

**LEGAL SERVICES**  
of  
**NORTHERN CALIFORNIA**

November 15, 2021

Executive Committee of the Legal Services Trust Fund Commission  
State Bar of California  
180 Howard Street  
San Francisco, CA 95105

Re: Item IV.B - Response to Report on Complaint against Grantee Legal Services of  
Northern California (LSNC)

Dear Committee Members:

This letter is the response of Legal Services of Northern California (LSNC) to the October 27, 2021 report to this committee by Senior Program Analyst Dan Passamaneck regarding the complaint made to the Bar by [REDACTED] an applicant for LSNC's services. While LSNC certainly agrees with the report's recommendation that the complaint be dismissed, we strongly disagree that the Trust Fund Commission has any authority—as its handling of the complaint seems to presume—to review a decision by a grantee to deny or limit services based upon factors clearly left to the discretion of the grantee, including but not limited to issues of program capacity (e.g., lack of staffing or resources), mission, program priorities, the lack of legal merit of the problem, or, as in this case, the utter and abusive refusal of the applicant to complete the intake process, which rendered LSNC unable to even answer the threshold question of whether the applicant was eligible for services funded by the Commission. Simply put, outside of a very narrow limited review of complaints arising from unlawful discrimination based upon personal characteristics of the applicant (see below)—none of which were alleged in any way, and at any time, to either LSNC or the Bar by this complainant—the Trust Fund has no authority to determine whether the denial or limitation of a grantee's services to an applicant or client is appropriate.

Accordingly, LSNC requests that the Commission dismiss the complaint as groundless on its face, because it fails to allege that LSNC in any way failed to meet any applicable Trust Fund requirements imposed upon grantees, and because it presupposes an obligation of grantee programs to assist all applicants for assistance—**even those applicants who refuse to provide evidence to permit the grantee to determine whether they are even eligible for Trust Fund services-** that does not exist.

LSNC also strongly protests the handling of this complaint, particularly the fact that the complaint form was not provided to LSNC as required under Rule 3.692 (B) until the October 27, 2021 report was issued. As a result of that delay, LSNC was not prompted to provide a timely written response to

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the complaint. When informed that the Commission would review the complaint due to the State Bar's failure to timely resolve it, LSNC provided a lengthy and detailed response to State Bar staff members' description of the complaint by phone. Mr. Passamaneck neglected to provide that response along with his report to the Commission. Furthermore, the report both misstated and ignored highly relevant facts related to the complainant's interactions with LSNC, resulting in an incomplete and deficient report regarding LSNC's conduct. (For a more complete and accurate description of the interactions between LSNC and this applicant, see the letter of LSNC Deputy Director Julie Aguilar Rogado to Elizabeth Hom dated August 24, 2021, which is attached hereto). LSNC requests that the Commission address this failure by State Bar staff members to properly handle this complaint, and to ensure that in the future the rights of grantees to promptly address complaints are protected.

**NOTE:** As a result of the Commission's failure to properly process this complaint, there is a significant discrepancy between the content of the complaint form attached to the report and Mr. Passamaneck's verbal description of the complaint to LSNC staff. The written complaint dated November 13, 2020, which was provided to LSNC along with the October 27, 2021 report, alleges "the business providing uncertified lawyer referrals itself," and also claims that the complainant requested a referral, but was not provided one. However, Mr. Passamaneck's verbal description of Mr. [REDACTED] complaint focused on an alleged failure by LSNC to provide him with an appointment for assistance, among other issues. Mr. Passamaneck never mentioned that Mr. [REDACTED] alleged LSNC had somehow wrongfully provided a "referral" to an attorney (or refused to do so). To the extent Mr. [REDACTED] complaint was regarding an attorney referral, that allegation is baseless. LSNC did not refer Mr. [REDACTED] to a private attorney and Mr. [REDACTED] complaints to LSNC management did not indicate he ever requested one. LSNC routinely provides the certified lawyer referral service information to callers.

### **Scope of Commission Authority Regarding Applicant/Client Complaints**

Trust Fund grantees are required to perform the duties described in Rule 3.681, which incorporates, at subsection (A) the terms of the grant agreement and Trust Fund Requirements. Under Calif. Bus. & Prof. Code § 6213, grantees must have quality control standards approved by the State Bar and under § 6213 (a), maintain quality service and professional standards. There is, of course, no obligation to serve every eligible applicant for services. To the extent there is any (implied) obligation imposed upon grantees with respect to services for applicants, it would be the threshold duty to consider the provision of any services only to applicants **who provide sufficient evidence that they are eligible for Trust Fund services**. This the complainant utterly refused to do until long after he submitted his complaint.

