



Phillip Myer, In Pro Per
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FILED

OCT 22 2018

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

BEFORE THE STATE BAR COURT
OF THE STATE OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No. 17-O-02978; 17-O-04876; 17-O-
)	03316; 17-O-06368; 18-O-11797; 18-O-
PHILLIP MYER ,)	12035
)	
Member No. 73645,)	RESPONSE TO NOTICE OF
)	DISCIPLINARY CHARGES
)	
A Member of the State Bar.)	
)	
)	
)	

TO THE OFFICE OF THE CHIEF TRIAL COUNSEL OF THE STATE BAR OF CALIFORNIA AND TO ITS COUNSEL OF RECORD:

Respondent Phillip Myer responds to the Notice of Disciplinary Charges as follows:

Answer to Specific Allegations Contained in the Notice of Disciplinary Charges

1. Respondent admits that he/she was admitted to the practice of law in the State of California on February 1, 1977.

COUNT ONE

2. Respondent objects to the allegations of paragraph 2 of the NDC on the basis that they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Rules of Professional Conduct, rule 3-110(A).

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COUNT TWO

3. Respondent objects to the allegations of paragraph 3 of the NDC on the basis that they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

COUNT THREE

4. Respondent objects to the allegations of paragraph 4 of the NDC on the basis that they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Business and Professions Code, section 6068(m).

COUNT FOUR

5. Respondent objects to the allegations of paragraph 5 of the NDC on the basis that they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Business and Professions Code, section 6068(i).

COUNT FIVE

6. Respondent objects to the allegations of paragraph 6 of the NDC on the basis that they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Rules of Professional Conduct, rule 4-100(b)(3).

COUNT SIX

7. Respondent objects to the allegations of paragraph 7 of the NDC on the basis that they are conclusory, compound and intertwined with legal conclusions. Without waiving this objection, Respondent denies that he committed acts involving moral turpitude in willful violation of Rules of Professional Conduct, rule 3-110(A).

1 **COUNT SEVEN**

2 8. Respondent objects to the allegations of paragraph 8 of the NDC on the basis that
3 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
4 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
5 of Rules of Professional Conduct, rule 3-110(A).

6 **COUNT EIGHT**

7 9. Respondent objects to the allegations of paragraph 9 of the NDC on the basis that
8 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
9 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
10 of Business and Professions Code section 6103.

11 **COUNT NINE**

12 10. Respondent objects to the allegations of paragraph 10 of the NDC on the basis that
13 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
14 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
15 of Business and Professions Code section 6103.

16 **COUNT TEN**

17 11. Respondent objects to the allegations of paragraph 11 of the NDC on the basis that
18 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
19 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
20 of Business and Professions Code section 6103.

21 **COUNT ELEVEN**

22 12. Respondent objects to the allegations of paragraph 12 of the NDC on the basis that
23 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
24 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
25 of Business and Professions Code section 6068(m).

26 **COUNT TWELVE**

27 13. Respondent objects to the allegations of paragraph 13 of the NDC on the basis that
28 they are conclusory, compound and intertwined with legal conclusions. Without waiving this

1 objection, Respondent denies that he committed acts involving moral turpitude in willful
2 violation of Business and Professions Code section 6068(m).

3 **COUNT THIRTEEN**

4 14. Respondent objects to the allegations of paragraph 14 of the NDC on the basis that
5 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
6 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
7 of Business and Professions Code section 6068(i).

8 **COUNT FOURTEEN**

9 15. Respondent objects to the allegations of paragraph 15 of the NDC on the basis that
10 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
11 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
12 of Rules of Professional Conduct, rule 3-700(D)(2).

13 16. Respondent objects to the allegations of paragraph 16 of the NDC on the basis that
14 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
15 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
16 of Rules of Professional Conduct, rule 3-700(D)(2).

17 **COUNT FIFTEEN**

18 17. Respondent objects to the allegations of paragraph 17 of the NDC on the basis that
19 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
20 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
21 of Rules of Professional Conduct, rule 3-110(A).

22 18. Respondent objects to the allegations of paragraph 18 of the NDC on the basis that
23 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
24 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
25 of Rules of Professional Conduct, rule 3-110(A).

26 **COUNT SIXTEEN**

27 19. Respondent objects to the allegations of paragraph 19 of the NDC on the basis that
28 they are conclusory, compound and intertwined with legal conclusions. Without waiving this

1 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
2 of Rules of Professional Conduct, rule 3-700(A)(2).

