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9 STATE BAR COURT
10 HEARING DEPARTMENT-SAN FRANCISCO

11 In the Matter of) Case No. 05-O-04119-PEM; 06-O-14935 PEM;
12) 07-O-12717; 07-O-14195
13 STANLEY G. HILTON)
14 State Bar No. 65990) **RESPONSE TO NOTICE OF**
15) **DISCIPLINARY CHARGES**
16 A Member of the State Bar) [Rule of Procedure 262]
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Respondent Stanley G. Hilton herewith responds to the Notice of Disciplinary Charges in this case:

1. Respondent admits that he was admitted to the practice of law in California on December 18, 1975, and was a member in good standing at all times set forth in the Notice of Disciplinary Charges ("NDC"), but he denies that he is currently eligible to practice law as he is on inactive status as of August 10, 2009, per order of the Hearing Department.

COUNT ONE (A)

2. Respondent denies that he willfully failed to refund promptly any part of a fee he did not earn that was paid by Paula Datesh.

RESPONDENT HILTON'S RESPONSE TO NOTICE OF DISCIPLINARY CHARGES



1 3. Respondent admits that Datesh hired respondent on August 25, 2005, to assist her
2 in obtaining a street vendor's permit from the San Francisco Art Commission, and that she
3 paid him \$1,250 in advance fees.

4 4. Respondent admits that on or about September 1, 2005, Datesh terminated
5 respondent's services. Respondent denies that by that time he had performed no valuable
6 services for Datesh. He met with Datesh and talked to her on the telephone for significant
7 amounts of time. He had begun the preparation of a petition for a writ of mandamus, had
8 reviewed Datesh's documents, had written a short letter to a deputy city attorney and had
9 spoken to her on more than one occasion.

10 5. Respondent admits that he directed Chaffee to notify Datesh that she could pick up
11 her file and a check for the unearned portion of the fee from his office.

12 6. Respondent does not remember if Datesh e-mailed him on September 2, 2005,
13 demanding a full refund of her fee. When Datesh failed to come in to his office to pick up
14 her file and the check for the refund of the unearned portion of the fee, on September 5,
15 2005, respondent sent her the file and a check for the unearned portion of the fee via certified
16 mail, along with an accounting. Datesh refused to accept delivery of this package, and it was
17 returned to respondent. Finally, after the State Bar began investigating a complaint by
18 Datesh and after respondent had provided the State Bar with copies of the pertinent
19 documents showing his attempts to return Datesh's file and the unearned portion of the fee,
20 and after respondent had provided the State Bar with a copy of the fee agreement Datesh had
21 signed with respondent and a copy of the statement of his hours worked, respondent and his
22 attorney worked out with the blessing of the State Bar and with Datesh's attorney the return
23 of Datesh's file and a cashier's check for the unearned portion of the fee. At that time, the
24 State Bar closed the file.

25 7. Respondent admits the portion of this allegation that repeats the allegation in
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1 paragraph 5.

2 8. Respondent received so many harassing communications from Datesh that he
3 cannot recall if she actually spoke to respondent or left him a message on September 5, 2005,
4 but respondent denies that he did not at that time return her file and the unearned portion of
5 the fee to her.

6 9. Respondent does not recall if he sent Datesh an e-mail on September 5, 2005.

7 10. Respondent admits that he sent the letter and enclosed the accounting of his
8 work. He admits that he did not send the refund check in the envelope sent to her via regular
9 United States mail, but enclosed the refund check with a copy of the letter and accounting in
10 a letter he sent by certified mail that same day. To the extent that the word "purported"
11 indicates or implies that respondent did not do the work for which he billed Datesh, he denies
12 the assertion or implication.

13 11. Respondent admits the allegations of this paragraph and adds that the certified
14 letter enclosed a refund check as well as copies of his letter and accounting that he had also
15 sent via United States Postal Service.

16 12. Respondent does not recall whether he sent Datesh an e-mail on September 7,
17 2005, but he admits that by this time Datesh had fired him.

