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**FILED**

JUN 20 2015

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

7 **STATE BAR OF CALIFORNIA**

8 **HEARING DEPARTMENT- LOS ANGELES**

9 ) Case No.: 15-O-12346, 15-O-13498  
10 ) 15-O-13499, 15-O-13500  
11 ) 15-O-14531  
12 ) **RESPONDENT'S ANSWER TO**  
13 ) **DISCIPLINARY CHARGES**  
14 )  
15 )  
16 )

10 IN THE MATTER OF:  
11 RALPH R. MARTINEZ-AGAMENON  
12 SBN 235107  
14 A Member of the State Bar

17 COMES NOW Respondent RALPH R. MARTINEZ-AGAMENON and answers the  
18 Complaint on file herein and admits, denies, and alleges as follows:

- 19 1. Respondent admits all allegations contained in Paragraph 1.  
20 2. As to paragraph 2 of the complaint, Respondent admits that "On or about February 11,  
21 2015, Graciela Franco employed Respondent to perform legal services", but generally and  
22 specifically denies each and every allegation otherwise contained therein.  
23 3. Respondent denies each and every, all and singular, generally and specifically, the  
24 allegations contained in paragraph 3 of the complaint."  
25 4. Respondent denies each and every, all and singular, generally and specifically, the  
26 allegations contained in paragraph 4 of the complaint."  
27 5. As to paragraph 5 of the complaint, Respondent admits that "On or about February 11,  
28 2015, Respondent received advanced fees of \$3,000 from a client, Graciela Franco", but generally and



1 specifically denies each and every allegation otherwise contained therein.

2 6. As to paragraph 6 of the complaint, Respondent admits that "On or about February 11,  
3 2015, Respondent received advanced fees of \$3,000 from a client, Graciela Franco", but generally and  
4 specifically denies each and every allegation otherwise contained therein.

5 7. Respondent denies each and every, all and singular, generally and specifically, the  
6 allegations contained in paragraph 7 of the complaint."

7 8. Respondent denies each and every, all and singular, generally and specifically, the  
8 allegations contained in paragraph 8 of the complaint."

9 9. Respondent denies each and every, all and singular, generally and specifically, the  
10 allegations contained in paragraph 9 of the complaint."

11 10. Respondent denies do not have sufficient information or belief to enable it to answer  
12 the allegations of paragraphs 10 and generally and specifically deny each and every allegation  
13 contained therein on that ground."

14 11. As to paragraph 11 of the complaint, Respondent admits that "On or about September  
15 25, 2013, Julio Hernandez employed Respondent to perform legal services", but generally and  
16 specifically denies each and every allegation otherwise contained therein.

17 12. Respondent denies each and every, all and singular, generally and specifically, the  
18 allegations contained in paragraph 12 of the complaint."

19 13. Respondent denies do not have sufficient information or belief to enable it to answer  
20 the allegations of paragraphs 13 and generally and specifically deny each and every allegation  
21 contained therein on that ground."

22 14. Respondent denies each and every, all and singular, generally and specifically, the  
23 allegations contained in paragraph 14 of the complaint."

24 15. Respondent denies each and every, all and singular, generally and specifically, the  
25 allegations contained in paragraph 15 of the complaint."

26 16. Respondent denies each and every, all and singular, generally and specifically, the  
27 allegations contained in paragraph 16 of the complaint."

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1           17.     Respondent denies do not have sufficient information or belief to enable it to answer  
2 the allegations of paragraphs 17 and generally and specifically deny each and every allegation  
3 contained therein on that ground."

4           18.     Respondent denies each and every, all and singular, generally and specifically, the  
5 allegations contained in paragraph 18 of the complaint."

6           19.     As to paragraph 5 of the complaint, Respondent admits that "On or about August 29,  
7 2014", but generally and specifically denies each and every allegation otherwise contained therein.

8           20.     Respondent denies each and every, all and singular, generally and specifically, the  
9 allegations contained in paragraph 20 of the complaint."

10          21.     Respondent denies each and every, all and singular, generally and specifically, the  
11 allegations contained in paragraph 21 of the complaint."

12          22.     Respondent denies each and every, all and singular, generally and specifically, the  
13 allegations contained in paragraph 22 of the complaint."

14          23.     Respondent denies each and every, all and singular, generally and specifically, the  
15 allegations contained in paragraph 23 of the complaint."

16          24.     Respondent denies each and every, all and singular, generally and specifically, the  
17 allegations contained in paragraph 23 of the complaint."

