1 2	BERKE LAW OFFICES, INC. Robert G. Berke, CA Bar No. 148957	FILED
3	21911 Sherman Way Canoga Park, CA 91303	MAY 02 2019
4	(818) 804-5729	STATE BAR COURT
5	Attorney for Respondent	CLERK'S OFFICE LOS ANGELES
6	STATE BAR COURT	
7 8	HEARING DEPARTMENT - LOS ANGELES	
9		
10	IN THE MATTER OF:	Case No. SBC-19-O-30158
11	JAMES GUN KIM,) No. 249408)	RESPONSE TO NOTICE OF DISCIPLINARY CHARGES
12	A Member of the State Bar	(OCTC Case No. 18-O-16420)
14)	
15		
16	Respondent, James Gun Kim, by and through his counsel of record, submits the	
17 18	following response to the Notice of Disciplinary Charges (NDC) dated April 12, 2019.	
19		
20	<u>JURISDICTION</u>	
21	1. Respondent admits the allegations in paragraph 1 of the NDC in their entirety.	
22	COUNT ONE	
23	Case No. 18-O-16420	
24	Business and Professions Code section 6103 [Failure to Obey a Court Order]	
2526	2. Respondent denies the allegations in paragraph 2 of the NDC and asserts that the	
27	failure to make the required notification in writing does not evidence a willful violation of	
28	Business and Professions Code sections 6103.	kwiktag® 241 073 070

RESPONSE TO NOTICE OF DISCIPLINARY CHARGES

COUNT TWO

Case No. 18-O-16420
Rules of Professional Conduct, former rule 3-110(A)
[Failure to Perform with Competence]

3. Respondent admits that he was retained by complainant to perform legal services and denies all of the allegations in paragraph 3 of the NDC in their entirety. Respondent asserts that (1) the asylum case was filed defensively and complainant was already in removal proceedings prior to Respondent's retention; (2) he did offer to rectify the failure to file the opening brief in the Circuit Court and the offer was rejected; and (3) the Board appeal was fully decided on its merits based on the arguments raised before it in the Notice of Appeal.

COUNT THREE

Case No. 18-O-16420
Business and Professions Code section 6068(m)
[Failure to Inform Client of Significant Development]

4. Respondent denies the allegations in paragraph 4 of the NDC and asserts that he did notify his client of the dismissal in a timely fashion when he became aware of it and offered to take remedial measures to reinstate the Petition.

COUNT FOUR

Case No. 18-O-16420
Business and Professions Code section 6108(o)(3)
[Failure to Report Judicial Sanctions]

5. Respondent does not contest the allegations in paragraph 5 of the NDC; however, because the Ninth Circuit had notified the State Bar directly, Respondent believed in good faith that his duty to report the sanction had been discharged.

Respectfully submitted,

May 2, 2019

Robert G. Berke

Attorney for Respondent

PROOF OF SERVICE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, California. I am over the age of 18 and not a party to the within action. My business address is: 21911 Sherman Way, Canoga Park, CA 91303.

On April 24, 2019, I served the foregoing document described as:

RESPONSE TO NOTICE OF DISCIPLINARY CHARGES

on the interested parties in this action by:

[] (BY MAIL) I placed a true copy thereof enclosed in a sealed envelope addressed and caused such envelope with postage thereon fully prepaid to be placed in the United States Mail and/or Federal Express and/or Express Mail at Los Angeles, CA addressed as follows:

Cindy Chan Office of Chief Trial Counsel The State Bar of California 845 S. Figueroa St. Los Angeles, CA 90017

[] (BY EMAIL) I also caused an electronic copy of the foregoing document to the address at the following e-mail address which was obtained from correspondence received from the addressee:

 $[\boldsymbol{X}]$ (BY PERSONAL SERVICE) I caused such document to be delivered by hand to the addressee.

[] (BY FAX) I caused a copy of such document to be faxed to the offices of the addressees at the following Fax Numbers:

[X] (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed this 24th day of April 2019 at Los Angeles, California.

Robert G. Berke Attorney at Law

James Gun Kim, Case No. SBC-19-O-30158