

# PUBLIC MATTER

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## FILED

DEC 10 2015  
STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

8 Attorneys for Respondent  
9 THEODORE S. LEE

10 BEFORE THE STATE BAR COURT

11 OF THE STATE OF CALIFORNIA

12 HEARING DEPARTMENT – LOS ANGELES

13 In the Matter of  
14 THEODORE SHIN LEE,  
15 Member No. 191848,  
16 A Member of the State Bar.

17 *10476*  
18 Case Nos. 15-O-~~1476~~, 15-O-10190,  
19 15-O-10023

20 ~~PROPOSED~~ VERIFIED RESPONSE TO  
21 THE NOTICE OF DISCIPLINARY  
22 CHARGES

23 Respondent Theodore S. Lee responds to the Notice of Disciplinary Charges as follows:  
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**COUNT FIVE**

6. Respondent objects to the allegation in Paragraph 6 of the NDC because they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Business and Professions Code, section 6106.

**COUNT SIX**

7. Respondent objects to the allegation in Paragraph 7 of the NDC because they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Business and Professions Code, section 6106.

**COUNT SEVEN**

8. Respondent objects to the allegation in Paragraph 8 of the NDC because they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Business and Professions Code, section 6106.

**COUNT EIGHT**

9. Respondent objects to the allegation in Paragraph 9 of the NDC because they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he failed to obey a court order in willful violation of Business and Professions Code, section 6103.

**COUNT NINE**

10. Respondent objects to the allegation in Paragraph 10 of the NDC because they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection,

1 Respondent denies that he received the State Bar's investigation letters of February 26, 2015, March  
2 20, 2015, and May 11, 2015. Respondent denies that he failed to cooperate in the State Bar  
3 investigation in willful violation of Business and Professions Code, section 6068(i).

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5 Case No. 15-O-10190

6 **COUNT TEN**

7 11. Respondent objects to the allegation in Paragraph 11 of the NDC because they are  
8 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
9 Respondent denies that he failed to maintain client funds in his trust account in willful violation of  
10 Professional Conduct, rule 4-100(A).

11  
12 **COUNT ELEVEN**

13 12. Respondent objects to the allegation in Paragraph 12 of the NDC because they are  
14 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
15 Respondent denies that he committed acts involving moral turpitude in willful violation of Business  
16 and Professions Code, section 6106.

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18 **COUNT TWELVE**

19 13. Respondent objects to the allegation in Paragraph 13 of the NDC because they are  
20 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
21 Respondent denies that he failed to comply with the conditions of his probation in willful violation  
22 of Business and Professions Code, section 6068(k).

23  
24 **COUNT THIRTEEN**

25 14. Respondent objects to the allegation in Paragraph 14 of the NDC because they are  
26 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
27 Respondent denies that he committed acts involving moral turpitude in willful violation of Business  
28 and Professions Code, section 6106.

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2 **COUNT FOURTEEN**

3 15. Respondent objects to the allegation in Paragraph 15 of the NDC because they are  
4 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
5 Respondent denies that he committed acts involving moral turpitude in willful violation of Business  
6 and Professions Code, section 6106.  
7

8 **COUNT FIFTEEN**

9 16. Respondent objects to the allegation in Paragraph 16 of the NDC because they are  
10 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
11 Respondent denies that he failed to obey a court order in willful violation of Business and  
12 Professions Code, section 6103.  
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14 **COUNT SIXTEEN**

15 17. Respondent objects to the allegation in Paragraph 17 of the NDC because they are  
16 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
17 Respondent denies that he received the State Bar's investigation letters of January 27, 2015,  
18 February 26, 2015, and March 20, 2015. Respondent denies that he failed to cooperate in the State  
19 Bar investigation in willful violation of Business and Professions Code, section 6068(i).  
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21 **COUNT SEVENTEEN**

22 18. Respondent objects to the allegation in Paragraph 18 of the NDC because they are  
23 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
24 Respondent denies that he settled a Brenda Davila's claim without her consent, and denies that  
25 committed acts involving moral turpitude in willful violation of Business and Professions Code,  
26 section 6106.  
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**COUNT EIGHTEEN**

19. Respondent objects to the allegation in Paragraph 19 of the NDC because they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he failed to maintain client funds in his trust account in willful violation of Professional Conduct, rule 4-100(A).

**COUNT NINETEEN**

20. Respondent objects to the allegation in Paragraph 20 of the NDC because they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Business and Professions Code, section 6106.

**COUNT TWENTY**

21. Respondent objects to the allegation in Paragraph 21 of the NDC because they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he commingled funds in his trust account in willful violation of Professional Conduct, rule 4-100(A).

**COUNT TWENTY ONE**

22. Respondent objects to the allegation in Paragraph 22 of the NDC because they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he failed to comply with the conditions of his probation in willful violation of Business and Professions Code, section 6068(k).

1 **COUNT TWENTY TWO**

2 23. Respondent objects to the allegation in Paragraph 23 of the NDC because they are  
3 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
4 Respondent denies that he committed acts involving moral turpitude in willful violation of Business  
5 and Professions Code, section 6106.