18 13. Respondent has no personal knowledge of the date when Datesh submitted her
19 complaint about him to the State Bar and is therefore unable to admit or deny this allegation
20 to the extent it relates an activity to a specific date, but he admits that Datesh complained
21 about him to the State Bar.

22 14. Respondent has no independent recollection presently that he sent Datesh a
23 second package.

24 15. Respondent admits the allegations of this paragraph.

25 16. Respondent denies that he failed to refund the unearned fees to Datesh because he
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1 sent a refund check to her in September 2005. Respondent knows that Mr. Weinberg sent
2 Datesh another check in early 2006, but respondent does not recall the date this occurred.
3 Respondent admits that there was a period of time between the time in December 2005 that
4 he discovered that Datesh had refused to pick up the certified letter with her refund check and
5 the time that Weinberg sent her another check in which he did not send a refund check to
6 Datesh. However, this allegation omits that during the period of time mentioned in the
7 allegation, Mr. Weinberg was involved in three-way negotiations with the State Bar and with
8 Datesh's attorney about arranging a refund to address her complaint, and that upon his
9 sending the refund check to Datesh, the State Bar dropped the matter and everything seemed
10 to be resolved.

11 17. Respondent admits that eventually, his attorney, Doron Weinberg, worked out a
12 resolution whereby Datesh finally agreed to accept the check, and that Weinberg sent this
13 check to her, but he does not recall the date that Weinberg sent the cashier's check to Datesh.

14 18. Respondent admits the allegations of this paragraph but notes the following: he
15 does not remember the date that the hearing was held. Additionally, respondent had a
16 restraining order against Datesh for threatening respondent's life, and he refused to
17 personally attend the hearing for fear of his personal safety. He participated by telephone,
18 but denies that the proceeding satisfied the requirements of due process.

19 19. Respondent admits the allegations of this paragraph.

20 20. Respondent admits that he wrote a check for \$750 to Datesh dated June 27,
21 2007, in accordance with the arbitrator's award. Respondent's best recollection is that he
22 mailed the check the same day, although he admits that the envelope in the possession of the
23 State Bar has a cancellation date of July 10, 2007.

24 21. Respondent admits the allegation of this paragraph.

25 22. Respondent admits that he closed the account on which check no. 4339 was
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1 written, but he believes that he instructed the bank to close it on July 26, 2007, not July 27,
2 2007.

3 23. Respondent has no personal knowledge of the allegations in this paragraph,
4 although he admits that his bank did not honor the original \$750 check.

5 24. Respondent has no personal knowledge of the facts alleged in this paragraph and
6 is therefore unable to admit or deny them.

7 25. Respondent admits that the State Bar contacted **him** about the original \$750 check
8 in August 2007, but denies that it contacted him through his counsel, Mr. Weinberg, since he
9 was not represented at that time by Weinberg in this case.

10 26. Respondent admits the allegations of this paragraph.

11 27. Respondent admits that Datesh received the cashier's check, but he does not have
12 personal knowledge of when she received it.

13 28. Respondent denies that he did not provide services of value to Datesh, or that he
14 did not earn any of the advance fees paid by Datesh, and he incorporates his response to
15 paragraph 4, above, in his response to this paragraph. Respondent also notes that the
16 allegations of this paragraph contradict the allegations of paragraph 4, which alleges that he
17 reviewed her documents, among other tasks. ..

18 29. Respondent denies that he failed to promptly refund unearned fees. The State
19 Bar initially investigated this matter and concluded that the complaint lacked merit, or that it
20 was not going to pursue the matter. At that point respondent removed the \$750 from his
21 trust account based on his justified conclusion that he had earned those fees. When, much
22 later, Datesh initiated the fee arbitration proceeding and won, respondent paid Datesh. When
23 it turned out that the bank had dishonored the initial \$750 check, respondent sent Datesh a
24 cashier's check for the refund. This allegation omits the facts that respondent promptly
25 refunded \$500 to Datesh that she refused to accept, that respondent paid Datesh a cashier's
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1 check for \$500 in response to negotiations among his attorney, Datesh's attorney and the
2 State Bar, that the State Bar closed its investigation of the matter, and that after that
3 respondent had no way of knowing that any more of a refund was due Datesh until after the
4 fee arbitration award, at which time he promptly refunded the remainder of the fee, but
5 Datesh delayed depositing or cashing it until after respondent closed his checking account
6 because he had lost his check book.

