

Counsel for Respondent <i>RICHARD D. ACKERMAN</i> 27638 ALIENRIDGE DR MENIFEE, CA 92585	(for Court use) FILED SEP 22 2014 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In the Matter of <i>RICHARD D. ACKERMAN</i> Bar # <i>171900</i> A member of the State Bar of California ("Respondent")	Case no(s). <i>14 PM-04575</i> <i>S211542 (12-0-13461)</i> PROBATION REVOCATION RESPONSE (Rule 5.314, Rules of Procedure)

As required by rule 5.314(B), Rules of Procedure, Respondent attaches one or more declarations to this form which set forth the facts upon which my opposition to the motion to revoke probation is based.

(1) ☒ Respondent requests a hearing in this matter and intends to participate.

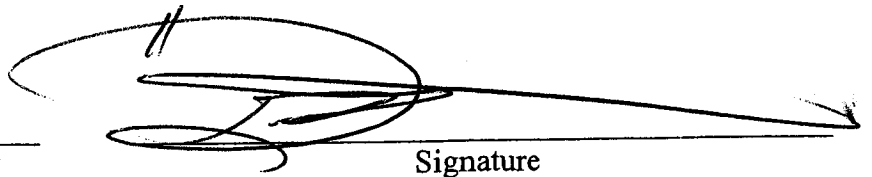
OR

(2) ☐ Respondent requests that this proceeding be resolved on the pleadings without any hearing.

If you checked box (1), check one of the following:

- (a) ☒ Respondent requests the opportunity to cross-examine the person(s) who executed declaration(s) in support of the motion to revoke my probation.
- (b) ☐ Respondent does not request the opportunity to cross-examine the person(s) who executed declaration(s) in support of the motion to revoke my probation.

Date: 9/14/2014


Signature



1 Richard D. Ackerman (171900)
2 27638 Moonridge Drive
3 Menifee, CA 9585
4 (951) 231-8841

5 Attorneys for Self-Represented Member,
6 RICHARD D. ACKERMAN

7 **STATE BAR COURT**

8 **HEARING DEPARTMENT - LOS ANGELES**

9
10 In re:) Case No.: 14-PM S211542 (12-O-13461)
11)
12 RICHARD D. ACKERMAN (171900)) **PROBATION REVOCATION RESPONSE PER**
13) **RULE OF PROCEDURE 5.314**
14 A Member of the California State Bar)
15)
16)
17)

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19 **Responding Party and Member Richard D. Ackerman, State bar No.**

20 **171900, here Responds to the Motion to Revoke Probation as follows:**

21 **I. REQUEST FOR HEARING:**

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23 It is hereby respectfully requested that the State Bar Court, Los
24 Angeles Hearing Office, allow a hearing on the merits of this matter and
25 upon any and all such evidence, additional briefing, or arguments of
26 counsel, as may be had at the time of any scheduled hearing. See, Rules
27 5.314(A) and 5.314(E) of the Rules of Procedure of the State Bar of
28 California.