3 **COUNT SEVENTEEN**

4 20. Respondent objects to the allegations of paragraph 20 of the NDC on the basis that
5 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
6 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
7 of Business and Professions Code section 6068(m).

8 **COUNT EIGHTEEN**

9 21. Respondent objects to the allegations of paragraph 21 of the NDC on the basis that
10 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
11 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
12 of Business and Professions Code section 6068(m).

13 **COUNT NINETEEN**

14 22. Respondent objects to the allegations of paragraph 22 of the NDC on the basis that
15 they are conclusory, compound and intertwined with legal conclusions. Without waiving this
16 objection, Respondent denies that he committed acts involving moral turpitude in willful violation
17 of Business and Professions Code section 6068(i).

18 **AFFIRMATIVE DEFENSES**

19 **FIRST AFFIRMATIVE DEFENSE**

20 (Failure to State Sufficient Facts)

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

23 **SECOND AFFIRMATIVE DEFENSE**

24 (Duplicative Charges)

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

1 **THIRD AFFIRMATIVE DEFENSE**

2 (Good Faith Reliance Upon the Law)

3 All of Respondent's admitted conduct was done in reliance upon well-established laws and
4 legal principles, upon which, Respondent had the legal right to rely in conducting his affairs.

5 **FOURTH AFFIRMATIVE DEFENSE**

6 (Unreasonable Delay)

7 The State Bar has unreasonably delayed in its filing of all counts of the NDC, on which
8 Respondent has relied to his prejudice and detriment. The charges contained in Counts One and
9 Two of the NDC are stale, and there is an irrebutable presumption of unfairness to Respondent
10 arising from this unreasonable delay. The law has long recognized that extended delay is highly
11 prejudicial to a litigant. Memories fade. Witnesses disappear. Documents are destroyed or
12 misplaced. There are "all the impediments the statute of limitations was designed to avoid." *Chase*
13 *Securities Corp. v. Donaldson* (1945) 325 U.S. 304, 314.

14 **FIFTH AFFIRMATIVE DEFENSE**

15 (Lack of Materiality)

16 The facts on which some or all of the Notice of Disciplinary Charges are based allege
17 immaterial or irrelevant omissions or statements that do not constitute "misrepresentations" or
18 "concealment."

19 **SIXTH AFFIRMATIVE DEFENSE**

20 (Charges Do Not Constitute Willful Misconduct)

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

23 **SEVENTH AFFIRMATIVE DEFENSE**

24 (Reliance Upon the Law)

25 All of Respondent's admitted conduct was done in reliance upon well-established laws and
26 legal principles, upon which, Respondent had the legal right to rely in conducting his affairs.

1 **EIGHTH AFFIRMATIVE DEFENSE**

2 (Lack of Harm)

3 No persons were harmed by the acts alleged in each and every count in the Notice of
4 Disciplinary Charges.

5 WHEREFORE, Respondent prays that the Court find that Respondent did not commit acts
6 constituting professional misconduct, and that the Notice of Disciplinary Charges be dismissed.

7
8 Respectfully submitted,

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10 Dated: October 22, 2018

11
12
13 By: 

14 PHILLIP MYER, Respondent

1 **PROOF OF SERVICE**

2 **State Bar vs Myer**

3 At the time of service, I was over 18 years of age and not a party to this action. I am
4 employed in the County of San Bernardino, State of California. My business address is:
5 VMK Law Group, PO Box 488, Rancho Cucamonga, CA 91729.

6 On July 9, 2018, I served true copies of the following document(s):

7 **Response to Notice of Disciplinary Charges**

8 on the interested parties in this action as follows:

9 **State Bar of California, Office of Chief Trial Counsel**

10 **Attn: Akili Nickson**

11 **845 South Figueroa Street**

12 **Los Angeles, CA 90017-2515**

13 **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the
14 persons at the addresses listed in the Service List and placed the envelope for collection and
15 mailing, following our ordinary business practices. I am readily familiar with VMK Law
16 Group's practice for collecting and processing correspondence for mailing. On the same day that
17 the correspondence is placed for collection and mailing, it is deposited in the ordinary course of
18 business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct.

21 Executed on October 22, 2018, at Rancho Cucamonga, California.

22 
23 Lilia Reynoso