The Trust Fund's eligibility guidelines at 1.3.3 require that grantees, "...not discriminate on the basis of race, color, national origin, religion, sex, handicap, or age." The commentary following this guideline clarifies that programs are free to target certain indigent populations and that restricting services to certain vulnerable populations does not violate 1.3.3. Mr. [REDACTED] did not allege discrimination in his complaint – neither in the written complaint nor in the complaint as described by Trust Fund staff. Absent some allegation of discrimination or denial of services on an unlawful basis, the Trust Fund lacks any authority to compel a grantee to serve a particular client. Thus, such a complaint for denial of assistance, or in this case denial of an immediate appointment upon demand, is

outside the scope of the authority of the State Bar and Trust Fund and such a complaint should have been rejected on its face for that reason alone

LSNC interacts with tens of thousands of persons every year requesting our assistance with legal problems. Across California, IOLTA-funded organizations annually interact with hundreds of thousands of such individuals. Limitations upon all of these organizations based upon issues already identified—capacity, resources, mission, program priorities, etc., make it impossible to provide any assistance at all to many of these applicants—even those determined to be eligible for those services—and certainly to provide less service than the applicant/client hoped to receive in virtually all cases. If the Commission intends to provide all such disappointed applicants/clients—of whom this complainant is simply a more vociferous than typical example—a formal complaint mechanism and extended process to scrutinize the basis of such routine denials or limitations of services, then (1) it must promulgate appropriate and specific authority to do so, since none now currently exists, and (2) it should be prepared to hire a significant number of new staff to devote full time to this endeavor.

### **The October 27, 2021 Report Contains Factual Inaccuracies**

As noted above, the attached August 24<sup>th</sup> letter to the Bar, written at the request of Ms. Hom, describes the history of LSNC's staff interaction with Mr. [REDACTED] in detail. Despite providing this detailed account, Mr. Passamaneck's report includes several significant errors and omissions.

- The report states that State Bar Staff contacted LSNC Executive Director Gary Smith on July 18, 2021 to advise him of the complaint and provide a copy. In fact, Mr. Passamaneck originally contacted Mr. Smith via email on May 14, 2021 (see attached) and on that same day, they spoke about Mr. [REDACTED] complaint. Mr. Passamaneck did not indicate that the contact from Mr. [REDACTED] was a formal complaint, nor did he offer to provide a copy of the complaint form, of which Mr. Smith was unaware. Mr. Smith informed Mr. Passamaneck that Mr. [REDACTED] was provided several appointments to complete an intake in December and January 2021, which he did not keep. Mr. Passamaneck contacted Mr. Smith again via email on July 9, 2021, requesting, "Can you determine what kind of processing Mr. [REDACTED] might have had during his November 9, 2020 call to your Redding office?" Mr. Smith again contacted Mr. Passamaneck by phone and relayed the information in LSNC's records about the call Mr. [REDACTED] alleged he had with LSNC's Redding office in November 2020. Later in July, Mr. Passamaneck and Ms. Hom made efforts to connect Mr. [REDACTED] to Mr. Smith or Deputy Director Julie Aguilar Rogado for an intake interview.
- The report states that Ms. Aguilar Rogado wrote in her August 24, 2021 letter that she had spoken with Mr. [REDACTED] for 90 minutes but had been unable to complete an intake for him. That characterization of the letter is incorrect. The letter actually indicates that Ms. Aguilar Rogado agreed to assist Mr. [REDACTED] on a limited basis. Her letter did not address whether or not an intake was completed. In fact, she did complete an intake, though Mr. [REDACTED] refused to provide some information. Mr. Passamaneck appears to have misunderstood a prior conversation with Ms. Aguilar Rogado and Mr. Smith when Ms. Aguilar Rogado explained that if Mr. [REDACTED] refused to provide information required to open a case and provide legal advice, she could provide legal information. This was possible based upon general information

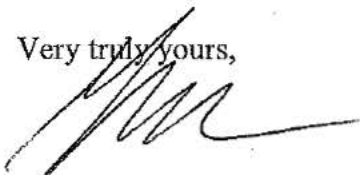
about the topic of his legal issue, and Ms. Aguilar Rogado was prepared to do this prior to his missed intake appointment with her in December 2020.