18          25.     As to paragraph 25 of the complaint, Respondent admits that "On or about February 5,  
19 2015, respondent received from respondent client, Ana Morales, the sum of \$900 to perform legal  
20 services", but generally and specifically denies each and every allegation otherwise contained therein.

21          26.     As to paragraph 26 of the complaint, Respondent admits that "On or about February 5,  
22 2015, respondent received from respondent client, Ana Morales, the sum of \$900 to perform legal  
23 services", but generally and specifically denies each and every allegation otherwise contained therein.

24                 As a further and separate answer to the Complaint on file herein, and by way of affirmative  
25 defenses, answering Respondent alleges as follows:

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**FIRST AFFIRMATIVE DEFENSE**

**[Failure to State a Cause of Action]**

27. Neither the Petitioner's Complaint in its entirety, nor any cause of action purportedly contained therein, states a cause of action against answering Respondents.

**SECOND AFFIRMATIVE DEFENSE**

**[Estoppel]**

28. Petitioners are estopped from asserting each and every cause of action against answering Respondents by reason of their own conduct and activities on which answering Respondents have relied to their prejudice and detriment, and, accordingly, Petitioners are barred from seeking relief on each and every cause of action from answering Respondents.

**THIRD AFFIRMATIVE DEFENSE**

**[Waiver]**

29. Petitioners have engaged in conduct and activities which they knew or should have known that answering Respondents would in fact rely on to their prejudice and detriment, sufficient to constitute a waiver of any claims and demands against answering Respondents; and, accordingly, Petitioners are barred from the relief sought on each and every cause of action against answering Respondents.

**FOURTH AFFIRMATIVE DEFENSE**

**[Laches]**

30. Petitioners' claims, and each of them, are barred by the doctrine of laches as a result of Petitioners' unreasonable and inexcusable delay in the commencement of this action to the prejudice of answering Respondents.

**FIFTH AFFIRMATIVE DEFENSE**

**[Unclean Hands]**

31. Petitioners' claims, and each of them, are barred by the doctrine of unclean hands. To the extent the complaint seeks equitable relief, Petitioners' inequitable conduct constitutes unclean hands and therefore bars the granting of relief to Petitioners herein against answering Respondents.

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**SIXTH AFFIRMATIVE DEFENSE**

**[Offset of Damages]**

32. Answering Respondents possess legal and equitable rights of offset against Petitioners and, accordingly, any recovery by Petitioners must be barred or reduced by the amounts of such rights of offset.

**SEVENTH AFFIRMATIVE DEFENSE**

**[Failure to Mitigate Damages]**

33. Respondents alleges that Petitioners failed to take reasonable, prudent, and necessary steps to diminish, control and/or mitigate the damages allegedly suffered by Petitioners, if any.

**EIGHTH AFFIRMATIVE DEFENSE**

**[Statute of Limitations]**

34. Answering Respondents are informed and believe, and thereon allege, that if there presently exists or ever existed, any or all of the alleged rights, claims, or obligations which the Petitioners seeks by way of this complaint, each and every cause of action in the complaint is barred according to the appropriate limitation of action in the Code of Civil Procedure. Code of Civil Procedure including, but not limited to, Sections 337, 337.1, 337.15, 338(1), 338(2), 338(7), 339, 340, and/or 343.

**NINTH AFFIRMATIVE DEFENSE**

**[Contributory Negligence]**

35. Respondents allege that the injuries or damages allegedly sustained by Petitioners were caused or contributed by the conduct, activities, carelessness, recklessness, negligence, fault, acts or omissions of Petitioners and, therefore, Petitioners are not entitled to recover partially or completely, from answering Respondents.

**TENTH AFFIRMATIVE DEFENSE**

**[Negligence or Fault of Others]**

36. Petitioners are claiming damages or injuries as a proximate result of the acts and omissions of Respondents. In addition, other persons, not parties, were or may have been negligent or at fault and proximately caused some or all Petitioners' alleged damages or injuries. Answering Respondents are informed and believe, and based upon such information and belief alleges, that if

1 Petitioners suffered any damages at all, those damages were the direct and proximate result of the  
2 acts, omissions or negligence of parties, persons, corporations or entities, whether or not named as  
3 parties to this action, other than answering Respondents, and that the liability of answering  
4 Respondents, if any, is limited in direct proportion to the percentage of fault actually attributed to this  
5 answering Respondent.

6 **ELEVENTH AFFIRMATIVE DEFENSE**

7 **[Anticipatory Repudiation]**

8 37. Answering Respondents alleges Petitioners breached the contract, if any, with  
9 petitioners, and that by reason of said breach of contract, Respondents have been excused from her  
10 duties to perform all obligations set forth in said contract, if any.

