



**ORIGINAL**

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<p><b>State Bar Court of California</b>                  Hearing Department   <input checked="" type="checkbox"/> Los Angeles      <input type="checkbox"/> San Francisco</p>		
Counsel for the State Bar SHARI SVENINGSON DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, CA 90015 Telephone: (213) 765-1004  Bar # 195298	Case number(s) 05--0-03387	(for Court's use)  <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center; font-weight: bold;">JUN 19 2006</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent MICHAEL E. MANNING 970 Village Oaks Dr., #103 Covina, CA 91724  Bar # 149757	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge	
In the Matter of  MICHAEL E. MANNING  Bar # 149757 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <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 December 4, 1990 (date)
- (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 and order consist of 13 pages.
- (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."
- (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.

(Do not write above this line.)

(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:  
next 2 membership years  
(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 05-PM-00949 (S116448)

(b)  Date prior discipline effective November 17, 2005

(c)  Rules of Professional Conduct/ State Bar Act violations: Respondent violated

the terms and conditions of probation in connection

with case no. 97-0-18651 (S116448)

(d)  Degree of prior discipline Ninety(90) days actual suspension.

(e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."

Respondent has 2 more incidents of prior discipline, one of which ran concurrently with the discipline imposed in 05-PM-00949. See page 9.

(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.

(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.

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- (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.

(Do not write above this line.)

- (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:

See page 10, discussion of Standard 1.7 (b).

#### 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 three (3) years, which will commence upon the effective date of the Supreme Court order in this matter.  
(See rule 953, Calif. Rules of Ct.)

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(3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of four (4) months

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: \_\_\_\_\_

**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.

(Do not write above this line.)

- (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: Respondent attended Ethics School on 9/18/04 in connection with case no. 97-0-18651.
- (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:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input 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: Respondent took and passed the MPRE in November 2004 in connectin with case no. 97-0-18651
- (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:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:       MICHAEL EDWIN MANNING

CASE NUMBER(S):        05-O-03387

**WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATION**

The parties waive any variance between Notice of Disciplinary Charges filed December 22, 2005 and the stipulated facts/conclusions of law contained in this Stipulation

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct:

**FACTS**

1. By order filed September 11, 2003, the Supreme Court placed Respondent on two years probation with certain conditions in case no. S116448 (State Bar Court case no. 97-O-18651). Respondent received notice of this order.

2. By order filed May 4, 2005, in case no. 05-PM-00949, the State Bar Court granted the State Bar's motion to revoke Respondent's probation in Supreme Court case no. S116448 and ordered Respondent to be placed on involuntary inactive status pursuant to Business and Professions Code, section 6007(d).

3. Pursuant to the State Bar Court's order in case no. 05-PM-00949, Respondent remained on involuntary inactive status from May 7, 2005, until June 22, 2005. Respondent was not entitled to practice law during that time period.

4. From October 4, 2004, until on or about December 8, 2005, Respondent was the attorney for record for Ruth D. Thomas ("R. Thomas") in the case of the *Marriage of Thomas*, case no. BD 414 198, Superior Court of the State of California, County of Los Angeles ("the Thomas matter").

5. On May 12, 2005, Respondent filed a Request for Trial Setting Family Law in the Thomas matter, signed by Respondent on May 10, 2005.

6. On or about May 24, 2005, Respondent sent R. Thomas legal correspondence relating to the Thomas matter, by and through his legal assistant. Said correspondence was in the form of a letter signed by "Jennifer Wood Legal Assistant," and on Respondent's letterhead. Said correspondence included a set of Form Interrogatories relating to the Thomas matter and instructed R. Thomas to provide responses to the interrogatories.

7. Respondent remained attorney of record in the Thomas matter throughout his period of involuntary inactive status, from May 7, 2005, until June 22, 2005.

8. Respondent did not inform R. Thomas that he was not eligible to file the Request For Trial Setting Family Law in the Thomas matter on May 12, 2005. At no time did Respondent inform R. Thomas that he was not entitled to practice law during the period of his inactive status effective May 7, 2005 through June 22, 2005.

#### **LEGAL CONCLUSIONS**

By filing a Request for Trial Setting Family Law on May 12, 2005, by sending legal correspondence to R. Thomas on May 24, 2005, and by remaining as attorney of record in the Thomas matter during a period of involuntary inactive status, Respondent violated Business and Professions Code, section 6068(a), by holding himself out as practicing or entitled to practice law or otherwise practicing law when he was not an active member of the State Bar in violation of Business and Professions Code, sections 6125 and 6126.

By failing to inform R. Thomas he was not eligible to file the Request For Trial Setting Family Law since his status had been changed to inactive, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code, section 6068(m).