- The report does include several accurate findings regarding LSNC's conduct (that it did not discriminate against [REDACTED] that it made "significant efforts to accommodate" him by offering multiple appointments and that it was correct to insist upon completion of an intake.) However, the report fails to make findings regarding the baselessness of Mr. [REDACTED] allegations. Mr. [REDACTED] verbally abused LSNC staff members, lied about not having been offered appointments, and repeatedly missed scheduled appointments after which he made no further contact with the program despite having the direct line telephone numbers of both Mr. Smith and Ms. Aguilar Rogado. His complaint to the State Bar in March 2021 was entirely without merit.

#### **The State Bar Recommendation Fails to Adjudicate Mr. [REDACTED] Complaint**

The report's conclusion fails to make a finding about whether or not Mr. [REDACTED] complaint had merit, rather it notes his disinterest in pursuing the complaint as it recommends dismissal. The report fails to make a credibility determination, rather it appears to present all facts offered by both Mr. [REDACTED] and LSNC staff as true. This failure to make a determination about whether the allegations of the complaint were (1) even actionable under the Bar's process, and (2) credible, leaves LSNC (and the Bar) vulnerable to another meritless complaint by Mr. [REDACTED]. The report also fails to explain the basis upon which either the State Bar or the Trust Fund is empowered to compel a grantee to serve a particular applicant. A failure to dismiss this complaint on its merits, and to acknowledge the inconsistencies and omissions of the complainant's allegations, leaves open the possibility that Mr. [REDACTED] or others will assert a right to services which has no basis in the law. It also will waste countless hours of grantee staff and State Bar staff time—as this process has wasted—engaged in a process for which there is no simply authority. Rather, the Commission should dismiss the complaint as outside the scope of its authority, and it should also, just to be clear to the complainant, deny it with prejudice as meritless.

Very truly yours,



Gary F. Smith  
Executive Director



**LEGAL SERVICES**  
of  
NORTHERN CALIFORNIA

August 24, 2021

Elizabeth Hom  
Program Manager  
Office of Access & Inclusion  
The State Bar of California  
180 Howard Street  
San Francisco, CA 94105

RE: Complaint by [REDACTED] Against Legal Services of Northern California

Dear Ms. Hom:

This letter is LSNC's formal response to the "complaint" of [REDACTED], who alleges that he contacted LSNC for assistance and that he completed the intake process, but was denied the opportunity for a consultation with an advocate. This allegation is not true. In fact, Mr. [REDACTED] never completed the intake process and he spoke directly with two of the most experienced attorneys in the program (a deputy director and the executive director), yet did not follow through with appointments provided to him at times specifically scheduled for his convenience, and to accommodate his described special communication needs.

Notwithstanding the above, and the abusive and insulting manner in which he has treated every staff person with whom he has spoken over a period of many months, LSNC remained prepared to provide Mr. [REDACTED] assistance, and to schedule a new appointment to complete an intake with him. LSNC also offered to provide him with legal information that would eliminate the need for him to engage in the intake process, however he never provided an email or mailing address to send legal information materials on the topic of his legal issue as we understood it.<sup>1</sup>

<sup>1</sup> Mr. [REDACTED] called and left a voice mail for me on August 21, 2021 at 3:04 p.m. He said that Dan Passamaneck told him to call me. He left some information about himself, including his age and the county in which he resides, but said his mailing address is protected. He also said, "You have done nothing for me, you have not responded to me." Assuming Mr. [REDACTED] wanted another appointment, I called the voice mail number he provided today, gave him my name and direct line telephone number again, noted that I am an attorney and I will discuss his legal matter with him and provided him the option of three different appointment times on Friday, August 27, 2021. I told him I would be available and wait for his call at 11 a.m., 12 p.m. and 1 p.m. August 27. I told him I would wait 15 minutes at each appointment time for his call. He called me at 1:43 p.m. on Monday, August 23 and wanted an immediate intake. Our call lasted until 3:30 p.m., during which he described a variety of things he wanted help with,

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In reviewing LSNC's response to this complaint, the State Bar staff (and/or the Trust Fund Commission) must not lose sight of this critical threshold fact: Because Mr. [REDACTED] never provided any of the information required by LSNC in the intake process, LSNC did not, and could not, ascertain whether he is even eligible to receive our services. LSNC's many funders - including, for example, the State Bar Trust Fund Commission, and the federal Legal Services Corporation - expect and require their grantees to scrupulously ensure that the services supported by their funds are provided only to clients who meet the eligibility criteria which those funders have established. The provision of services to clients for whom LSNC has not ascertained eligibility would violate the commitment and assurance we make to our funders, i.e., to use their funds to serve only those clients who meet their eligibility standards.