11 **TWELFTH AFFIRMATIVE DEFENSE**

12 **[Consent]**

13 38. The petitioners consented to the alleged actions, if any, which occurred and is thereby  
14 barred from recovery.

15 **THIRTEENTH AFFIRMATIVE DEFENSE**

16 **[Ratification]**

17 39. Petitioners ratified the alleged actions, if any which occurred and are thereby barred  
18 from recovery.

19 **FOURTEENTH, SEPARATE AFFIRMATIVE DEFENSE**

20 **[Frustration of Purpose]**

21 40. Petitioners engaged in activity and conduct sufficient to constitute Frustration of  
22 Purpose as to any agreements or contracts and demands they may have against Respondents, and  
23 accordingly are barred from any recovery, in whole or in part.

24 **FIFTHTEENTH, SEPARATE AFFIRMATIVE DEFENSE**

25 **[Impossibility]**

26 41. Events and circumstances beyond the control of answering Respondents rendered  
27 performance impossible of the contracts at issue herein. Specifically, but not by way of limitation,  
28 the objective of Petitioners to subdivide the property is impossible under the governing laws and  
codes related to this matter. Therefore, answering Respondents is discharged by the doctrine of

1 impossibility from any and all obligations that might otherwise be interpreted under the contract at  
2 issue in this lawsuit.

3 **SIXTEENTH, SEPARATE AFFIRMATIVE DEFENSE**

4 **[Statute of Fraud]**

5 42. Petitioners have failed to comply with the Statute of Frauds in the making of any and  
6 all of the agreements alleged by Petitioners' complaint, and hence are barred from recovery herein.

7 **SEVENTEENTH, SEPARATE AFFIRMATIVE DEFENSE**

8 **[CC. 1473]**

9 43. Answering Respondents allege that prior to the commencement of this action,  
10 Respondents duly performed, satisfied, and discharged all duties arising out of any and all  
11 agreements, representations, or contracts made by Respondents or on behalf of answering  
12 Respondents and this action is therefore barred by the provisions of California Civil Code 1473 and  
13 otherwise.

14 **EIGHTEENTH, SEPARATE AFFIRMATIVE DEFENSE**

15 **[Failure of Conditions Precedent]**

16 44. Any alleged non-performance by answering Respondents, under the contracts and  
17 agreements alleged in the Complaint with Petitioners, is excused because the condition(s) precedent  
18 to the requested performance by answering Respondents has (have) not been satisfied. Specifically,  
19 but not by way of limitation, Petitioners have failed to exhaust their administrative and other  
20 remedies as required by the contracts and agreements alleged in the Complaint prior to bringing this  
21 litigation.

22 **NINETEENTH, SEPARATE AFFIRMATIVE DEFENSE**

23 **[NECESSITY]**

24 45. The actions of the Respondents, if any, occurred in breach of any contracts or  
25 agreements alleged in the Complaint have been made necessary as a result of the actions and  
26 inactions of the Petitioners. As a result, Petitioners are estopped from bringing its causes of action.

27 **ADDITIONAL AFFIRMATIVE DEFENSES**

28 46. Answering Respondents presently has insufficient knowledge or information upon  
which to form a belief as to whether she may have additional, as yet unstated, affirmative defenses.

1 Answering Respondents reserve herein the right to assert additional affirmative defenses in the event  
2 discovery indicates that such additional affirmative defenses are appropriate.

3 WHEREFORE, Respondents prays for judgment as follows:

- 4 1. That Petitioners take nothing by way of their Complaint and that it be dismissed with  
5 prejudice;
- 6 2. For reasonable attorneys' fees incurred herein according to proof;
- 7 3. For costs of suit herein incurred; and
- 8 4. That any other requests for relief by Petitioner be denied; and
- 9 5. For such other and further relief as the Court deems just and proper.

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Date 6/16/2016

*Ralph R. Martinez-Agamenon*  
Ralph R. Martinez-Agamenon, Respondent

**DECLARATION OF SERVICE**

I, the undersigned, over the age of eighteen, declare that  I am /  am not a party to the within action, in the City and County of Los Angeles, on 6/20/2014, served the following document(s):

Respondent's answer to  
Disciplinary charges

by personal delivery:

State Bar of California  
Timothy G. Bier  
845 South Figueroa St.  
Los Angeles CA 90017

other:

I declare under penalty of perjury at Los Angeles, California, on the date shown below, that the foregoing is true and correct.

Dated: 6/20/2014

Jan May