1 **II. DECLARATION OF RICHARD D. ACKERMAN IN RESPONSE TO MOTION TO**
2 **REVOKE PROBATION**

3 **I, RICHARD D. ACKERMAN, do declare as follows:**

- 4 1. That I am the member affected by the instant action and am
5 familiar with the facts and circumstances of this case. Each of
6 the factual averments or representations is of my own personal
7 knowledge. Response is timely pursuant to Rules of Procedure of
8 the State Bar, Rule 5.28 (20 days plus additional time under mail
9 service of documents - served 8/27/2014 by mail).
- 10 2. I have carefully reviewed the Motion by the California State Bar
11 and am requesting an evidentiary hearing and/or oral argument in
12 this matter so as to allow sufficient time for my treating
13 physicians, counsel (as being sought), and witnesses to provide
14 additional information to the Court so that the ends of justice
15 can be met in this case. I am respectfully requesting that
16 relief be afforded per the language of Rules of Procedure of the
17 State Bar, Rule 5.312, in that the facts and circumstances of
18 this case support careful review of the terms of probation and an
19 effort to ameliorate the circumstances presented herein.
- 20 3. While I do sincerely understand the concerns of the State Bar, I
21 do believe that there is sufficient reason and facts to
22 demonstrate that my conduct is understandable given my life
23 circumstances during the times referenced in the motion of the
24 State Bar. I also do take this matter very seriously as my
25 ability to support my four minor children is at stake depending
26 on the outcome of these proceedings. There are significant
27 on the outcome of these proceedings. There are significant
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1 circumstances and facts which stand in mitigation of my conduct
2 as alleged by the State Bar and as admitted to within this
3 written response to the motion.

4 4. It is true that I have not complied with all requirements of the
5 terms of my probation with the State Bar as indicated in the
6 motion. I am deeply apologetic and remorseful for my failures
7 and omissions and desire nothing more than to maintain my license
8 so that I may serve my clients, provide for my family, and
9 recover on a personal level from two years of extraordinary
10 challenges in my personal life. I am willing to do whatever is
11 necessary to rectify the situation and to work with colleagues,
12 who have offered help, to ensure that my professional obligations
13 are met as to the State Bar and the clients that I serve and will
14 serve.

15 5. There are very compelling personal, practical and medical
16 circumstances which have led to the current state of affairs and
17 I implore the State Bar and the State Bar Court to give serious
18 consideration and understanding to the circumstances as they are
19 and have been. I outline those circumstances as follows:
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21 6. Since January of 2012 (following two years of documented medical
22 issues requiring multiple hospital stays, specialist treatments,
23 and periods of disability), I have been embroiled in an
24 emotionally difficult and time-consuming divorce proceeding with
25 my former spouse while simultaneously recovering from devastating
26 medical conditions that permeated my life and led up to this
27 case. Frankly, I was devastated by the loss of my family life,
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1 especially after my wife left me after I was discharged from the
2 hospital following two years of suffering with an undiagnosed
3 kidney stone that was lodged in my left ureter for the entire
4 time (along with systemic infections and other complications
5 resulting in hospitalizations). The pain and suffering
6 associated with that was nearly unbearable and my former wife's
7 decision to leave me right after was almost more than I could
8 bear. It has been a long recovery practically, emotionally, and
9 financially.

10 7. The family law case is just now starting to settle down and
11 significant progress has been made in restoring my relationships
12 with my children, rebuilding my professional/academic life,
13 meeting basic needs, and resolving the practical issues that have
14 made the matter contentious at times.

15 8. My life circumstances have been taxing on my financial situation,
16 medical conditions, and emotional health. In an effort to avoid
17 any problems with clients, I have significantly cut back my
18 practice so that any issues could be dealt with. I am now just
19 getting back to a place where I can rebuild a practice and enjoy
20 the success and professional satisfaction I enjoyed before all of
21 this took place. This took much effort during the turmoil that
22 is described below. I believe that the factors in mitigation, as
23 set forth in these proceedings, demonstrate that I have enjoyed
24 much success as an attorney and have strived to be a leader in
25 the legal community. The timeline and reality of the facts of
26 this case clearly evidence a determinate set of facts that
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1 explain or mitigate my conduct and actions since all of these
2 issues surfaced. I hope that it will be noted that I fully
3 cooperated with the State Bar at the inception of the matter and
4 have made efforts to resolve issues as they have arisen since.

5 9. During the course of the underlying family law proceedings,
6 several formal efforts were made by the opposing side to cause my
7 license to be suspended and I was able to successfully maintain
8 my license after presenting evidence to Commissioner Bradley
9 Snell of the Riverside County Superior Court as to my living
10 situation and the immense pressure I was facing. I am prepared
11 to provide the State Bar Court with the underlying files in that
12 matter and need sufficient time to prepare for any hearing in the
13 instant matter.
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15 10. In any event, it was determined, after a contested
16 hearing, by the Riverside Superior Court that maintaining my
17 license was critical to my ability to provide for my four minor
18 children and a stay of further enforcement against my license was
19 issued by the Court in Case No. SWD 1200223 (Hemet Family Law
20 Division).

