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

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:

YELENA ANELEY GUREVICH,
No. 269487,

A Member of the State Bar.

Case No.: 17-O-03494
[Assigned to Hon. Cynthia Valenzuela]

**ANSWER TO THE NOTICE OF
DISCIPLINARY CHARGES**



TO: THE HONORABLE JUDGE CYNTHIA VALENZUELA AND THE OFFICE OF CHIEF
TRIAL COUNSEL OF THE STATE BAR

Pursuant to Rule 5.43 of the Rules of Procedure of the State Bar of California,
Respondents Yelena Aneley Gurevich ("Respondent Gurevich"), by and through her attorney of
record, Michael N. Hirota, hereby submits the following in response to the Notice of
Disciplinary Charges on file herein:

Respondent Gurevich was admitted to the practice of law in the State of California on May
18, 2010, and at all relevant times herein has been a member of the State Bar of California.

1 Under the provisions of Rules of Procedure of the State Bar of California, Respondent
2 hereby generally denies each and every allegation of the Notice of Disciplinary Charges and the
3 whole thereof, and further denies that the Respondent has violated any Rule of Professional Conduct
4 in any manner whatsoever.

5 In response to the specific allegations on information and belief set forth in the Notice of
6 Disciplinary Charges on file herein, Respondents assert:

7 **JURISDICTION**

8 1. In response to Paragraph 1 of the Notice of Disciplinary Charges ("NDC"),
9 Respondent Gurevich admits said allegations.

10 **COUNT ONE**

11 Case No. 17-O-03494

12 2. Respondent Gurevich objects to the allegations of Paragraph 2 of the NDC because
13 they are conclusory, compound, and intertwined with legal conclusions. Notwithstanding said
14 objection, Respondent Gurevich denies the allegations, factual conclusions, and legal conclusions
15 contained in Paragraph 2 of the NDC.

16 **COUNT TWO**

17 Case No. 17-O-03494

18 3. Respondent Gurevich objects to the allegations of Paragraph 3 of the NDC because
19 they are conclusory, compound, and intertwined with legal conclusions. Notwithstanding said
20 objection, Respondent Gurevich denies the allegations, factual conclusions, and legal conclusions
21 contained in Paragraph 3 of the NDC.

22 **COUNT THREE**

23 Case No. 17-O-03494

24 4. Respondent Gurevich objects to the allegations of Paragraph 4 of the NDC because
25 they are conclusory, compound, and intertwined with legal conclusions. Notwithstanding said
26 objection, Respondent Gurevich denies the allegations, factual conclusions, and legal conclusions
27 contained in Paragraph 4 of the NDC. Moreover, Count Three is largely duplicative of Count Two,
28 changing only the subsection of "Former Rules of Professional Conduct" cited as having been

1 violated by the same events. The allegation is thus improperly cumulative and not supportive of any
2 conclusion that "multiple" violations occurred.

3 **COUNT FOUR**

4 Case No. 17-O-03494

5 5. Respondent Gurevich objects to the allegations of Paragraph 5 of the NDC because
6 they are conclusory, compound, and intertwined with legal conclusions. Notwithstanding said
7 objection, Respondent Gurevich denies the allegations, factual conclusions, and legal conclusions
8 contained in Paragraph 5 of the NDC. Moreover, Count Four is largely duplicative of Count Two,
9 changing only the subsection of "Former Rules of Professional Conduct" cited as having been
10 violated by the same events. The allegation is thus improperly cumulative and not supportive of any
11 conclusion that "multiple" violations occurred.

12 **COUNT FIVE**

13 Case No. 17-O-03494

14 6. Respondent Gurevich objects to the allegations of Paragraph 6 of the NDC because
15 they are conclusory, compound, and intertwined with legal conclusions. Notwithstanding said
16 objection, Respondent Gurevich denies the allegations, factual conclusions, and legal conclusions
17 contained in Paragraph 6 of the NDC.