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8 COUNT ONE (B)

9 Case no. 05-O-04119; 07-O-12717 (Datesh)
10 Bus. & Prof. Code §6106 (moral turpitude)

11 30. Respondent denies that he committed any act of moral turpitude in relation to the
12 allegations set forth in Count One (A).

13 31. Respondent's incorporates his responses to paragraphs 1-29 in this paragraph as
14 though fully set forth here.

15 32. Respondent admits that his action in closing his checking account caused the
16 check to Datesh to be dishonored. He admits that before he closed the account he did not
17 ensure that Datesh had already negotiated the refund check.

18 33. Respondent denies that his acts constituted moral turpitude because he did not
19 intend to deprive Datesh of her refund check, and his failure to check to see whether she had
20 in fact negotiated the check before he closed his account was due, at worst, to a mistake,
21 inadvertence or excusable neglect.

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23 COUNT TWO (A)

24 Case no. 06-O-14935
25 Bus. & Prof. Code §6068(d)
26 [Employing Means Inconsistent with Truth]
27 [Seeking to Mislead a Judge]

1 34. Respondent denies that he violated Business & Professions Code section 6068(d)
2 as alleged.

3 35. Respondent admits that he represented Pura Advincula in the case set forth in this
4 paragraph.

5 36. Respondent has no recollection of when Ms. Advincula's deposition was
6 originally scheduled, or whether it was postponed, but he has no reason to believe that it was
7 not continued.

8 37. Respondent has no recollection that Ms. Advincula's deposition was postponed
9 again from January to February 2006, or that the opposing counsel warned him that he would
10 bring a motion to compel if Ms. Advincula failed to appear for her deposition in February.

11 38. Respondent does not recall whether he showed up late for this deposition, but he
12 does recall that he did feel ill, in that he experienced chest pains, dizziness, and was unable
13 to concentrate due to mitral valve prolapse and apnea from which he suffers.

14 39. Respondent does not recall whether the allegations contained in this
15 subparagraph are true.

16 40. Respondent does not specifically remember some of the allegations of this
17 subparagraph, but he does recall that opposing counsel was badgering his client, was being
18 repetitive and harassing his client by unduly extending the deposition. Respondent also
19 believes that he had to pick up his car from a repair shop over the lunch hour, and he called
20 opposing counsel and told him he would be late to resume the deposition. Respondent also
21 admits that he said he was suffering from knee pain because he had fallen earlier and had
22 injured his knee. Respondent admits calling the opposing counsel a "rookie", but denies that
23 these terms were false, although he admits that they were probably rude.

24 41. Respondent admits that he called opposing counsel on April 16, 2006, and left
25 him a message informing him that he was too ill to attend the next day's deposition, because,
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1 in fact, he was ill. Respondent states that any further comments he made after he completed
2 his message to opposing counsel were inadvertently left on the message machine or voice
3 mail, because he was talking to a friend who was in his presence and believed he had hung
4 up the telephone and disconnected the call. In fact, respondent had not successfully
5 disconnected the call, and the message receiver continued to record comments he and his
6 friend were making. These comments in fact were not related to the message he had just left
7 for the opposing counsel; in fact, he was with a friend and was attempting to imitate Al
8 Pacino in the movie, "Scarface."

9 42. Respondent agrees that he asked his office to call opposing counsel to further
10 postpone the deposition session because respondent was under enormous pressure and stress
11 due to a contentious break-up of his marriage.

