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**State Bar Court of California
Hearing Department
San Francisco**

Counsel For The State Bar Susan I. Kagan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2037 Bar # 214209	Case Number (s) 04-O-15243 PUBLIC MATTER	(for Court's use) FILED MAR 16 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO kwiktag® 022 604 878 
Counsel For Respondent Jonathan I. Arons Attorney at Law 101 Howard Street, Suite 310 San Francisco, CA 94105 (415) 957-1818 Bar # 111257	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter Of: SIDNEY CARL FLORES Bar # 64082 A Member of the State Bar of California (Respondent)	ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **June 27, 1975**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **10** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: 2007, 2008 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) Prior record of discipline [see standard 1.2(f)]
- (a) State Bar Court case # of prior case 89-O-12407
 - (b) Date prior discipline effective 11/19/93
 - (c) Rules of Professional Conduct/ State Bar Act violations: Former Rules 8-101(A); 8-101(B)(4)
 - (d) Degree of prior discipline No actual suspension; 90 days' stayed suspension; two years' probation
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

State Bar Court case # of prior case: 91-O-05499

Date prior discipline effective: 6/11/94

Rules of Professional Conduct/ State Bar Act violations: 4-100(A); 4-100(B)(3); 6068(m); Former Rule 8-101(A)

Degree of prior discipline: No actual suspension; one year stayed suspension; three years' probation

State Bar Court case # of prior case: 94-PM-11934

Date prior discipline effective: 11/18/94

Rules of Professional Conduct/ State Bar Act violations: Violation of Supreme Court order in Case No. 5034464

Degree of prior discipline: One year extension of probation ordered in Case No. 89-O-12407

- (2) Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

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- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances are involved.**

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

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- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

Respondent's office manager/wife, Anecita Agustinez, signed six client trust account checks without respondent's knowledge or authorization. Upon learning of the misappropriation, respondent changed the office procedure with respect to the handling of the client trust account and made full restitution to the client victim.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **two (2) years**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.

- (2) **Probation:**

Respondent must be placed on probation for a period of **four (4) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 953, Calif. Rules of Ct.)

- (3) **Actual Suspension:**

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **sixty (60) days**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following: **Respondent to employ a certified public accountant (as set forth in para. F(5)), provide the name of the CPA to the Office of**

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

Probation and obtain approval. Actual suspension will continue pending compliance with the above conditions.

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - No Ethics School recommended. Reason:
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:

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- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:** Respondent to employ a certified public accountant with a place of business in California to handle all of his client trust accounting. The certified public accountant shall not be an immediate family member and/or relation of respondent. Respondent to provide the name of the certified public accountant to the Office of Probation and obtain the Office's approval. Respondent's actual suspension will continue pending compliance with the above conditions.

In the Matter of
Sidney Carl Flores

Case number(s):
04-O-15243

A Member of the State Bar

Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reproval), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. **Client Trust Accounting School**

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

Other Financial Conditions:

The client's fund certificate required to be filed in satisfaction of probation herein must be from a certified public accountant. A certificate filed by respondent personally or by any other individual who is not a certified public accountant is not acceptable and will not satisfy respondent's probationary conditions.

Attachment language begins here (if any):

