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NOV 06 2015

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

1 LEO J. MORIARTY (SBN 140093)
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8 In Pro Per Respondent

9 **THE STATE BAR COURT**

10 **HEARING DEPARTMENT - LOS ANGELES**

11
12 In the Matter of:

Case No.: 15-O-10406

13 **LEO JOSEPH MORIARTY, JR.,**
14 **SBN 140093,**

**ANSWER TO NOTICE OF
DISCIPLINARY CHARGES**

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16
17 A Member of the State Bar

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20 Respondent, LEO JOSEPH MORIARTY, JR. (SBN 140093), hereby answers:

21 **JURISDICTION**

22 1. Respondent admits that Respondent was admitted to the practice of law in the State
23 of California on June 6, 1989, was a member at all times pertinent to these charges, and is currently
24 a member of the State Bar of California.
25



1 taken to the hospital, denies that any alleged false statement was made at his direction or otherwise
2 or that he was grossly negligent in any way with respect to said allegations, and thus no steps were
3 required to rectify any alleged misrepresentation made to the court. Respondent denies that
4 Respondent committed an act involving moral turpitude, dishonesty or corruption, in willful
5 violation of Business and Professions Code section 6106. Respondent did suffer an illness/medical
6 emergency that caused him to be unable to attend the hearing set for September 12, 2014 in that
7 matter, but self-treated at home.

8
9 **COUNT THREE**

10 Case No. 15-O-10406
11 Business and Professions Code, section 6103
[Failure to Obey a Court Order]

12 4. Respondent denies that Respondent disobeyed or violated on order of the court
13 requiring respondent to do or forbear an act connected with or in the course of Respondent's
14 profession, which Respondent ought in good faith to do or forebear, by failing to comply with the
15 court's September 12, 2014 ORDER GRANTING RESPONDENT TERESA JACOBO'S
16 MOTION FOR CONTINUANCE in the Office of Administrative Hearings case number
17 2014030511 (*In the Matter of the Final Compensation and Rescission of Additional Retirement*
18 *Service Credit of: Teresa Jacobo*) by failing to file with the court and serve on opposing counsel
19 documentation which substantiated the illness/medical emergency that occurred on September 12,
20 2014 by no later than September 26, 2014, in willful violation of Business and Professions Code
21 section 6103. No such documentation existed as Respondent self-treated at home for the
22 illness/medical emergency suffered by Respondent.
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COUNT FOUR

Case No. 15-O-10406
Business and Professions Code, section 6103
[Failure to Obey a Court Order]

5. Respondent denies that Respondent disobeyed or violated on order of the court requiring respondent to do or forbear an act connected with or in the course of Respondent's profession, which Respondent ought in good faith to do or forebear, by failing to comply with the court's October 21, 2014 ORDER GRANTING RESPONDENT CITY OF BELL'S MOTION FOR SANCTIONS in the Office of Administrative Hearings case number 2014030511 (*In the Matter of the Final Compensation and Rescission of Additional Retirement Service Credit of: Teresa Jacobo*) by failing to pay a monetary sanction to the City of Bell in the amount of \$1,419.06 within 30 days of the date of the order, in willful violation of Business and Professions Code section 6103. Respondent was financially unable to pay said amount in full by that date. Respondent requested of counsel for the City of Bell that a payment plan be agreed to. Counsel for the City of Bell refused to agree to a payment plan and instead filed an action in Small Claims Court seeking recovery of said amount. Respondent did not oppose or object to same and voluntarily participated in a Debtor's Examination in Court despite the fact that the matter could have been taken off calendar due to improper notice. Subsequently a payment plan was agreed to and Respondent is making payments.

COUNT FIVE

Case No. 15-O-10406
Business and Professions Code, section 6103
[Failure to Obey a Court Order]

6. Respondent denies that Respondent disobeyed or violated on order of the court requiring respondent to do or forbear an act connected with or in the course of Respondent's

1 profession, which Respondent ought in good faith to do or forebear, by failing to comply with the
2 court's October 21, 2014 CAPERS' MOTION FOR SANCTIONS in the Office of Administrative
3 Hearings case number 2014030511 (*In the Matter of the Final Compensation and Rescission of*
4 *Additional Retirement Service Credit of: Teresa Jacobo*) by failing to pay a monetary sanction to
5 the City of Bell in the amount of \$2,966.75 within 30 days of the date of the order, in willful
6 violation of Business and Professions Code section 6103. Respondent was financially unable to
7 pay said amount in full by that date. Respondent requested of counsel for CalPERS that a payment
8 plan be agreed to. Counsel for CalPERS has never responded to said request. Respondent has still
9 been financially unable to make a payment for said amount in a single payment and is still willing
10 to enter into a payment plan.

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12 **COUNT SIX**

13 Case No. 15-O-10406
14 Business and Professions Code, section 6068(o)(3)
15 [Failure to Report Judicial Sanctions]

16 7. Respondent admits that Respondent failed to report to the agency charged with
17 attorney discipline, in writing, within 30 days of the time respondent had knowledge of the
18 imposition of sanctions against Respondent, by failing, to date, to report to the State Bar the
19 \$1,419.06 in sanctions the court imposed on Respondent on or about October 21, 2014 in
20 connection with Office of Administrative Hearings case number 2014030511 (*In the Matter of the*
21 *Final Compensation and Rescission of Additional Service Credit of: Teresa Jacobo*), in willful
22 violation of Business and Professions Code section 6068(o)(3). Respondent was not aware that
23 such sanctions had to be reported and thus did not willfully fail to report same... Respondent
24 contends in good faith and belief, that such sanctions are not "judicial" sanctions.