#### **LSNC's Contacts with Mr. [REDACTED]**

We believe Mr. [REDACTED] first contacted LSNC's Mother Lode Regional Office in Auburn on August 31, 2020. On that date, a clerical staff person in that office took Mr. [REDACTED] name and a telephone number for an initial intake process step, which is running a conflict check. There is no further record from that contact to our office and that single contact record in our online case management system is the only record we have of Mr. [REDACTED] other than staff notes and email related to attempts to address concerns he raised on various calls to our offices.

Mr. [REDACTED] contacted LSNC's Shasta Regional Office in Redding in November 2020 by phone and he spoke with an administrative support clerk who began to ask our ordinary intake questions and recorded that information by hand onto a paper form. We do not know how many questions Mr. [REDACTED] answered, but at some point in the process he balked at providing ordinary intake information (possibly income, assets, demographic or address data) and demanded to speak with an attorney. The Shasta Regional Office operates on a call-back system for telephone intake. Clerical staff gather the basic intake information from applicants for services during the initial call and the next available advocate, either a law clerk, paralegal or attorney, calls the applicant back to verify the data collected and to conduct the initial intake interview. Mr. [REDACTED] wanted to speak with an advocate immediately or to be provided an appointment immediately. Since the office does not operate on an appointment setting system, the clerk told him that was not possible.

LSNC trains its staff members to address requests for accommodation related to disability and a variety of other barriers applicants for services might face in accessing legal services. These needs vary widely, and when a clerical staff member is unsure about how to handle a request, they refer the request to the

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*but only one legal issue - his inability to learn the status of a formal complaint he filed with the Public Utilities Commission. I agreed to assist him to find out the status of the complaint. I declined to assist with a related legal problem - he sought representation in a class action lawsuit for damages against his former mobile telephone/internet provider. I also declined to assist him with another matter - compelling his elected representatives to help him resolve his PUC complaint. I explained LSNC was prohibited from engaging in class action suits for damages or advocacy with elected officials as Legal Services Corporation grantees. He also requested help with access to non-stimulus CARES Act funding, which I agreed to discuss with him once I completed the inquiry with the PUC. I warned him that his interest in CARES Act funding was not a legal issue and that his reticence in discussing personal information with me would hinder my ability to identify any public programs for which he might be eligible.*

office manager, who will find a solution or consult with the managing attorney for assistance. In this instance, we do not know if Mr. [REDACTED] provided any information during the initial call with the clerk that indicated he needed an appointment or immediate assistance due to a special circumstance or if he simply demanded service in this way without further explanation. Regardless of how he made the request, the clerk referred him to the office manager to resolve his concerns. The clerk transferred him to the office manager's voice mail because the office manager was not available to talk to him immediately. She returned his call. We are unsure how many calls were exchanged due to Mr. [REDACTED] not answering calls and only responding to voice mail, but when they eventually spoke, the office manager was unable to offer him any solution for providing service that satisfied him. At the conclusion of their telephone conversation, she concluded that he no longer wanted assistance. The office manager informed the clerk and, following LSNC's personal information security protocols, she shredded the paper intake form on which she had recorded whatever information he provided.

Mr. [REDACTED] later called the office back, berated the clerical staff who took his calls, and left voice mail messages demanding an appointment. In a voice mail left on November 25, 2021, his instructions were to call him back with an appointment time on any day in the afternoon or after 11 a.m. He said the number staff should call is his voice mail only. He said the message should provide the day and time of the appointment and phone number and extension for the attorney who will provide his phone consultation. He made a variety of other comments in his messages, disparaging the office staff, complaining that the office did not provide an appointment yet, and accusing non-attorney staff members of trying to provide him legal advice. He called repeatedly to the office during work hours and interfered with staff attempting to answer other calls.