12 43. Respondent does not recall whether the allegations contained in this paragraph are
13 true

14 44 and 45. Respondent admits that he left the message set forth in paragraph 44. At
15 the time respondent's wife had called the Hillsborough Police who responded to his house
16 along with his wife and her parents. His wife took his three minor children and told him that
17 he would never see them again. The police allowed her to take respondent's children. As a
18 result respondent became despondent and upset, and at that point concluded that he was not
19 going to practice law any more. It is also true that later on, by virtue of counseling he
20 received and the passage of time, respondent changed his mind about practicing law, and in
21 fact, he continued to practice law. Respondent denies that his statement to opposing counsel
22 that he was going to resign from the practice of law was designed to further delay or prevent
23 the Advincula deposition from continuing or from being completed.

24 46. Respondent admits that opposing counsel filed a motion for a protective order
25 and sought sanctions.

1 47. Respondent objects that the allegations contained in this one paragraph do not
2 relate to each other. Respondent admits that he spoke in court on or about September 8,
3 2006, at the hearing on the motion for protective order and for sanctions, and that he
4 previously filed a declaration under penalty of perjury in opposition to the motion. He does
5 not believe he was sworn in as a witness at the hearing, however, and therefore he denies that
6 he "testified" as that word is commonly understood, but he admits making the statements set
7 forth in this paragraph. He denies that he was not so ill that he could have attended Ms.
8 Advincula's deposition.

9 48. Respondent admits stating the words reported in the paragraph but denies that he
10 had been sworn as a witness and that he therefore "testified" about those matters as that word
11 is commonly understood. Respondent denies that he was not acting out of courtesy when he
12 called opposing counsel. Respondent objects that, in any event, a lack of courtesy is not a
13 basis for seeking to impose discipline, and that establishing that he lacked courtesy at the
14 time does not establish its opposite.

15 49. Respondent admits that Judge Manoukian imposed the sanctions on respondent as
16 set forth in this paragraph, but he further adds that the opposing counsel waived sanctions in
17 settling the case shortly thereafter.

18 50. Respondent admits making a motion to disqualify Judge Manoukian on the basis
19 that he was prejudiced against respondent under two different sections of the Code of Civil
20 Procedure. Respondent's claim that Manoukian was prejudiced against respondent on ethnic
21 or national origins grounds was based on a contentious encounter he had had with Judge
22 Manoukian about a year earlier in chambers on an ex parte application in a different case. In
23 that proceeding, Judge Manoukian claimed off the record that more Armenians died at the
24 hands of the Turks in World War I than Jews were killed during the Nazi reign in Europe
25 before and during World War II. Respondent, who is part Jewish, took offense and still
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1 believes that Judge Manoukian harbors a prejudice against Jews. However, respondent also
2 admits that he did not bring any of these facts to the attention of the court in the fall of 2006.
3 Respondent admits that he believed that Judge Manoukian should have believed his claims of
4 disability and, when he didn't, concluded that the judge was prejudiced against him on that
5 basis as well. On reflection, respondent realizes that he did not present to the court medical
6 evidence supporting his claims. Respondent admits that he had no basis for making a motion
7 under Code of Civil Procedure section 170.6 because it was untimely, but he denies that his
8 claim that Judge Manoukian is prejudiced lacked any merit.

9 51. Respondent denies that he repeatedly postponed and canceled Advincula's
10 deposition in order to harass or unduly delay the deposition; he denies that he faked his claim
11 that he was ill. He denies that he knew his claims of bias or prejudice were groundless, but
12 he admits that, based on the papers he submitted to the court, the court could conclude that
13 they were groundless, because he failed to submit adequate substantiation for those claims.
14 Respondent denies that he intended to vex, annoy, or harass the opposing counsel and party.

15 COUNT TWO(B)

16 Case No. 06-O-14935
17 Bus. & Prof. Code section 6106
[Moral Turpitude]

18 52. Respondent denies that he willfully violated Business & Professions Code section
19 6106 and denies that he committed an act involving moral turpitude, dishonesty and
20 corruption.

21 53. Respondent hereby incorporates by reference his responses to the allegations in
22 Count Two (A).