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7 **COUNT TWENTY THREE**

8 24. Respondent objects to the allegation in Paragraph 24 of the NDC because they are  
9 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
10 Respondent denies that he committed acts involving moral turpitude in willful violation of Business  
11 and Professions Code, section 6106.

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13 **COUNT TWENTY FOUR**

14 25. Respondent objects to the allegation in Paragraph 25 of the NDC because they are  
15 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
16 Respondent denies that he committed acts involving moral turpitude in willful violation of Business  
17 and Professions Code, section 6106.

18  
19 **COUNT TWENTY FIVE**

20 26. Respondent objects to the allegation in Paragraph 26 of the NDC because they are  
21 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
22 Respondent denies that he failed to obey a court order in willful violation of Business and  
23 Professions Code, section 6103.

24  
25 **COUNT TWENTY SIX**

26 27. Respondent objects to the allegation in Paragraph 27 of the NDC because they are  
27 conclusory, compound and intertwined with legal conclusions. Without waiving this objection,  
28 Respondent denies that he received the State Bar's investigation letters of January 27, 2015,

1 February 26, 2015, and March 20, 2015. Respondent denies that he failed to cooperate in the State  
2 Bar investigation in willful violation of Business and Professions Code, section 6068(i).

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5 **AFFIRMATIVE DEFENSES**

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7 **FIRST AFFIRMATIVE DEFENSE**

8 (Failure to State Sufficient Facts)

9 The Notice of Disciplinary Charges, and each of its purported counts, fails to state facts  
10 sufficient to state a basis for discipline.

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12 **SECOND AFFIRMATIVE DEFENSE**

13 (Duplicative Charges)

14 The Notice of Disciplinary Charges contains inappropriate, unnecessary, and immaterial  
15 duplicative charges. *Bates v. State Bar* (1990) 51 Cal. 3<sup>rd</sup> 1056, 1060; *In the Matter of Lilley*  
16 (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476, 585.

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18 **THIRD AFFIRMATIVE DEFENSE**

19 (Lack of Materiality)

20 The facts on which some or all of the Notice of Disciplinary Charges are based allege  
21 immaterial or irrelevant omissions or statements that do not constitute “misrepresentations” or  
22 “concealment.”

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24 **FOURTH AFFIRMATIVE DEFENSE**

25 (Charges Do Not Constitute Willful Misconduct)

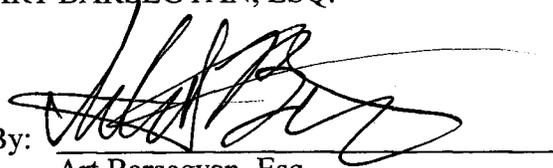
26 The facts on which some or all of the Notice of Disciplinary Charges are based constitute  
27 mistake, inadvertence, neglect or error and do not rise to the level of willful misconduct.

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2 Respondent prays that the Court find that Respondent did not commit acts constituting  
3 professional misconduct, and that the Notice of Disciplinary Charges be dismissed.  
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6 Dated: December 7, 2015

Respectfully submitted,

7 PANSKY MARKLE HAM LLP  
8 ELLEN A. PANSKY, ESQ.  
9 ART BARSEGYAN, ESQ.

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11 By: 

12 Art Barsegyan, Esq.  
13 Attorneys for Respondent  
14 Theodore S. Lee  
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1 VERIFICATION

2

3 I have read the foregoing **PROPOSED VERIFIED RESPONSE TO THE NOTICE OF**

4 **DISCIPLINARY CHARGES**, and know its contents. I am the respondent in the within

5 proceeding, and make this verification for that reason. I am informed and believe and, on that

6 ground, allege that the matters stated in the foregoing document are true.

7

8 I declare under penalty of perjury under the laws of the State of California that the foregoing

9 is true and correct.

10

11 Executed this 7<sup>th</sup> day of December, 2015, at South Pasadena, California.

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15 Theodore S. Lee

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**PROOF OF SERVICE**

*In the Matter of Theodore Shin Lee*

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 1010 Sycamore Ave., Suite 308, South Pasadena, California 91030.

On December 7, 2015, I served the foregoing document(s) described as:

**NOTICE OF MOTION AND MOTION FOR RELIEF FROM DEFAULT; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATIONS OF THEODORE S. LEE AND ART BARSEGYAN IN SUPPORT THEREOF; PROPOSED VERIFIED RESPONSE TO THE NOTICE OF DISCIPLINARY CHARGES**

on all interested parties in this action by placing a true copy of each document, enclosed in a sealed envelope addressed as follows:

Eli D. Morgenstern, Senior Trial Counsel  
Office of the Chief Trial Counsel  
Enforcement  
The State Bar of California  
845 Figueroa Street  
Los Angeles, CA 90017

( X ) **BY MAIL:** as follows: I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date in the United States mail at South Pasadena, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed December 7, 2015 at South Pasadena, California.



\_\_\_\_\_  
Ella Fishman