The office manager called me on November 30, 2020 to let me know about the calls and to ask if I would address the complaint. I called his message number and left a voice mail with my direct line phone number. He returned my call after 5 p.m., but I answered immediately. I spoke with him for a moment or two, and offered to assist him immediately. He then said he could not hear me and that something was wrong with the phone line. He continued to talk over me and eventually it was clear he was not responding to what I was saying or could not hear me. He said several times he left a message for Gary Smith. We ended the call, but I immediately called back his message line and left a message that I would be available for him to call my direct line at 11 a.m. the following day. The next morning, I called the message line again, from the phone in my office, reminding him that I would be available to take his call at 11 a.m.

In order to make sure there were no phone problems related to the voice over internet phone I was using during our initial call, I went to my office and waited for his call until noon. He did not call. When he missed his appointment with me, I contacted the clerk and the office manager in our Shasta Regional office, told them about the missed appointment and that if he called back, I would make another appointment for Friday, Dec. 4 at 11 a.m., 12 noon or 3 p.m. I told them that if he called the office, they should offer any of those three times and then let me know which time he chose. I also told them that he might want to be reassured that I am an experienced attorney along with being a deputy director and I can both receive his complaint and talk to him about his legal issue. He did not call me or the Shasta Regional Office and he did not leave any voice mails following this missed appointment. I waited in my office for a call from him on December 4, but he did not call. Despite the fact he had my direct line telephone number, I did not receive any contact from Mr. [REDACTED] until January 4, 2021.

Mr. [REDACTED] also left a voice mail message for Executive Director Gary Smith on November 30, 2020. Mr. Smith did not return the call because I had informed Mr. Smith that I set the intake appointment with Mr. [REDACTED] for December 1. After the missed appointment with me, Mr. [REDACTED] continued calling Mr. Smith and the two eventually spoke in late December, agreeing on a telephone appointment on January 5, 2021 at 3 p.m. I researched the legal topic Mr. [REDACTED] had mentioned several times in his voice mail messages and provided Mr. Smith information about the issue to facilitate providing legal information or advice in the event Mr. [REDACTED] completed the intake process.

On January 4, 2021, Mr. [REDACTED] left a voice mail message on my direct line, again demanding an appointment. He did not mention the missed appointment with me on December 1. He demanded that I set an appointment and call his message line immediately with the appointment date and time. At this time, he already had an appointment to talk with Gary Smith at 3 p.m. on January 5. I confirmed with Mr. Smith that the appointment was still set, so I did not schedule another appointment for Mr. [REDACTED]. Mr. Smith told me that the Shasta Regional Office also received a call from Mr. [REDACTED] on January 4, demanding an appointment with an attorney – he told that office to tell Mr. [REDACTED] that he had an appointment with Mr. Smith on January 5 at 3 p.m.

Mr. [REDACTED] did not keep his phone appointment with Mr. Smith on January 5, 2021 and did not call later to explain the missed appointment.

On January 7, 2021, Mr. [REDACTED] called my direct line and left me a voice mail message demanding an appointment with an attorney. He did not mention either of his missed appointments. He also began calling other LSNC offices demanding an appointment and berating the staff who answered his calls. On that date, we determined that he was either not genuinely interested in accessing services or that he was not presently able to benefit from services given his inability, **despite providing precisely the service in the way in which he requested it**, and we began to block his incoming calls. We believe he then used a variety of other Google App phone numbers to call our offices and we blocked those numbers as well.

On February 1, 2021, he left a voice mail message on the toll free number established for intake for applicants who need to be served outside ordinary business hours – the expanded access project. In that message, he demanded a return voice mail with an appointment time in the afternoon on any day with an attorney. He also said non-attorneys at the office tried to give him legal advice. The managing attorney for the project returned the call promptly and left a voice mail saying that if Mr. [REDACTED] needed an evening intake, that it could help the project get an evening intake scheduled faster for him if he provided certain information (i.e., income, household size, and county of residence) so they do a basic eligibility screening. That information allows the project to schedule intakes via voicemail for people who are hard to catch on the phone. Mr. [REDACTED] called the following evening and left a voice mail complaining that he was not yet provided an appointment. He said, "You people are so incompetent you can't set an appointment." He provided none of the information the attorney requested and ended his message demanding an appointment, "Do it now you dumb jerks." The attorney returned the call and left another voice mail for Mr. [REDACTED] which he never returned.