23 54. Respondent denies that he dishonestly and with gross negligence misrepresented
24 to opposing counsel the reason why he was unable to attend the Advincula deposition
25 scheduled for April 17, 2006. Respondent was ill.
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55. Respondent denies that he dishonestly and with gross negligence misrepresented to opposing counsel the reason he was unable to attend the Advincula deposition scheduled for June 6-7, 2006. Respondent's wife took respondent's minor children on June 5, 2006, and told him that he would never see them again. Respondent had to take quick legal action to preserve his custody rights and his rights to see his children, and to protect the children, and on or about June 7, 2006, he filed for dissolution of his marriage. On June 8, 2006, respondent obtained a temporary restraining order against his wife. Because of his wife's actions, respondent felt extremely despondent and at that point did not want to practice law and instead he wanted to move to Europe and work there. His statements to counsel, therefore, were true at the time he made them.

56. Because he did not misrepresent the reasons why he could not attend the depositions scheduled for April 17, 2006, and for June 6-7, 2006, respondent did not commit an act involving moral turpitude, dishonesty and corruption.

COUNT TWO (C)

Case No. 06-O-14935 (SBI)
Rules of Professional Conduct, Rule 3-110(A)
[Failure to Perform with Competence]

57. Respondent denies that violated Rule 3-110, subdivision (A), by intentionally, recklessly and repeatedly failing to perform legal services with competence. Moreover, respondent owed a duty of competence to his client, Ms. Advincula, and not to opposing counsel or to the court, and Ms. Advincula received a fair and adequate settlement of her claims as the result of respondent's representation of her.

58. Respondent incorporates by reference his responses to Count Two(A) as though fully set forth here.

59. Respondent incorporates by reference his responses to Count Two (B) as though fully set forth here.

60. Respondent denies that he violated Rule 3-110, subdivision (A), and he denies that the allegations in Counts Two (A) and (B), inclusive, establish, even if true, that he failed to act with competence.

COUNT THREE (A)

Case No. 07-O-14195 (Richard and Ann Newman)
Rules of Professional Conduct, Rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

61. Respondent denies that he violated Rules of Professional Conduct, Rule 4-100, subdivision (B)(3) by failing to render appropriate accounts to a client regarding all funds of the client that came into respondent's possession.

62. Respondent admits the allegations of this paragraph, with the exception that the \$6,000 was to cover advance fees and costs.

63. Respondent does not understand how the word “certified” is meant in this paragraph, and therefore he is unable to admit or deny its truth. He does admit that he represented the Newmans in such a lawsuit.

64. Respondent admits that he filed the original lawsuit as alleged on December 29, 2005. Respondent also admits that some of the defendants were served, and some were not, however, at this juncture, he cannot remember which parties were served and which weren't.

65. Respondent is unable to recall whether he in fact received an e-mail from the Newmans on or about January 3, 2006. He does not recall their asking him about MBNA, but he does recall some discussions about the statute of limitations.

66. Respondent does not recall sending the e-mail alleged in this paragraph, and he does not have access to his old e-mails. Therefore he is unable to admit or deny this part of

1 the allegation. He admits that not all the defendants had been served as of this date.

2 67. Respondent admits that he told the Newmans that the Continuous Tort Theory
3 was a way to overcome a statute of limitations problem.

4 68. Respondent does not have a copy of the e-mail alleged in this paragraph and he
5 has no independent recollection of sending one (or not sending one). Respondent instructed
6 his legal assistant to send out the complaint for service on all defendants. He assumed that it
7 had been sent out for service and served on all defendants. He learned later that it had not
8 been sent out for service on all defendants. It is possible that he told the Newmans that all
9 defendants had been served before he learned that all had not been served.

10 69. Respondent does not have a copy of this e-mail nor an independent recollection
11 of whether he sent this e-mail or not. Respondent denies telling the Newmans that all
12 defendants had been served when he knew they had not all been served. However,
13 respondent admits that he did not check with the court to determine if all defendants had been
14 served, and therefore he admits that he failed to properly supervise his staff.

15 70. Respondent does not have a copy of this e-mail nor an independent recollection
16 of whether he sent such an e-mail or not. Respondent denies telling the Newmans that the
17 defendants had all been served when he knew they had not all been served. Respondent
18 incorporates by reference his answer to paragraph no. 69 here.