21 11. At the last family law hearing (within the last 30 days),
22 I did demonstrate to the Court that I have made serious efforts
23 to recover from both my physical and emotional limitations as
24 precipitated by two years of medical issues (leading up to this
25 case) and the practical circumstances that I have faced during
26 the times referenced in the Motion by the State Bar.
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1 12. If given sufficient opportunity, I do believe that I may
2 even be able to get a declaration from my former wife's attorney
3 attesting to the fact that strides have been made and that I am
4 getting back 'to normal.' He and I have known each other since
5 law school and have maintained a professional relationship during
6 this difficult period in my life. We just spoke about these
7 issues this morning in the attorney-room at the Hemet Courthouse
8 this morning while he and I were preparing for hearings there. I
9 did not have a chance to speak to Mr. Shaun Hanson about this
10 specific issue, but he is aware of my situation and would likely
11 testify in a positive way if this matter were to go to a full
12 hearing on the merits.
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14 13. In fact, because of the family law proceedings and my
15 physical/emotional health, I was not able to work at optimum
16 levels and was treated for clinical depression during the entire
17 time referenced in the instant motion. I treated with Dr.
18 Richard Rawson (Temecula) and Dr. Steven Galarza (Loma Linda
19 University) during the times critical to this motion.

20 14. As an offer of proof, I am confident that both physicians
21 would testify that I was under an enormous amount of physical,
22 emotional and financial pressure and worked very diligently on
23 recovering from my medical conditions. If given the opportunity,
24 I am willing to present the medical evidence supporting my
25 contentions in this regard. I did endeavor to follow the advice
26 of my medical providers at all times during this period of time
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1 and understand the effect of waiving any confidentiality that I
2 might otherwise possess.

3 15. During the same times that are referenced in the instant
4 motion, the family law Court had caused a full evaluation under
5 Section 730 of the Evidence Code to be conducted as to myself and
6 former spouse. The report of the evaluation demonstrates that I
7 did continue to suffer from "moderate depression" that notably
8 affected my daily life for a significant time in the last two
9 years. The bottom line is that I was partially 'disabled' as
10 defined by law during the times relevant to the instant
11 proceedings. Significant improvement has occurred since the time
12 of the report and continuing through the present time. The 730
13 report was provided to my treating physician, Dr. Steven Galarza.
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15 16. With respect to meeting obligations under the terms of my
16 probation, I have done my best, given the circumstances to
17 comply, and have communicated with the Office of Probation. (See
18 Declaration of Ms. Cruz attached to motion). The declaration of
19 Ms. Farfan is substantially correct as to the matters of fact set
20 forth therein. Any minor disagreement about certain facts would
21 not affect the overall credibility of her position and, without
22 ignoring the gravity of my personal circumstances; I honestly
23 regret my inability to respond to certain concerns stated
24 therein.


25 17. The most concerning factor, as to the terms of probation,
26 was whether I could pay the costs associated with the initial
27 proceedings and my State Bar dues. Only at the very last moment
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1 was I able to raise the money, from a church I had represented
2 pro bono in a constitutional matter some years ago (Pastor Lauana
3 Stines), to pay the dues/fees and did pay them. Prior to the
4 church lending its assistance, I was fully convinced that I would
5 not be able to practice law because of the financial inability to
6 pay even the basic dues. I would respectfully request that
7 judicial notice of the State Bar's Membership files be taken with
8 respect to payment records, source of funds, and the date of
9 payment.