FACTS AND CONCLUSIONS OF LAW

Facts

1. In April 1999, Joe Fraga ("Fraga") employed respondent to represent him in a claim for property damage and personal injury arising from an automobile accident.
2. Between January and October 2000, respondent received the aggregate amount of \$7,992.75 in settlement of Fraga's claim. These funds were deposited into respondent's client trust account. Subsequently, from these entrusted funds, respondent paid liens on Fraga's behalf. Respondent also appropriately removed his legal fees from the trust account.
3. At all relevant times, respondent's wife worked as his office manager. While she did not have signature authority on the trust account, she did have access to the records of the account and to the account check book.
4. On or about June 5, 2004, respondent's wife wrote a check from the trust account, and signed respondent's name to the check. On or about July 8, 2004, respondent's wife wrote a check from the trust account, and signed respondent's name to the check. On or about July 28, 2004, respondent's wife wrote a check from the trust account, and signed respondent's name to the check. On or about November 12, 2004, respondent's wife wrote a check from the trust account, and signed respondent's name to the check. On or about November 15, 2004, respondent's wife wrote a check from the trust account, and signed respondent's name to the check. On or about December 1, 2004, respondent's wife wrote a check from the trust account, and signed respondent's name to the check. Respondent's wife used these checks for personal expenses.
5. Respondent did not know of his wife's actions in signing the checks at the time she did it, nor did he consent to it. Furthermore, respondent had never given his wife permission to sign his name to checks drawn on the trust account or otherwise consented to her signing his name to any financial or legal document. Respondent's wife used her position as office manager to conceal her conduct from respondent.
6. During the period in question, respondent did not routinely review his wife's work as office manager, nor did he otherwise independently ensure that the trust account was properly managed and maintained. This is despite the fact that respondent had been previously disciplined by the State Bar of California for trust account violations (not amount to misappropriation).
7. The checks signed by respondent's wife were eventually presented for payment and were paid using entrusted funds belonging to Fraga. This resulted in a shortfall in the funds held in trust for Fraga's behalf of at most \$3,349.05. This shortfall occurred on November 10, 2004, when the balance of the trust account was \$321.00. On November 10, 2004, the amount of \$3,670.05 should have remained in trust for Fraga's benefit.

Conclusions of Law

1. By failing to exercise sufficient supervision over his wife in her actions as office manager with access to his client trust account, thereby resulting in the use of the trust account for non-trust purposes, respondent recklessly failed to perform competent legal services in willful violation of rule 3-110(A), Rules of Professional Conduct.
2. By failing to maintain \$3,349.05 of the \$3,670.05 belonging to his client Fraga in his client trust account, respondent failed to maintain the balance of funds received for the benefit of a client in trust in willful violation of rule 4-100(A), Rules of Professional Conduct.

WAIVE OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notice of Disciplinary Charges filed on August 29, 2005, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended

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Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES

SUPPORTING AUTHORITY

Standard 1.7(b) suggests that the degree of discipline imposed shall be disbarment for a member with two prior impositions of discipline unless the most compelling mitigating circumstances clearly predominate.

The parties agree to the following compelling mitigating circumstances: respondent's office manager/wife signed six client trust account checks without respondent's knowledge or authorization. Upon learning of the misappropriation, respondent changed the office procedure with respect to the handling of the client trust account and made full restitution to the client victim.

Standard 2.2(b) suggests that the degree of discipline imposed shall be at least a three-month actual suspension for a violation of rule 4-100 of the Rules of Professional Conduct.

Respondent's 60 days' actual suspension is in accordance with the Supreme Court's determinations in *Palomo v. State Bar* (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834, 685 P.2d 1185] [one year stayed suspension for failure to oversee entrusted funds and maintain detailed records and accounts; one prior record of discipline] and *Giovanazzi v. State Bar* (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581, 619 P.2d 1005] [30 days' actual suspension for misappropriation of client funds due to poor management and careless supervision of staff; no prior record of discipline].

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In the Matter of SIDNEY FLORES No. 64082	Case number(s): 04-0-15243
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SIGNATURE OF THE PARTIES


By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law and Disposition.

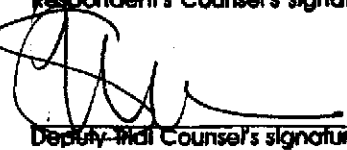
2-8-2006
Date

February 8, 2006
Date

2/10/06
Date


 Respondent's signature


 Respondent's Counsel's signature


 Deputy Trial Counsel's signature

SIDNEY FLORES
Print name

JONATHAN ARONS
Print name

SUSAN KAGAN
Print name

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In the Matter of SIDNEY CARL FLORES	Case number(s): 04-O-15243
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ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)

March 16, 2006
Date

Pat McElroy
PAT MCELROY
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on March 16, 2006, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING**

in a sealed envelope for collection and mailing on that date as follows:

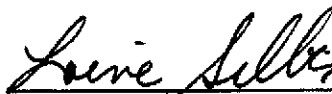
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JONATHAN IRWIN ARONS
101 HOWARD ST #310
SAN FRANCISCO CA 94105**

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

**JEFF DAL CERRO, Enforcement, San Francisco
SUSAN KAGAN, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **March 16, 2006**.



Laine Silber
Case Administrator
State Bar Court