19 71. Respondent does not have a copy of this e-mail nor an independent recollection
20 of whether he sent such an e-mail. Respondent admits that not all defendants had been
21 served at this time. Respondent denies that he knew that not all defendants had been served
22 at this time. Respondent admits that by February 5, 2006, only some of the defendants had
23 been served. Respondent also admits that by February 5, 2006, he had been contacted by
24 only a few of the defendants.

25 72. Respondent has no independent recollection of receiving this e-mail, nor does he
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1 have a copy of it. It is likely that, if he received such an e-mail, he or his staff would have
2 forwarded it to the Newmans, but respondent does not know whether in fact such an event
3 occurred.

4 73. Respondent admits the allegations of this paragraph.

5 74. Respondent admits the allegations of this paragraph, but denies that the lines
6 quoted contain the entire message transmitted in the e-mail.

7 75. Respondent's copies of e-mails do not include this particular e-mail, and so
8 respondent has no independent recollection of sending such an e-mail. However, based on
9 comments Judge Ware made during the hearing on the motion, he believed things had gone
10 well, because, among other statements the court made, the court gave the Newmans an
11 opportunity to amend their complaint.

12 76. Respondent admits the allegations of this paragraph.

13 77. Respondent admits the allegations of this paragraph.

14 78. Respondent admits the allegations of this paragraph.

15 79. Respondent admits the allegations of this paragraph.

16 80. Respondent admits the allegations of this paragraph.

17 81. Respondent denies the allegations of this paragraph. When respondent discussed
18 the settlement offers with the Newmans, they concluded that they could obtain better offers,
19 and they instructed respondent to reject the offers, which he did. Eventually, however, the
20 Newmans did agree to settle. Respondent does not recall if the Newmans requested an
21 accounting on July 30, 2006.

22 82 Respondent admits the allegations of this paragraph.

23 83 Respondent does not have a copy of the e-mail alleged in this paragraph, nor does
24 he have an independent recollection of the matter and is therefore unable to admit or deny
25 this allegation.

1 84 Respondent admits the allegations of this paragraph.

2 85. Respondent admits the allegations of this paragraph.

3 86. Respondent does not have a copy of the e-mail alleged in this paragraph, nor
4 does he have an independent recollection of the matter.

5 87. Respondent does not have a copy of the e-mail alleged in this paragraph, nor does
6 he have an independent recollection of the matter.

7 88. Respondent does not have a copy of the e-mail alleged in this paragraph, nor
8 does he have an independent recollection of the matter.

9 89. Respondent does not have a copy of the e-mail alleged in this paragraph, nor
10 does he have an independent recollection of the matter. Respondent does recall that he was in
11 Russia from November 29 to December 5, 2006, and that he told the Newmans he would be
12 out of the country during this time. Accordingly, he was unable to provide an accounting
13 during this time frame.

14 90. Respondent admits the allegations of this paragraph.

15 91. Respondent admits the allegations of this paragraph, but notes that the invoice is
16 dated January 2, 2007, and therefore he is unable to say whether it was sent on January 2 or
17 January 3, 2007.

18 92. Respondent admits the allegations of this paragraph.

19 93. Respondent admits the allegations of this paragraph.

20 94. Respondent admits the allegations of this paragraph.

21 95. Respondent admits the allegations of this paragraph.

22 96. Respondent admits the allegations of this paragraph, but denies that the language
23 quoted contains the entire substance of the e-mail.

24 97. Respondent does not have a copy of this e-mail and he does not recall it, so he is
25 unable to admit or deny these allegations. However, respondent's e-mails include an e-mail
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1 from the Newmans dated August 20, 2007, that asks, "What about the other defendants?
2 Nothing is mentioned about them...or have they previously been dismissed by the judge?"

3 98. Respondent admits the allegations of this paragraph.

4 99. Respondent admits the allegations of this paragraph.

5 100. Respondent admits the allegations of this paragraph. He sent the check to them
6 based on their promise to pay him his earned contingent fee.

7 101. Respondent admits the allegations of this paragraph.

