1 CHRISTOPHER R. MACARAEG, ESQ. (SBN#222120) LAW OFFICE OF CHRISTOPHER MACARAEG 2 424 F STREET, SUITE C SAN DIEGO, CA 92101 3 STATE BAR COURT TEL: (619) 235-2525 CLERK'S OFFICE FAX: (619) 756-7889 4 LOS ANGELES 5 IN PRO PER 6 7 STATE BAR COURT 8 HEARING DEPARTMENT – LOS ANGELES 9 Case Nos. 14-O-04620, 14-O-06207, and 15-10 In the Matter of: O-1040811 CHRISTOPHER RAMOS MACARAEG. RESPONDENT'S ANSWER TO NOTICE OF NO. 222120, 12 DISCIPLINARY CHARGES 13 A Member of the State Bar 14 15 TO THE COURT, ALL INTERESTED PARTIES HEREIN, AND THEIR ATTORNEYS 16 OF RECORD: 17 Respondent, Christopher R. Macaraeg ("Respondent"), hereby submits his Response 18 ("Response") to the Notice of Disciplinary Charges ("Charges") filed by the State Bar Court 19 against him in Case Numbers 14-O-04620, 14-O06207, and 15-O-10408. The Respondent 20 asserts his rights to have the information, evidence, and witnesses of this proceedings and its 21 documents t be privileged to the extent set forth in Code of Civil Procedure Sections 6086.1 and 22 6094 and under California law. 23 **COUNT ONE: Case No. 14-O-04620** 24 The allegation as it relates to Count One is denied as Respondent was suffering from 25 anxiety and family crisis due to severe financial problems. This anxiety affected Respondent's 26 ability to perform competently on behalf of Pedro Gaspar ("Mr. Gaspar"). Therefore, due to the

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crisis that Respondent was experiencing at that time, Respondent failed to follow up with Mr.

Gaspar (who had been difficult to reach on a few occasions), to address the filing of his appeal with the Board of Immigration Appeals.

COUNT TWO: Case No. 14-O-0462

The denial of Mr. Gaspar's appeal added to the ongoing anxiety and stress that Respondent was already experiencing. Respondent attempted to contact Mr. Gaspar, however, the several attempts by phone were not returned. The distractions surrounding Respondent as noted above in Count One affected Respondent's reasonable judgment to follow through with written correspondence or other forms of communication to properly inform Mr. Gaspar.

COUNT THREE: Case No. 14-O-0462

Respondent denies this allegation.

COUNT FOUR: Case No. 14-O-06207

Respondent denies this allegation. Pursuant to his resignation from the Ninth Circuit Court on November 3, 2014, Respondent was ordered by the Ninth Circuit Court of Appeals to submit a voluntary dismissal of his representation in the pending matter: Case No. 13-74275, *Vasquez-Avila v. Holder* by December 8, 2014. Respondent previously met with Mr. Vasquez Avila to inform him of his suspension from the State Bar and also of the requirement to dismiss himself from his appeal. Respondent thereafter retained new counsel.

COUNT FIVE: Case No. 14-O-06207

Respondent denies this allegation. See Response to Count Four above.

COUNT SIX: Case No. 14-O-06207

Respondent denies this allegation. Respondent provided the Ninth Circuit with the file of Mr. Vasquez Avila in his Response to the Ninth Circuit Court referencing Case No. 14-O-80112: In re: Christopher R. Macaraeg, Respondent.

REPRESENTATION OF CLIENTS IN GENERAL, BEFORE THE NINTH CIRCUIT COURT OF APPEALS

Prior to answering to the following charges as they relate to Respondent's representation of several clients before the Ninth Circuit Court of Appeals, Respondent feels the necessity to explain his thought process in agreeing to assist these clients with the filing of their appeals.

For the clients whom Respondent represented before the Ninth Circuit Court, the filing of the Notice of Appeal was the last chance the client had to stay in the United States and prevent their deportation from happening. For most the clients Respondent represented at this stage, Respondent had represented them during the entire Removal process. This typically begins with representation during Removal Proceedings in Immigration Court. In the event these cases were declined by the Immigration Judge, an appeal was filed with the Board of Immigration Appeals ("BIA").

