

DEC 01 2015

STATE BAR COURT CLERK'S OFFICE
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8
9 STATE BAR COURT
10 HEARING DEPARTMENT - SAN FRANCISCO
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12 In the Matter of:) Case No.: 15-O-11666
13 ESTHER M. KIM,)
14 No. 271155,) NOTICE OF DISCIPLINARY CHARGES
15 A Member of the State Bar.)

16 **NOTICE - FAILURE TO RESPOND!**

17 **IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE**
18 **WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT**
19 **THE STATE BAR COURT TRIAL:**

- 20 (1) **YOUR DEFAULT WILL BE ENTERED;**
21 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
22 **WILL NOT BE PERMITTED TO PRACTICE LAW;**
23 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
24 **THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION**
25 **AND THE DEFAULT IS SET ASIDE, AND;**
26 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
27 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
28 **OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN**
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

The State Bar of California alleges:



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JURISDICTION

1. Esther M. Kim ("respondent") was admitted to the practice of law in the State of California on October 28, 2010, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE
Case No. 15-O-11666
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

2. In or about 2013, Harjinder Pal ("Pal") and Meena Kumari ("Kumari") employed respondent to perform legal services, namely to represent them as plaintiffs in a matter involving a December 27, 2012 automobile accident with Dale Mead, which respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by the following:

- A) failing to respond to settlement offers made by AAA Insurance on or about November 22, 2013 and retransmitted on or about January 8, 2014 and or about June 4, 2014;
- B) failing to serve the defendant after filing the lawsuit on or about December 26, 2014;
- C) failing to appear at the Case Management Conference on or about April 21, 2015;
- D) failing to appear at the OSC hearing set for on or about June 25, 2015; and,
- E) failing to appear at the OSC hearing set for on or about August 27, 2015.

COUNT TWO
Case No. 15-O-11666
Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

3. Respondent failed to respond promptly to multiple telephonic and email reasonable status inquiries made by respondent's clients, Harjinder Pal ("Pal") and Meena Kumari ("Kumari"), between in or about April 2014 through in or about August 18, 2014, that Respondent received in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

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COUNT THREE
Case No. 15-O-11666
Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

4. Respondent failed to keep respondent's clients, Harjinder Pal ("Pal") and Meena Kumari ("Kumari"), reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m), by failing to inform the client of the following:

- A) That AAA Insurance made an offer of settlement on or about November 22, 2013 and retransmitted on or about January 8, 2014 and or about June 4, 2014;
- B) That respondent failed to serve the defendant after filing the lawsuit on or about December 26, 2014;
- C) That respondent failed to appear at the Case Management Conference on or about April 21, 2015;
- D) That an Order to Show Cause re: dismissal was set for hearing on or about June 25, 2015;
- E) That respondent failed to appear at the Order to Show Cause hearing on or about June 25, 2015;
- F) That an Order to Show Cause re: dismissal was set for hearing on or about August 27, 2015;
- G) That respondent failed to appear at the Order to Show Cause hearing on or about August 27, 2015; and,
- H) That an Order to Show Cause re: dismissal was set for hearing on or about December 3, 2015.

COUNT FOUR
Case No. 15-O-11666
Business and Professions Code, section 6103
[Failure to Obey a Court Order]

5. Respondent disobeyed or violated an 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 forbear by failing to comply with the:

1 (A) December 26, 2014 Case Management Conference (“CMC”) order setting a CMC
2 hearing, at which respondent was to appear, for on or about April 21, 2015,
3 (B) April 21, 2015 CMC order setting an Order to Show Cause (“OSC”) hearing, at
4 which respondent was ordered to appear, for failure to appear and failure to serve
5 defendant and also advising that failure to appear may result in case being dismissed set
6 for June 25, 2015;
7 (C) June 25, 2015 OSC order setting an OSC re: why case should not be dismissed for
8 failure to appear at the June 25, 2015 OSC hearing and failure to serve defendant set for
9 August 27, 2015

10 in *Pal v. Mead*, Santa Clara County Superior Court, case no. 1-14-CV-274965 in willful
11 violation of Business and Professions Code, section 6103.

12 COUNT FIVE

13 Case No. 15-O-11666

14 Rules of Professional Conduct, rule 3-700(A)(2)

15 [Improper Withdrawal from Employment]

16 6. Respondent failed, upon termination of employment, to take reasonable steps to avoid
17 reasonably foreseeable prejudice to respondent’s clients, Harjinder Pal (“Pal”) and Meena
18 Kumari (“Kumari”), by constructively terminating respondent’s employment on or about
19 December 26, 2014, by failing to take any action on the client’s behalf after filing filed *Pal v.*
20 *Mead*, Santa Clara County Superior Court case no. 114CV274965 on December 26, 2014, and
21 thereafter failing to inform the client that respondent was withdrawing from employment, in
22 willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

23 COUNT SIX

24 Case No. 15-O-11666

25 Rules of Professional Conduct, rule 3-700(D)(1)

26 [Failure to Release File]

27 7. Respondent failed to release promptly, after termination of Respondent’s employment
28 on or about December 26, 2014, to respondent’s clients, Harjinder Pal (“Pal”) and Meena
Kumari (“Kumari”), all of the client’s papers and property following the client’s request for the

1 client's file in or about August 2015, in willful violation of Rules of Professional Conduct, rule
2 3-700(D)(1).

3 COUNT SEVEN

Case No. 15-O-11666

4 Business and Professions Code, section 6068(i)
5 [Failure to Cooperate in State Bar Investigation]

6 8. Respondent failed to cooperate and participate in a disciplinary investigation pending
7 against respondent by failing to provide a substantive response to the State Bar's letters of
8 December 9, 2014, May 13, 2015 and July 17, 2015, which respondent received, that requested
9 respondent's response to the allegations of misconduct being investigated in case no. 15-O-
10 11666, in willful violation of Business and Professions Code, section 6068(i).

11 COUNT EIGHT

Case No. 15-O-11666

12 Business and Professions Code, section 6068(j)
13 [Failure to Update Membership Address]

14 9. In or about May 2015, respondent vacated respondent's office at the address
15 maintained on the official membership records of the State Bar and thereafter failed to comply
16 with the requirements of Business and Professions Code section 6002.1, by failing to notify the
17 State Bar of the change in respondent's address within 30 days, in willful violation of Business
18 and Professions Code, section 6068(j).

19 NOTICE - INACTIVE ENROLLMENT!

20 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
21 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
22 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
23 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
24 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
25 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
26 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
27 RECOMMENDED BY THE COURT.**

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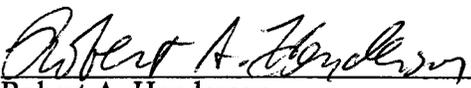
NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

DATED: December 1, 2015

By: 
Robert A. Henderson
Supervising Senior Trial Counsel

DECLARATION OF SERVICE
BY CERTIFIED AND REGULAR MAIL

CASE NO.: 15-O-11666

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as *certified mail, return receipt requested*, and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

Article No.: 9414 7266 9904 2042 4861 68

Esther M. Kim
3052 El Camino Rl
Santa Clara, CA 95051

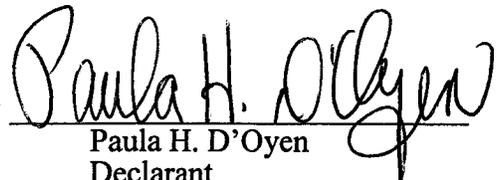
in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: December 1, 2015

Signed:


Paula H. D'Oyen
Declarant