASHED THE CHECK FROM**
11 **MEMBER WITHOUT FILING ANY COMPLAINT OR MAKING ANY MARK ON THE**
12 **CASHIER CHECK THAT THE CASHING OF THE CASHIER CHECK WAS DONE**
13 **"UNDER PROTEST" OR "NOT AS AN ACCORD AND SATISFACTION" THEREBY**
14 **MAKING THE CASHING OF THE CASHIER CHECK ON DECEMBER 24, 2015**
15 **PAYMENT IN FULL OF FEAGIN'S PROCEEDS FROM THE SALE OF THE**
16 **PROPERTY. EXHIBIT A.**

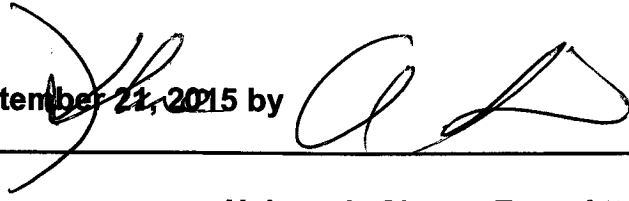
17 **5-THE CLIENT FAILED TO SERVE THE ANSWER OR CROSS COMPLAINT ON**
18 **MEMBER.**

19 **6-COURT E-RECORDS DID NOT INDICATE ANY FILING OR SERVICE OF ANSWER**
20 **OR CROSS COMPLAINT**

21
22 **7-THIS IS MEMBERS FIRST TIME BEING CHARGED AND DOES NOT**
23 **CONSTITUTE GROSS, HABITUAL, OR PERVASIVE NEGLIGENCE AS REQUIRED**
24 **AS A BASIS FOR DISCIPLINE PER INNIS V. STATE BAR, 20 CAL.3D 552, 556**
25 **(1978 AND IN THE MATTER OF TORRES, CAL.STATE BAR CT. RPTR 138 (REV.**
26 **DEPT. 2004)**

1 **8-MISTAKE OF FACT DOES NOT CONSTITUTE A BASIS FOR MORAL**
2 **TURPITUDE, DISHONESTY, CORRUPTION OR A WILLFUL VIOLATION.**

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6 Dated September 21, 2015 by



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8 **Helane A. Simon, Esq., Atty. For Catherine Denevi**

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EXHIBIT A

Amount: \$92,000.00

Sequence Number: 4042462973

Account: 2840184013

Capture Date: 12/24/2013

Bank Number: 32307038

Check Number: 1817203

Bank of America

Cashier's Check

No. 1817203

Notice to Purchaser: In the event this check is lost, misplaced or stolen, a return placard and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Date: **DECEMBER 16, 2013**

14-703K/3250
NOR

Banking Center **GRANTS PASS SHOPPING CENTER**


0002666 00001 0001817203

LAW OFFICE OF CATHERINE DENNY
Remitter (Purchased By)

\$*92000.00**

92000.00**
NINETY TWO THOUSAND DOLLARS AND 00 CENTS**

To The Order Of ****JESSE LEE FRAGIN SR.****
****UNCONTESTED BALANCE OF SALES PROCEEDS****



Authorized Signature

Bank of America, N.A.
Portland, OR

VOID AFTER 90 DAYS

⑆ 1817203⑆ ⑆ 323070380⑆ 002840184013⑆

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK

www.bankofamerica.com

Seq: 3
Batch: 642665
Date: 12/24/13

DO NOT WRITE / SIGN / STAMP BELOW THIS LINE
DEPOSITOR'S BANK ENDORSEMENT

Jesse L. Fragin

Seq: 00003 12/24/13
BAT: 642665 CC: 3180000475
WT: 01 LTPS: Los Angeles
BC: Bixby-Atlantic BC CA7-126

Electronic Endorsements:

Date	Sequence	Bank #	Endrs Type	TRN	RRC	Bank Name
12/24/2013	4042462973	122000661	Rtn Loc/BOFD	Y		BANK OF AMERICA, NA

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 14-O-03661

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

ANSWER TO NOTICE OF DISCIPLINARY CHARGES

By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- 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 Los Angeles.

By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").

By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)

(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested.

Article No.:

at Los Angeles, addressed to: (see below)

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,

Tracking No.:

addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
Anthony Garcia	845 S. Figueroa St. Los Angeles CA 90017-2515	Electronic Address	

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

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, and overnight delivery by the United Parcel Service ("UPS"). 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, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the 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.

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

DATED: September 21, 2015 MF

SIGNED: Martha Fonseca
Martha Fonseca