8 102. Respondent admits the allegations of this paragraph.

9 103. Respondent denies the allegations of this paragraph to the extent that it implies that
10 respondent knew that the defendants had not been dismissed. In fact, in checking on the status
11 of the case on line respondent read that the court docket said that the case had been closed, and
12 he concluded that the court must have dismissed the other defendants in order to close the case.

13 104. Respondent does not have a copy of this e-mail among his e-mails and has no
14 way to verify the allegations of this paragraph. He does not have an independent recollection
15 of these events.

16 105. Respondent admits the allegations of this paragraph. Respondent offered to
17 have the other defendants served, but the Newmans declined.

18 106. Respondent admits the allegations of this paragraph.

19 107. Respondent admits the allegations of this paragraph, but denies that the
20 allegations include all of the e-mail. In fact, the e-mail was lengthy, and respondent also told
21 the Newmans that prosecuting the case against the other defendants "would only subject you
22 to sanctions and attorneys fees because the court has pretty much decided the issues
23 legally...." The e-mail also advised the Newmans that respondent had "an ethical duty not to
24 serve them...."

25 108. Respondent admits the allegations of this paragraph, but denies that the
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1 allegations include all of the e-mail.

2 109. Respondent admits the allegations of this paragraph.

3 110. Respondent does not know whether the Newmans have taken steps to dismiss
4 the other unserved defendants, but up to the time he stopped representing them, he did not
5 dismiss the unserved defendants because the Newmans did not authorize him to take that
6 action.

7 111. Respondent admits that he failed to provide an accounting to the Newmans in a
8 timely fashion.

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10 COUNT THREE (B)

11 Case No. 07-O-14195
12 Rules of Professional Conduct, Rule 3-110(A)
[Failure to Perform With Competence]

13 112. Respondent denies that he violated Rules of Professional Conduct, Rule 3-
14 110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with
15 competence.

16 113. Respondent incorporates by reference his responses to the allegations in Count
17 Three (A) as though set forth separately here.

18 114. Respondent admits that he filed the original lawsuit as alleged on December 29,
19 2005. Respondent also admits that some of the defendants were served, and some were not,
20 however, at this juncture, he cannot remember which parties were served and which weren't.

21 115. Respondent does not recall specifically which defendants were not served, but
22 he admits that, as to the defendants who were not served, he did not attempt to obtain any
23 compensation from them, other than suing them as defendants in the case.

24 116. Respondent notes that the paragraph alleges that he did not "file" the complaint
25 on all the defendants, when it seems to refer to the fact that he failed to "serve" the
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1 complaint on all defendants. Respondent denies that he did not file the complaint against all
2 defendants, but he admits that he failed to serve all defendants and that he failed to properly
3 supervise his staff, who told him that all the defendants in the case had been served.

4 COUNT THREE (C)

5 Case No. 07-O-14195
6 Bus. & Prof. Code section 6068(m)
[Failure to Inform Client of Significant Development]

7 117. Respondent denies that he violated Business & Professions Code section 6068,
8 subdivision (m), by failing to keep his clients reasonably informed of significant
9 developments in a matter in which he had agreed to provide them legal services.

10 118. Respondent incorporates by reference his responses to the allegations contained
11 in Count Three (A) as though set forth in full here.

12 119. Respondent incorporates by reference his responses to the allegations contained
13 in Count Three (B) as though set forth in full here.

14 120. Respondent denies that he failed to keep the Newmans reasonably informed of a
15 significant development, to wit, the failure to serve certain defendants in their case, because
16 he was under the impression that they had been served. When he learned that they had not
17 been served, he so informed the Newmans.

18 COUNT THREE (D)

19 Case No. 07-O-14195
20 Bus. & Prof. Code section 6106
[Moral Turpitude]

21 121. Respondent denies that he violated Business and Professions Code section 6106
22 by committing an act involving moral turpitude, dishonesty and corruption.

23 122. Respondent incorporates by reference his responses to the allegations contained
24 in Count Three(A) as though fully set forth here.

25 123. Respondent incorporates by reference his responses to the allegations contained
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1 in Count Three(B) as though fully set forth here.