## State Bar Complaint

In May 2021, Dan Passamaneck of your office contacted Mr. Smith via email regarding a call from Mr. [REDACTED] to the State Bar complaint line. Mr. Smith described in great detail LSNC's interaction with Mr. [REDACTED]. On July 9, 2021, Mr. Passamaneck contacted Mr. Smith again via email and asked for information about the "processing" Mr. [REDACTED] had when he contacted our Shasta Regional Office in November 2021. Mr. Smith and Mr. Passamaneck spoke again by phone and Mr. Smith explained that Mr. [REDACTED] did not complete the intake and eligibility process with LSNC and at no time had an open case or matter with any of our offices. Mr. Smith offered then to send Mr. [REDACTED] an intake form to complete, if Mr. Passamaneck obtained a mailing address for him, or to set another telephone appointment with Mr. [REDACTED] to complete an intake.

## Services for People with Special Needs

While we do not know very much about Mr. [REDACTED] in some of his voice mail messages, he referenced disability law in relation to his legal matter. He apparently has also informed State Bar staff that he has a disability that makes written communication difficult. In his conversations with our staff members and in his voice mail messages, he is most often shouting. We have perceived his tone as intended to intimidate the other participant on the call, but it may also evidence some auditory problems. Given all of this information about the possibility that Mr. [REDACTED] has special needs, we have proceeded at all times as if he is a person with disabilities who requires accommodation to access our services. The accommodations we offered to him, and to which he did not respond, were appointments on at least 3 occasions with two of our most experienced attorneys, at times he indicated he was available. He failed to keep those appointments or to acknowledge that they were ever offered to him.

LSNC serves thousands of clients with disabilities each year, including many with physical and mental communication-related impairments. It is exceedingly rare for us to refuse service to any client or to impede their ability to contact us, however, Mr. [REDACTED] conduct in calling several of our offices, berating our staff and leaving repeated voice mail messages demanding appointments, which he did not keep or acknowledge, interfered with our ability to serve eligible clients and applicants for services. While our staff members expect to interact with callers who are under tremendous stress and who may have a variety of impairments that sometimes result in discourteous or hurtful conversations, LSNC does not permit anyone interacting with our staff members to be repeatedly abusive. This is the reason Mr. Smith and I provide our direct line telephone numbers to callers who engage in abusive behavior – it is our intention to deflect that abuse from our staff. In Mr. [REDACTED] case, our attempts to serve him directly and avoid his behavior interrupting office functioning failed. For that reason, we discontinued communication with him and blocked his calls.

However, as Mr. Smith informed Mr. Passamaneck in July, and as I explained when we spoke last week, we remained willing to assist Mr. [REDACTED]. He needed only to set and keep an appointment and either complete our intake process, which includes answering eligibility and contact information fully, or have a more general discussion with us about the topic of his legal issue so we could provide legal information rather than advice, enabling him to avoid answering intake questions. We could provide information via email or U.S. Mail if we had a reliable address to contact Mr. [REDACTED].

### **Elevation of Mr. [REDACTED] Complaint to the Trust Fund Commission**

LSNC is troubled by the elevation of Mr. [REDACTED] complaint. Mr. [REDACTED] alleges he completed an intake and was not provided services. Mr. [REDACTED] did not complete the intake process with LSNC and did not avail himself of services when they were offered in precisely the way he requested. Mr. [REDACTED] has no evidence of having completed an intake with LSNC – no intake form, citizenship declaration, retainer, or other written communication that a client with an open case would ordinarily have. We agree that Mr. [REDACTED] contacted us repeatedly, but he did not cooperate in the most basic way to enable LSNC to serve him. It should be clear to the State Bar that Mr. [REDACTED] is either insincere about wanting to access legal help or that some special circumstances, such as a significant disability, prevent him from benefiting from services at this time, even when all requested accommodations have been provided to him.

