



1 STEPHEN J. STRAUSS, S.B. #129648
1107 Fair Oaks Ave., #885
2 South Pasadena, CA 91030

3 (323) 221-2286

4 Attorney for Respondent, David Charles Peterson

FILED

AUG 04 2016

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

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8 **THE STATE BAR COURT**
9 **HEARING DEPARTMENT - LOS ANGELES**
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12 In the Matter of
13 DAVID CHARLES PETERSON
14 State Bar No. 69272
15 A Member of the State Bar
16

) CASE NO.: 16-C-12389 - WKM
)
) **RESPONSE TO NOTICE OF**
) **HEARING ON CONVICTION**
)
) Status Conf: August 26, 2016 9:30 a.m.

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18 **TO ALL PARTIES AND THEIR ATTORNEYS AND COUNSEL OF RECORD:**

19 Please take notice that pursuant to Rule 5.345 of the Rules of Procedure of the
20 State Bar of California, Respondent David Charles Peterson (hereinafter "Respondent")
21 offers the following response to the Transmittal of Records of Conviction of Attorney
22 David Charles Peterson as follows:

23 Respondent DAVID PETERSON, by and through his counsel, Stephen J. Strauss,
24 hereby responds to the Notice of Hearing on Conviction filed on or about July 29, 2016, in
25 the above referenced matter, as follows:

26 1. In response to the request by the Review Department that the Hearing Department
27 make a recommendation as to the appropriate level of discipline to be imposed as the result
28 of a single misdemeanor conviction for violation of Vehicle Code §23103.5, [reckless

1 driving -alcohol related] Respondent admits he plead no contest to the charge on or about
2 July 17, 2003.

3 2. Respondent admits that said charges are now final.

4 3. It is Respondent's position that neither the misdemeanor offense nor the facts and
5 circumstances surrounding its commission involve moral turpitude or other misconduct
6 warranting discipline or regulation by the State Bar.

7 **AFFIRMATIVE DEFENSES**

8 4. First Affirmative Defense - Misconduct Unrelated to the Practice of Law

9 Respondent's misconduct did not occur in connection with the practice of law nor in
10 such a way that any client was harmed. The probationary conditions attached to
11 Respondent's criminal conviction are already designed to ensure that his potentially harmful
12 misconduct does not recur thereby making any further action by the State Bar unnecessary.
13 There is simply no nexus between the misconduct alleged and public protection by the State
14 Bar.

15 5. Second Affirmative Defense - Prejudicial Delay, Laches

16 The unexplained delay by the Office of the Chief Trial Counsel of the State Bar in
17 waiting over 13 years to bring this matter to the attention of the State Bar Court has resulted
18 in witness memories going stale and exculpatory and mitigating evidence being lost or
19 destroyed, thereby depriving Respondent of his right to a fair trial.

20 Dated: August 3, 2016.

21 
22 Stephen J. Strauss
23 Attorney for Respondent, David Charles Peterson
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5 **PROOF OF SERVICE BY MAIL**

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7 STATE OF CALIFORNIA)
8 COUNTY OF LOS ANGELES)
9

10 I am a resident of the county aforesaid. I am over the age of eighteen years and not a party to
11 the within-entitled action. My business address is 1107 Fair Oaks Ave., #885 South
Pasadena, CA 91030.

12 On August 3, 2016, in the matter of DAVID PETERSON, CASE NO.: 16-C-12389
13 WKM, I served on all interested parties in said action placing a true and correct copy of the

14 **RESPONSE TO NOTICE OF HEARING ON CONVICTION**

15 in a sealed envelope and placed the envelope in the United States mail, postage prepaid at
Los Angeles, California addressed as follows:

16 Ms. Michaela Carpio
17 Deputy Trial Counsel
The State Bar of California - Enforcement
18 845 S. Figueroa Street
Los Angeles, CA 90017-2515
19

20 EXECUTED on August 3, 2016 at Los Angeles, California.

21 I declare under penalty of perjury that the foregoing is true and correct.

22
23 
24 Stephen Strauss