2 124. Respondent herewith incorporates by reference his responses to paragraphs 68,
3 69 and 71, above, as though fully set forth here. Respondent admits that not all the
4 defendants in the Newman's case were served, and that the case was not prosecuted against
5 them. Respondent denies that he intentionally misled the Newmans to believe that all the
6 defendants had been served, because he in fact believed that they had been served.

7 125. Respondent herewith incorporates by reference his responses to paragraph 103
8 above, as though fully set forth here. Respondent denies that he intentionally misled the
9 Newmans to believe that all of the unserved defendants in their case had been dismissed; he
10 was mistaken whether they had been served, and when he realized his mistake, he notified
11 his clients.

12 126. Respondent believes that this allegation is simply a restatement of the allegation
13 of the preceding paragraph. Therefore, respondent herewith incorporate by reference his
14 responses to paragraphs 103, and 125, above, as though fully set forth here. Respondent
15 denies that he intentionally misled the Newmans to believe that all of the unserved defendants
16 in their case had been dismissed; he was mistaken about their true status, and when he
17 realized his mistake, he notified his clients.

18 127. Respondent admits the allegations of this paragraph.

19 128. Respondent denies that none of the defendants were dismissed pursuant to a
20 court order. In fact, respondent believed that the court had dismissed all of the defendants
21 because the court docket stated that the case was closed.

22 129. Respondent admits that the Newmans executed such a Mutual Release in
23 September 2007.

24 130. Respondent denies that his actions and omissions constituted an act involving
25 moral turpitude, dishonesty and corruption.

1 AFFIRMATIVE DEFENSES/FACTORS IN MITIGATION:

2 Respondent hereby asserts the following affirmative defenses and factors in
3 mitigation:

4 First, simple negligence is not a proper basis for the imposition of discipline, and the
5 causes of action in relation to the Newmans allege no more than simple negligence.

6 Second, the duty of competence is owed by an attorney only to his clients.
7 Therefore, the allegations of Count Two (C) cannot legally support an allegation of violation
8 of Rule 3-110(A) (Competence), since the actions described therein are not alleged to have
9 affected respondent's client in the matter.

10 Third, a mistake of fact does not support an accusation that respondent was guilty of
11 moral turpitude as alleged in relation to Ms. Datesh and the Newmans.

12 Fourth, respondent has a lengthy history of practicing law without any disciplinary
13 action being imposed upon him.

14 Fifth, during the time periods alleged in this Amended NDC, respondent was
15 suffering severe emotional and mental distress as a result of a contentious divorce proceeding
16 that included threats of physical violence against him and his children, physical violence
17 against respondent's property, and threats to prevent him from ever seeing his children again,
18 and this mental and emotional distress substantially contributed to the acts and omissions that
19 are complained of in the Amended Notice of Disciplinary Action.

20 Sixth, during the time periods alleged in this NDC respondent was suffering from bi-
21 polar disorder and this disorder substantially contributed to the acts and omissions that are
22 complained of in the NDC, and respondent is currently receiving treatment at this time and
23 the disorder is treatable.

24 Respondent reserves the right to call character witnesses in his defense at the trial of
25 this matter.

Respondent reserves the right to present evidence of other mitigating factors not set forth in this Response to the Amended Notice of Disciplinary Charges.

NOTICE OF ADDRESS FOR SERVICE:

All pleadings, communications, and other items to be sent to respondent should be sent to his attorney:

William M. Balin
Balin & Kotler, LLP
345 Franklin Street
San Francisco, CA 94102
(415) 241-7360

Dated: November 9, 2009

(S)
William M. Balin
BALIN & KOTLER, LLP
Attorneys for Respondent Stanley G.
Hilton

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1. I am a citizen of the United States, over the age of 18, and not a party to the withing action. My business address is 345 Franklin Street, San Francisco, CA 94102.

Sherrie B. McLetchie
Deputy Trial Counsel
State Bar of California
180 Howard St.
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Signed November 9, 2009.

15/
WILLIAM M. BALIN