10 18. Within the last year, I nearly became homeless because of
11 the combination of issues that have interfered with my normal
12 performance. Within the last year, I had to reestablish a home,
13 acquire even basic transportation, and pay for the basic
14 necessities of life. Through the help of friends, former
15 clients, and my colleagues, much has been accomplished in terms
16 of resolving these issues and reestablishing a firm foundation
17 from which I can rebuild my career, if given the opportunity.

18 19. After the divorce, my income went from \$5,500.00-7,500.00
19 per month to less than \$1500.00 and this had a dramatic effect on
20 meeting my basic needs. Within the last year, I have gotten a
21 part-time job teaching at-risk youth with the publicly funded
22 Youth Opportunity Centers located in Hemet and Lake Elsinore,
23 California, and work for Smooth Transitions, Inc., a California
24 nonprofit organization (www.smoothtransitioninc.com). This job
25 has allowed me to maintain a basic subsistence and has allowed
26 for networking opportunities. However, the financial stress did
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RICHARD D. ACKERMAN

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): 171900 Richard D. Ackerman 27638 Moonridge Dr. Menifee, CA 92585 TELEPHONE NO.: 951-231-8841 FAX NO. (Optional): E-MAIL ADDRESS (Optional): consiglierea@aol.com ATTORNEY FOR (Name): Self-Represented		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: STATE BAR COURT MAILING ADDRESS: 845 South Figueroa St CITY AND ZIP CODE: Los Angeles, CA 90017-2515 BRANCH NAME: Hearing Office - Los Angeles		
PLAINTIFF/PETITIONER: STATE BAR OF CALIFORNIA DEFENDANT/RESPONDENT: RICHARD D. ACKERMAN (171900)		CASE NUMBER: S211542 - 12-O-13461
PROOF OF SERVICE—CIVIL Check method of service (only one): <input type="checkbox"/> By Personal Service <input checked="" type="checkbox"/> By Mail <input type="checkbox"/> By Overnight Delivery <input type="checkbox"/> By Messenger Service <input type="checkbox"/> By Fax <input type="checkbox"/> By Electronic Service		JUDGE: Mills DEPT.: Los Angeles Hearings

(Do not use this proof of service to show service of a Summons and complaint.)

- At the time of service I was over 18 years of age and **not a party to this action.**
- My residence or business address is:
35023 Cedar Ridge Ct, Winchester, CA 92596
- ☐ The fax number or electronic service address from which I served the documents is *(complete if service was by fax or electronic service)*:
- On (date): 9/16/2014 I served the following **documents** *(specify)*:
PROBATION REVOCATION RESPONSE (With Attached Declaration of Richard D. Ackerman)
- ☐ The documents are listed in the *Attachment to Proof of Service—Civil (Documents Served)* (form POS-040(D)).
- I served the documents on the **person or persons** below, as follows:
 - Name of person served: Maricruz Farfan / Terrie Goldade / Office of Hearings (Hon. Judge Mills)
 - ☐ *(Complete if service was by personal service, mail, overnight delivery, or messenger service.)*
 Business or residential address where person was served:
 845 South Figueroa Street, Los Angeles, CA 90017-2515
 - ☐ *(Complete if service was by fax or electronic service.)*
 - Fax number or electronic service address where person was served:
 - Time of service:
- ☐ The names, addresses, and other applicable information about persons served is on the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)).
- The documents were served by the following means *(specify)*:
 - ☐ **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

CASE NAME: In Re Richard D. Ackerman (SBN171900)	CASE NUMBER: S211542 - 12-O-13461
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6. b. ☒ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and (*specify one*):
- (1) ☒ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
- I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):
- c. ☐ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d. ☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. (*A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.*)
- e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- f. ☐ **By electronic service.** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed in item 5.

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

Date: 9/17/2014

LILI BRAUNWALDER

(TYPE OR PRINT NAME OF DECLARANT)

► 
(SIGNATURE OF DECLARANT)

(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

DECLARATION OF MESSENGER

- ☐ **By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package, which was clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on (*date*):

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

Date:

(NAME OF DECLARANT)

► _____
(SIGNATURE OF DECLARANT)