1 he suffered). Respondent denies that such an alleged false statement was made at his direction.
2 Respondent denies that any steps were required to rectify any alleged misrepresentation made to
3 the court given the specific factual circumstances and events of this matter... Respondent denies
4 that Respondent sought to mislead the judge or judicial officer by an artifice of a false statement
5 of fact or law, in willful violation of Business and Professions Code section 6068(d).

6 **COUNT NINE**

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8 Case No. 15-O-10406
9 Business and Professions Code, section 6106
10 [Moral Turpitude]

11 10. Respondent denies that on or about September 22, 2014, that Respondent stated to
12 the court, or caused to be stated to the court, in Office of Administrative Hearings case number
13 2014030479 (*In the Matter of the Final Compensation and Rescission of Additional Retirement*
14 *Service Credit of: George Mirabal*), that “[Respondent} is today at the hospital, receiving an
15 Angiogram and possibly another Angioplasty [sic] for a new Stent implant”. Respondent had not
16 been taken to the hospital, had not received any “medical treatment” by a physician or other health
17 care provider on that date (and instead self-treated at home for the illness/medical emergency that
18 he suffered). Respondent had not been taken to the hospital, denies that such an alleged false
19 statement was made at his direction or that he was grossly negligent in any way with respect to
20 said allegations, and thus no steps were required to rectify any alleged misrepresentation made to
21 the court give the specific factual circumstances and events in this matter. Respondent denies that
22 Respondent committed an act involving moral turpitude, dishonesty or corruption, in willful
23 violation of Business and Professions Code section 6106.
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COUNT TEN

Case No. 15-O-10406
Business and Professions Code, section 6103
[Failure to Obey a Court Order]

11. Respondent denies that Respondent disobeyed or violated on order of the court requiring respondent to do or forbear an act connected with or in the course of Respondent's profession, which Respondent ought in good faith to do or forebear, by failing to comply with the court's October 8, 2014 ORDER GRANTING CONTINUANCE in the Office of Administrative Hearings case number 2014030479 (*In the Matter of the Final Compensation and Rescission of Additional Retirement Service Credit of: George Mirabal*) by failing to file and serve, no later than October 17, 2014, documentation signed by a competent medical professional confirming Respondent's hospitalization on September 22, 2014 and Respondent's inability to proceed with the hearing on September 23, 2014, in willful violation of Business and Professions Code section 6103. No such documentation existed as Respondent self-treated at home for the illness/medical emergency suffered by Respondent.

AFFIRMATIVE DEFENSES

12. The Notice of Disciplinary Charges fails to state facts sufficient to constitute a proper Notice of Disciplinary Charges.

13. The alleged acts and/or omissions alleged in the Notice of Disciplinary Charges were the result of the actions of third parties and not at the direction or consent of Respondent.

14. Respondent did not knowingly or willfully commit or fail to commit any of the alleged acts and/or omissions alleged in the Notice of Disciplinary Charges.

15. Respondent was not grossly negligent with respect to the actions and/or omissions alleged in the Notice of Disciplinary Charges.

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

3 **CASE NUMBER: 15-O-10406**

4 I am employed in the County of Orange, State of California. I am over the age of 18, and not
5 a party to the within action. My business address is 3020 Old Ranch Parkway, Suite 300, Seal Beach,
6 CA 90803. On November 04, 2015, I served the foregoing document described as:

7 **ANSWER TO NOTICE OF DISCIPLINARY CHARGES**

8 on the interested parties in this action by enclosing said document in a sealed envelope addressed as
9 follows:

10 **State Bar of California**
11 **Office of Chief Trial Counsel**
12 **845 South Figueroa Street**
13 **Los Angeles, CA 90017-2515**
14 **Attn: Shane C. Morrison, Esq.**

15 **E-Mail: shane.morrison@calbar.ca.gov**
16 **Fax: (213) 765-1319**

17 **[By U.S. First Class Mail and by U.S. Certified Mail] (CCP Sections 1013 and 1013(a)):**
18 I caused such envelopes with postage thereon fully prepared to be placed in the United States mail at
19 Seal Beach, CA. I am "readily familiar" with the firm's practice of collection and processing
20 correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the
21 ordinary course of business. I am aware that on motion of the party served, service is presumed
22 invalid if postal cancellation date or postage meter date is more than 1 day after deposit for mailing
23 in affidavit.

24 **[By Electronic Service] (CCP Section 1010.6):**
25 Based on a court order of agreement of the parties to accept service by electronic transmission, I
26 caused the document to be sent to the person at the electronic address listed above. I did not receive,
27 within a reasonable time after the transmission, any electronic message or other indication that the
28 transmission was unsuccessful.

[By Fax Transmission] (CCP Section 1013(e) and 1013(f)):
Based upon agreement of the parties to accept service by fax transmission, I faxed the document to
the person at the fax number listed above. 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.

I declare under penalty of perjury under the laws of the State of California that the above is
true and correct. Executed on November 04, 2015 at Seal Beach, CA.


DORA M. RIOS