18 7. Respondent Gurevich objects to the allegations of Paragraph 7 of the NDC because
19 they are conclusory, compound, and intertwined with legal conclusions. Notwithstanding said
20 objection, Respondent Gurevich denies the allegations, factual conclusions, and legal conclusions
21 contained in Paragraph 7 of the NDC.

22 **AFFIRMATIVE DEFENSES**

23 **FIRST AFFIRMATIVE DEFENSE**

24 (Failure to State Sufficient Facts)

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

27 **SECOND AFFIRMATIVE DEFENSE**

28 (Duplicative Charges)

1 The Notice of Disciplinary Charges contains inappropriate, unnecessary, and immaterial
2 duplicative charges. *Bates v. State Bar* (1990) 51 Cal.3d 1056, 1060; *In the Matter of Lilley* (Rev.
3 Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476, 585.

4 **THIRD AFFIRMATIVE DEFENSE**

5 (Lack of Materiality)

6 The facts on which some or all of the Notice of Disciplinary Charges are based allege
7 immaterial or irrelevant omissions or statements.

8 **FOURTH AFFIRMATIVE DEFENSE**

9 (Charges Do Not Constitute Willful Misconduct)

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

12 **FIFTH AFFIRMATIVE DEFENSE**

13 (Cumulative and Overlapping Charges)

14 The Respondent states and preserves as an affirmative defense the objection that the matters
15 alleged in the Notice of Disciplinary Charges arise from, in whole or in part, conditions and
16 mitigating factors that have already been addressed in prior disciplinary actions against Respondent.
17 The State Bar imposed penalties, remedies and conditions in those prior disciplinary proceedings.
18 There is no allegation that Respondent failed to comply with the penalties, remedies and conditions
19 imposed upon her in prior disciplinary proceedings. Thus, the penalties or remedies sought in this
20 Notice of Disciplinary Charges improperly overlap, are cumulative to, and seek to punish again the
21 same conditions and mitigating factors addressed previously, with the effect being that the
22 punishment sought is no longer reasonably necessary to cure or address the problem alleged. (*In the*
23 *Matter of Sklar* (Rev. Dept. 1993) 2 Cal. St. Bar Ct. Rptr. 602, 629; e.g., *In the Matter of Bach*
24 (Rev. Dept. 1991) 1 Cal. St. Bar Ct. Rptr. 631, 646.)

25 DATED: January 15, 2019

THOMPSON COE & O'MEARA, LLP

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27 Michael N. Hirota
28 Attorney for Respondent
Yelena Aneley Gurevich

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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is 12100 Wilshire Boulevard, Suite 1200, Los Angeles, California 90025.

On **January 15, 2019**, and in the manner state herein, I served the document entitled **ANSWER TO THE NOTICE OF DISCIPLINARY CHARGES** *In the Matter of Yelena Aneley Gurevich, No. 269487(State Bar Court Case No. 17-O-03494)*, on all interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

- ☐ **BY MAIL** – I deposited such envelope(s) with postage thereon fully prepaid in the United States mail at a facility regularly maintained by the United States Postal Service at Los Angeles, California. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. Under the practice it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing, pursuant to this affidavit.
- ☒ **BY PERSONAL SERVICE** – I caused the document(s) listed above to be personally served on the person(s) at the address(es) set forth above by placing them in an envelope or package addressed to the person(s) and provided them to a professional messenger service for service.
- ☐ **BY OVERNIGHT COURIER** – I caused the document(s) listed above to be delivered in a sealed envelope with shipping prepaid, and depositing in a collection box for next day delivery via FEDERAL EXPRESS to the person(s) at the address(es) set forth below.
- ☐ **BY FACSIMILE** – I caused the transmission of the foregoing document by facsimile to the offices of the addressee(s) set forth below, and such transmission was reported as complete and without error.
- ☐ **BY ELECTRONIC SERVICE** – Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the document(s) listed above to be sent to the person(s) at the notification address(es) set for below.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed on **January 15, 2019**, at Los Angeles, California.


Kristina Hightower

SERVICE LIST

In the Matter of Yelena Aneley Gurevich, No. 269487

State Bar Court Case No. 17-O-03494

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