The adjudication of an appeal with the BIA generally took about 8-10 months; sometimes over a year. If the BIA denied an appeal, Respondent would meet with his clients and discussed the dire possibility of prevailing on an appeal before the Ninth Circuit Court. Clients would ask, "how long would it take for the Ninth Circuit to decide the appeal?" Typically an appeal could last up to another year. In desperation, some of Respondent's clients urged Respondent to file the Notice of Appeal for fear that a Deportation Officer would be knocking on their door.

The State Bar Court should also know that most of his clients still owed a balance for their cases. Usually, an attorney would charge an added fee to represent clients in appeals. However, Respondent agreed to continue on with his client's cases so long as his client's continued paying off their balances.

Respondent filed the initiating document, "Notice of Appeal" with the Ninth Circuit Court. Most clients were satisfied that this had been done because they understood that their deportations had been stayed. However, as typically happens, the clients were thereafter unresponsive to Respondent's subsequent correspondence.

Respondent, explained this to the Ninth Circuit Commissioner during the proceedings heard on October 28, 2014. Respondent, understood at that time that he had made a grave mistake. First, he should never have stuck his neck out for these clients. Second, and most important, he should have dismissed himself for lack of communication from the cases where the clients became unresponsive to correspondence and other communication.

COUNT SEVEN: Case No. 14-O-06207

Respondent was initially retained by Berta Peraza ("Ms Peraza") to represent her during Immigration Removal Proceedings. The Immigration Judge ordered her Removal and we subsequently filed an appeal with the Board of Immigration Appeals. The BIA thereafter denied the appeal.

Ms. Peraza was on her last chance before the Immigration and Customs Enforcement officer was gong to remove her from the United States. Several occasions, Ms. Peraza came to me after having a conversation with her officer telling her that she needed to show proof of her case being determined by the 9th Circuit Court. In my haste and desire to do whatever I could to prevent her from being removed I filed Motions to Reconsider citing that Ms. Peraza never had the chance to apply for Prosecutorial Discretion with the Department of Homeland Security. I still believe this to be a valid argument, however, the 9th Circuit Court Commissioner alerted me in October 2014 that I did not need to got the route of filing a Motion for Reconsideration to get this accomplished. The case eventually proceeded in forma pauperis. Ms. Peraza was finally granted an opportunity to seek Prosecutorial Discretion with the Immigration and Customs Enforcement.

COUNT EIGHT: Case No. 14-O-06207

Respondent denies the allegation in Count Eight. The anxiety and family crisis that Respondent suffered from had been ongoing to the point that Respondent became overwhelmed. Still, Respondent did what he thought, at the time would prevent the deportation of Ms. Peraza.

Respondent did not prepare a declaration pursuant to the October 19, 2012 and February 1, 2013 orders because it was his intention to file a new motion to reconsider with the Ms.

Peraza's filing fees. Respondent believed that the "deficiencies" referenced in the Court's dismissals were in large part due to the failure to submit an appropriate filing fee. Errors like this caused Respondent to make the decision to resign from practicing before the 9th Circuit. As the Court Commissioner said during the hearing on October 28, 2014, it would appear that he was more an attorney more suited to practicing law in the trial courts as opposed to the Appellate Courts. Respondent realized at that time to resign because he was not suited to be an appellate lawyer.

COUNT NINE: Case No. 14-O-06207

Respondent admits to failing to file a response for the order to show cause. Respondent's continuing anxiety and family crisis affected his ability to provide a response to the Ninth Circuit. Eventually, Respondent was sanctioned \$2000.00.

COUNT TEN: Case No. 14-O-06207

The Respondent admits the allegation in this charge. Unfortunately, Respondent did not report Ninth Circuit Court sanction to the Bar. It was not until he attended the Bar Ethics School on February 18, 2015 that he became aware of the duty to inform the Bar of any sanction over \$1000.00. Had he known this, he would have informed the Bar especially since he was already under probation. These sanctions have been paid in full.

COUNT ELEVEN: Case No. 14-O-06207

The Respondent denies this allegation. The *Collazos* matter was Respondent's first Ninth Circuit case. The client, Walter Collazos ("Mr. Collazos") retained Respondent to prepare and file an appeal in his case. Shortly after Respondent prepared the Notice of Appeal, Mr. Collazos either moved away from San Diego or completely out of the Country. Respondent was never

successful in reaching him. To Respondent's fault he did not file a motion to withdraw from the case.

COUNT TWELVE: Case No. 14-O-06207

Respondent denies this allegation. Please see Response to Count Twelve above.

