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Attorneys for Respondent
ILIJA CVETICH

FILED

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STATE BAR COURT CLERK'S OFFICE
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**STATE BAR COURT
HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of
ILIJA CVETICH
No. 133534
A Member of the State Bar

Case No. 15-O-10021

**RESPONSE TO NOTICE OF DISCIPLINARY
CHARGES**

[Rule of Procedure 5.43]

1. Address for Service

All documents in this matter should be served on respondent's counsel at the addresses above.

2. Response to Allegations

a. Respondent admits the allegations of paragraph 1.

Count One 15-O-10021 (Business and Professions Code, section 6104 [Appearing for Party without Authority])

b. Respondent denies the allegations of paragraph 2.

Count Two 15-O-10021 (Business and Professions Code, section 6106 [Moral Turpitude—Misrepresentation])

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1 c. Respondent denies the allegations of paragraph 3.

2 Count Three 15-O-10021 (Business and Professions Code, section 6106 [Moral
3 Turpitude—Forgery])

4 d. Respondent denies the allegations of paragraph 4.

5 Count Four 15-O-10021 (Business and Professions Code, section 6106 [Moral
6 Turpitude—Forgery])

7 e. Respondent denies the allegations of paragraph 5.

8 Count Five 15-O-10021 (Rule of Professional Conduct, rule 4-100(B)(1) [Failure to
9 Notify of Receipt of Client Funds])

10 f. Respondent denies the allegations of paragraph 6.

11 Count Six 15-O-10021 (Rule of Professional Conduct, rule 4-100(B)(4) [Failure to Pay
12 Client Funds Promptly]).

13 g. Respondent denies the allegations of paragraph 7.

14 Count Seven 15-O-10021 (Rule of Professional Conduct, rule 4-100(A) [Failure to
15 Maintain Client Funds in Trust Account]).

16 h. Respondent denies the allegations of paragraph 8.

17 Count Eight 15-O-10021 (Business and Professions Code, section 6106 [Moral
18 Turpitude—Misappropriation])

19 i. Respondent denies the allegations of paragraph 9.

20 **3. Relevant Facts**

21 a. In 2010, Mr. Boettner retained Mr. Cvetich to represent him in a workers'
22 compensation claimant case against Safelite Group, Inc. On March 23, 2013, the
23 case resolved in Mr. Boettner's favor.

24 b. In 2012, Mr. Boettner assented to Mr. Cvetich filing an employment
25 discrimination/wrongful termination case on his behalf in Placer County.

26 c. Mr. Cvetich is an alcoholic. He has struggled with this addiction for most of his
27 adult life. He was an alcoholic in 2013.

28 d. From the early 2000s to the present, Mr. Cvetich has experienced ongoing and

1 severe emotional distress related to alcoholism, depression, and marital
2 challenges. Mr. Cvetich's emotional distress has not been diagnosed. It appears to
3 be a mental/emotional disorder of some kind. As of November 18, 2016, he has
4 started the process of diagnosing his mental/emotional problem or disorder. He
5 has scheduled an appointment with Alan D. Shonkoff, Ph.D, a forensic
6 neuropsychologist. His appointment will occur in December 2016.

7 e. Mr. Cvetich concedes he made some grave errors in judgment in his handling of
8 Mr. Boettner's employment discrimination case. He believes these errors were the
9 result of his alcoholism, depression, and yet-to-be-diagnosed mental/emotional
10 problem. He has apologized to Mr. Boettner for violating Mr. Boettner's trust in
11 him.

12 f. Mr. Cvetich has begun an urgent mitigation program designed to diagnose and
13 treat his alcoholism, depression, and severe mental/emotional problem.

14 g. Mr. Cvetich had Mr. Boettner's permission to pursue an employment
15 discrimination/wrongful termination case on his behalf.

16 h. Mr. Cvetich did not forge Mr. Boettner's signature on any document.

17 i. In 2013, Mr. Cvetich paid Mr. Boettner \$12,000—the full amount he was entitled
18 to after the settlement of his Placer County employment case against Safelite
19 Group, Inc. Mr. Cvetich concedes he did not pay Mr. Boettner promptly. For this,
20 he has apologized to Mr. Boettner.

21 j. Mr. Cvetich did not seek legal representation in this matter until October 23,
22 2016. Mr. Cvetich failed to recognize the severity of his mental/emotional/
23 addiction problems, and the severity of the State Bar's investigation and charges,
24 until recently.

25 **Affirmative Defenses**

26 1. Counts 1 through 8 fail to provide adequate notice of the conduct alleged to violate the
27 rule or code and fails to relate stated facts to rules or codes allegedly violated as required
28 by rule 5.43(B)(3), Rules of Procedure of the State Bar of California and applicable case

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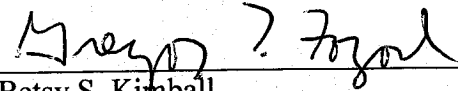
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law. (*In the Matter of Glasser* (Review Dept 1990) 1 Cal. State Bar Ct. Rptr. 163; *In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179.)

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DATED: November 21, 2016

By:



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Gregory T. Fayard
Attorneys for Respondent
ILIJA CVETICH

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ILIJA CVETICH

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of

Case No. 15-O-10021

In re: ILIJA CVETICH
No. 133534

PROOF OF SERVICE

Trial Date: None set

A Member of the State Bar.

I declare that:

I am and was at the time of service of the papers herein, over the age of eighteen (18) years and am not a party to the action. I am employed in the County of Sacramento, and my business address is 801 K Street, Suite 2100, Sacramento, California.

On November 21, 2016, I caused to be served the following documents:

RESPONSE TO NOTICE OF DISCIPLINARY CHARGES

☒ **VIA MAIL:** By placing a copy thereof for delivery in a separate envelope addressed to each addressee, respectively, as follows:

☐ **BY FIRST-CLASS MAIL (Code of Civ. Proc. §§ 1013 and 1013(a))**

☒ **BY OVERNIGHT DELIVERY (Code Civ. Proc. §§ 1013(c) and (d))**

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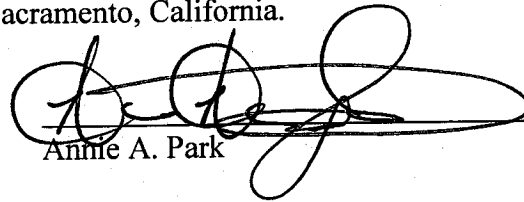
☐ **BY CERTIFIED RETURN RECEIPT MAIL (Code of Civ. Proc. §§ 1013 and 1013(a))**

Erica L.M. Dennings
Office of Chief Trial Counsel
The State Bar of California
180 Howard St.
San Francisco, CA 94105
T: (415) 538-2285

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at Sacramento, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

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

Executed on November 21, 2016, at Sacramento, California.


Anne A. Park

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