

PUBLIC MATTER

FILED

JAN 25 2016

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

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STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

13 In the Matter of:) Case No. 15-O-13051
14 HOMAYUN FATOLAH ZADEH,)
No. 170667,) **NOTICE OF DISCIPLINARY CHARGES**
15)
16 A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

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

- 21 (1) **YOUR DEFAULT WILL BE ENTERED;**
- 22 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
WILL NOT BE PERMITTED TO PRACTICE LAW;
- 23 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
AND THE DEFAULT IS SET ASIDE, AND;
- 24 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
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.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Hodayun F. Zadeh ("respondent") was admitted to the practice of law in the
4 State of California on June 6, 1994, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 15-O-13051
8 Business and Professions Code, section 6068(m)
9 [Failure to Respond to Client Inquiries]

10 2. Respondent failed to respond promptly to at least six in person and telephonic
11 reasonable status inquiries made by respondent's client, Illia Suhaka, between May 2009 and
12 November 2009 that respondent received in a matter in which respondent had agreed to provide
13 legal services, in willful violation of Business and Professions Code, section 6068(m).

14 COUNT TWO

15 Case No. 15-O-13051
16 Business and Professions Code, section 6068(m)
17 [Failure to Inform Client of Significant Development]

18 3. Respondent failed to keep respondent's client, Illia Suhaka, reasonably informed
19 of significant developments in a matter in which respondent had agreed to provide legal
20 services, in willful violation of Business and Professions Code, section 6068(m), by failing to
21 inform the client that his master hearing was scheduled for November 24, 2009.

22 COUNT THREE

23 Case No. 15-O-13051
24 Business and Professions Code, section 6068(d)
[Seeking to Mislead a Judge]

25 4. On or about March 18, 2010, respondent filed a brief in *In the Matter of Illia*
26 *Suhaka*, in the U.S. Department of Justice, Executive Office for Immigration Review Board of
27 Immigration Appeals, file number A089 677 450 in which he stated that his attempts to reach

1 his client were unsuccessful and that his client was incommunicado between March 2009 and
2 November 20, 2009 when, in fact, the client attempted to reach respondent on several occasions
3 and respondent failed to respond to the client's requests for status updates and respondent knew
4 the statements to the court were false. In or about September 2012 respondent filed Petitioner's
5 Opening Brief in *Illia Suhaka v. Eric Holder*, United States Court of Appeals for the Ninth
6 Circuit, case 11-70607, in which respondent stated that his attempts to reach his client were
7 unsuccessful and that his client was incommunicado between March 2009 and November 20,
8 2009, when, in fact, the client attempted to reach respondent on several occasions and
9 respondent failed to respond to the client's requests for status updates and respondent knew the
10 statements were false, and thereby sought to mislead the judge or judicial officer by an artifice
11 or false statement of fact or law, in willful violation of Business and Professions Code, section
12 6068(d).

13 COUNT FOUR

14 Case No. 15-O-13051
15 Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentation]

16 5. On or about March 18, 2010 and in or about September 2012, respondent stated
17 in writing to the immigration court that his client, Illia Suhaka failed to appear at the November
18 24, 2009 hearing because he was homeless and had not been in communication with respondent
19 between March 2009 and November 2009 when respondent knew or was grossly negligent in
20 not knowing the statement(s) were false, and thereby committed an act involving moral
21 turpitude, dishonesty or corruption in willful violation of Business and Professions Code,
22 section 6106.

23 COUNT FIVE

24 Case No. 15-O-13051
25 Rules of Professional Conduct, rule 3-700(D)(1)
[Failure to Release File]

26 6. Respondent failed to release promptly, after termination of respondent's
27 employment on or about December 14, 2012, to respondent's client, Illia Suhaka, all of the

1 client's papers and property following the client's request for the client's file on December 14,
2 2012, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

3 COUNT SIX

4 Case No. 15-O-13051
5 Business and Professions Code, section 6068(i)
6 [Failure to Cooperate in State Bar Investigation]

7 Respondent failed to cooperate and participate in a disciplinary investigation pending
8 against respondent by failing to provide a substantive response to the State Bar's letters of July
9 14 and 30, 2015, which respondent received, that requested respondent's response to the
10 allegations of misconduct being investigated in case no. 15-O-13051, in willful violation of
11 Business and Professions Code, section 6068(i).

12 NOTICE - INACTIVE ENROLLMENT!

13 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
14 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
15 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
16 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
17 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
18 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
19 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
20 RECOMMENDED BY THE COURT.**

21 NOTICE - COST ASSESSMENT!

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

27 Respectfully submitted,

28 THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

DATED: January 25, 2016

By: 
Erica L. M. Dennings,
Senior Trial Counsel

DECLARATION OF SERVICE BY CERTIFIED MAIL

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CASE NUMBER: 15-O-13051

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, Article No.: 9414 7266 9904 2042 4859 63, at San Francisco, on the date shown below, addressed to:

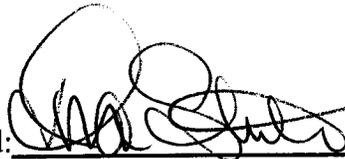
Homayun Fatolah Zadeh
1024 Oak Street
San Francisco, CA 94117
Courtesy Copy sent via Regular Mail
and Email zadeh@zadehlaw.net

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: January 25, 2016

Signed: 

Ina M. Strehle
Declarant