COUNTS THIRTEEN and FOURTEEN: Case No. 14-O-06207

The Respondent denies the charges in counts thirteen to fourteen. The *Gutierrez-Correa* ("Mr. Gutierrez") matter involved a client who was in detention in El Centro, California. Respondent and Mr. Gutierrez had a disagreement on how his Appeal should be written and Mr. Gutierrez decided to file his own brief. To Respondent's fault, he didn't file a Motion to Withdraw as his counsel.

COUNTS FIFTEEN to TWENTY-FOUR: Case No. 14-O-06207

The Respondent denies the charges in counts fifteen to twenty-four. The Respondent directs the Court to his introduction regarding the Representation of Clients in the Ninth Circuit Courts. Respondent in essence attempted to assist the clients listed in charges fifteen to twenty four respectively to preserve their appellate rights. Unfortunately, after Respondent provided them with a document showing their appeal had been filed, the clients were never seen by Respondent again. Respondent is aware that some of these clients simply decided to leave the country on their own. Again, to Respondent's fault, a motion to withdraw was not filed so that Respondent could be relieved as Counsel.

COUNTS TWENTY-FIVE to TWENTY-SEVEN: Case No. 15-O-10408

Responent admits to the allegations with respect to these charges. In Response to these charges regarding the representation of Reyna Juana Tello-Tello ("Ms. Tello's), Respondent defers to the Declaration he provided to Ms. Tello's new attorney to assist her in re-opening her

immigration case. Counsel will note that he represented Ms. Tello during removal proceedings. During the proceedings, the Immigration Judge ruled that her testimony was not credible due to inconsistencies in her declaration, application and testimony.

Regardless, the handling of Ms. Tello's appeal was at the fault of Respondent, which he explains in his declaration. Respondent wrote this declaration willingly to do the right thing and to assist Ms. Tello's new attorney in filing the Motion to Reopen.

MITIGATING FACTORS

Respondent does not know if it is premature or appropriate to address what he believes are mitigating factors pursuant to Standard 1.6. However, in an abundance of caution, Respondent shall inform the Court what he believes should be considered as mitigating factors at this time.

As mentioned previously, Respondent has been experiencing extreme emotional difficulties which were directly related to his perceived misconduct. During the course of the past 7 to 8 years, Respondent has suffered to severe financial problems (almost losing his home to foreclosure), tax problems (which are now resolved), and health issues concerning his now four year old son.

Respondent is currently undertaking private therapy in San Diego, California. He is also enrolled in the evaluation phase of the State Bar's Lawyer's Assistance Program. Respondent has found his therapy during the last 4 or 5 weeks have been extremely helpful in understanding the cause of his mental mistakes. He intends to continue both private therapy and the LAP group therapy indefinitely in hopes that he will become a better person. Respondent also intends to make a request to be placed in the State Bar's Alternative Dispute Program.

Respondent has also taken prompt objective steps whenever he could demonstrating his remorse. Specifically in the Tello matter, Respondent willfully provided a declarations explaining his actions to aid Ms. Tello in reopening her Immigration case.

Finally, Respondent will make the Court aware that he has been an active member of his legal community and has received numerous awards for his community service. He has also been a respected colleague in his legal community. These attorneys are aware of Respondent's current charges and can provide character references on his behalf.

Dated: September 18, 2015

By: Christopher R. Macaraeg

In Pro Per

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of San Diego, State of California; I am over the age of 18 years and am not a party to the within action. My business address is 424 F Street, Suite C, San Diego, California 92101.

On September 18, 2015, I served the following document described as:

RESPONSE OF CHRISTOPHER R. MACARAEG TO THE NOTICE OF DISCIPLINARY CHARGES

on the interested parties in said action by enclosing the document in a sealed envelope address as follows:

State Bar of California

Office of the Chief Trial Counsel

2 | Jayne Kim

Joseph Carlucci

Melanie Lawrence

Brooke Schafer

Hugh Radigan

845 South Figueroa Street

Los Angeles, CA 90017-2515

USPS Privity Mail

USRS

X BY-FEDEX EXPRESS: I personally placed the document into a FedEx-

Express-Envelope and sent to the above address.

I declare under penalty of perjury under the State of California that the above is true and correct.

Executed on September 18, 2015 at San Diego, CA.

Juan Huerta