It is our understanding that Mr. [REDACTED]'s complaint should have been resolved within 90 days, and because it was not, it is now elevated to the Commission under some new process adopted by the Bar and not disclosed to IOLTA programs. From his interactions with Mr. Passamaneck, both by telephone and email, Mr. Smith certainly did not understand that LSNC was involved in some formal complaint process that might require adjudication by the Trust Fund Commission. It was LSNC's impression that the State Bar was gathering information in order to either mediate a solution for Mr. [REDACTED] such as facilitating an intake, or to make a determination about whether it would ask LSNC to take some action or dismiss Mr. [REDACTED] complaint. The fact that a number of weeks elapsed between Mr. Smith's initial conversation with Mr. Passamaneck in May, and Mr. Passamaneck's renewal of that discussion in July, only reinforced that understanding. Had LSNC been aware that Mr. [REDACTED] complaint might be elevated to Commission review rather than informally investigated and resolved, it would have immediately prepared a full and complete response. If this process is to be repeated with any complaint going to the Bar, even those as baseless and patently false as Mr. [REDACTED] complaint, IOLTA providers will need to begin to keep detailed records regarding every applicant contact wherein the applicant was not satisfied to prepare to defend against such complaints.

The fact that LSNC has remained, at all times, prepared to provide assistance to Mr. [REDACTED] should prevent any elevation of this complaint to the Commission. It is unclear what remedy the Bar or the Commission could possibly recommend other than the one we have continued to offer – that we will set another appointment with Mr. [REDACTED] if he provides us with a few reasonable options for appointment days and times. If Mr. [REDACTED] has experienced any disadvantage related to not receiving legal assistance to date, it has been due to his own refusal to accept such assistance when offered to him in the exact manner he demanded.

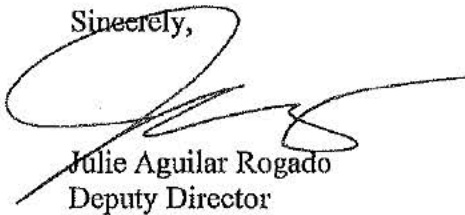
The State Bar staff should not permit a baseless complaint to proceed to the Commission level. Allowing an applicant who has demonstrated his lack of sincerity and credibility throughout his interactions with both LSNC and the State Bar to get special access to assistance, disadvantages applicants who promptly engage with providers to access services, including those who access services with accommodations for their special needs, and rewards entitled and abusive applicants who demand priority over other applicants and clients. It is imperative that the State Bar develop criteria for assessing and a process for investigating complaints from clients and applicants for services that enable IOLTA programs to

engage meaningfully when a complaint goes to the Bar, correct any errors that may have occurred in the programs' conduct, and bring the complaint process to a quick resolution.

LSNC respectfully requests that the State Bar and the Trust Fund Commission dismiss Mr. [REDACTED] complaint and inform him of the obligation of IOLTA programs to conduct intake interviews with clients that include questions regarding their personal contact information, date of birth, income, assets, and a variety of other data the State Bar and numerous other funders demand. In addition, LSNC asks that the State Bar inform Mr. [REDACTED] that in order to access legal assistance, an applicant must communicate and cooperate with a provider of legal assistance, and to engage in an interactive process to determine the most appropriate accommodations to permit the applicant to establish eligibility for services and, if eligible, to access services if the accommodation offered by the provider is insufficient. Applicants for service do not have a right to demand immediate assistance from an attorney and IOLTA programs may decline to serve an applicant who, despite being offered accommodations for any barriers to service, fails to cooperate or is abusive to program staff. Finally, LSNC asks for a finding that it provided Mr. [REDACTED] access to services, accommodation for his special needs and an opportunity to air his grievances on more than one occasion prior to finally completing an intake with him on August 23, 2021.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie', with a large, stylized flourish extending to the right.

Julie Aguilar Rogado  
Deputy Director

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**Inquiry regarding complaint:** [REDACTED]

4 messages

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**Passamaneck, Daniel** <Daniel.Passamaneck@calbar.ca.gov>

Fri, May 14, 2021 at 10:13 AM

To: "gsmith@lsnc.net" <gsmith@lsnc.net>, "jaguilar@lsnc.net" <jaguilar@lsnc.net>

Cc: "Hom, Elizabeth" <Elizabeth.Hom@calbar.ca.gov>

Hello Gary and Julie, I hope you are both well. I'm writing to see if you have any information you can share regarding a call received earlier this year through the State Bar's public complaint hotline from a man named [REDACTED]. It is our understanding that he contacted LSNC late last year seeking representation, and is unhappy with the outcome of that process. Can you provide any more context about this incident? Can you describe any steps LSNC has taken to address Mr. [REDACTED] concerns?

As always I would be happy to discuss this with you if that would be a more convenient way to respond. Thank you for your assistance in this matter.

Best regards —

Dan

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