**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was by letter dated June 12, 2006.

**DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
05-O-03387	TWO	Business and Profession Code, section 6068(k)
05-O-03387	FOUR	Business and Profession Code, section 6068(i)

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of **June 12, 2006**, the estimated prosecution costs in this matter are approximately **\$3,654**. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

**PRIOR DISCIPLINE**

04-O-12616 (S136102)

Date effective: November 17, 2005 [ran concurrently with discipline imposed in 05-PM-0049 (S116448)]

Violations: Rules of Professional Conduct, rule 3-110(A), Business & Professions Code, sections 6068(i) and 6068(m)

Degree of discipline: one year suspension, stayed, two years probation, 45 days actual suspension

**PRIOR DISCIPLINE, Continued**

97-O-18651 (S116448)

Date effective: October 11, 2003

Violations: Rules of Professional Conduct, rule 3-110(A) and 4-100(B)(3), Business & Professions Code, section 6068(m)

Degree of discipline: one year suspension, stayed, two years probation

## **AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.6 provides, in pertinent part, that "Culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3: (a) Sections 6067 and 6068;...(d) Sections 6125 and 6126;...."

Standard 17(a) provides, that "If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

Standard 1.7(b) provides, that "If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.

Disbarment is not warranted in this matter. The current misconduct occurred during the same time period as the misconduct in case no. 05-PM-00949. In that case Respondent failed to file quarterly reports with the Office of Probation in the year 2005. As a result Respondent was placed on involuntary inactive enrollment status from May 7, 2005 through June 21, 2005. The misconduct in this matter was a result of practicing law while on that period of involuntary inactive status.

In the Matter of Raymond E. Mapps (1990) 1 Cal. State Bar Ct. Rptr 1:

The respondent's multiple instances of misconduct occurred during the same period of time and the respondent attributed them to the same circumstances he was in at that time. The court found this to be properly considered in mitigation.

In *In the Matter of Gordon Rey Johnston* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585, the attorney failed to inform the client that the attorney had been suspended for failure to pay bar dues and that the clients personal injury case had been dismissed due to the attorneys failure to prosecute. The Review Department recommended discipline consisting of a 1 year stayed suspension, 2 years probation, and a 60 day actual suspension.

In *Taylor v. State Bar* (1974) 11 Cal. 3d 424, the attorney practiced law while on suspension for failure to pay bar due. In another matter, the attorney had failed to prosecute a clients personal injury matter. The attorney also had been admitted to practice in 1965 and had no prior record of discipline. The California Supreme Court imposed discipline consisting of a three month actual suspension.

In *In the Matter of Trousil* (Review Dept. 1990) the attorney appeared in court on a bankruptcy matter, at the request of the client, while suspended on another disciplinary matter. The attorney had three priors but there was extensive mitigation as the attorney suffered from bipolar mood disorder (manic depressive syndrome) which had been brought under control through treatment which included medication. The Review Department recommended discipline of a two year stayed suspension, two years probation with thirty days actual suspension.

In *In the Matter of Mason* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639, the attorney appeared in court, as counsel for petitioner in a domestic relations matter, while the attorney was suspended on another disciplinary matter. The Review Department recommended discipline consisting of a three year stayed suspension, three years probation, and a 90 day actual suspension.



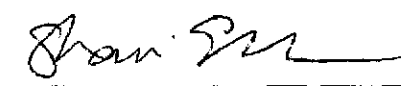
In the instant case, greater discipline is warranted because Respondent has three instances of prior discipline.

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In the Matter of  MICHAEL E. MANNING	Case number(s):  05-0-03387
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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.

<u>6/15/06</u> Date	 Respondent's signature	<u>MICHAEL E. MANNING</u> Print name
<del><u>6/15/06</u></del> Date	<del></del> Respondent's Counsel's signature	 Print name
<u>6/15/06</u> Date	 Deputy Trial Counsel's signature	<u>SHARI SVENINGSON</u> Print name

(Do not write above this line.)

In the Matter of  MICHAEL E. MANNING	Case number(s):  05-0-03397
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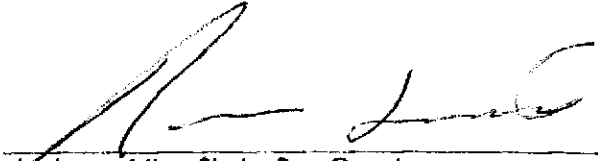
## ORDER

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.)

6-15-06  
Date

  
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 Los Angeles, on June 19, 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 Los Angeles, California, addressed as follows:

**MICHAEL E. MANNING, ESQ.**  
**LAW OFCC MICHAEL E. MANNING**  
**970 VILLAGE OAKS DR. #103**  
**COVINA CA 91724-0609**

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

**SHARI SVENINGSON, A/L, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **June 19, 2006**.



**Rose M. Luthi**  
Case Administrator  
State Bar Court