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State Bar Court of California Hearing Department Los Angeles		
Counsel For The State Bar Bitu Shasty 1149 South Hill Street Los Angeles, California 90015-2299 Bar # 225177	Case Number (s) 07-O-10544-PEM	(for Court's use) <div style="text-align: center; font-size: 1.2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold;">MAY 12 2009</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
Counsel For Respondent Arthur L. Margolis 2000 Riverside Drive Los Angeles, California 90039-3758 Bar # 57703	Submitted to: Settlement Judge	
In the Matter Of: PAUL MICHAEL KRUEGER 9107 Wilshire Blvd., Suite 500 Beverly Hills, California 90210 Bar # 110788 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO 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 **December 12, 1983**.
- (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 **13** 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".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

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- (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):
- costs added to membership fee for calendar year following effective date of discipline.
 - costs to be paid in equal amounts prior to February 1 for the following 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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (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.
- (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.
- (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. **See attachment.**
- (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 has been a member of the California State Bar since 1983 with no prior record of discipline.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **1 year**.

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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **2 years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

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- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) 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.
- (9) 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 within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**

8. On September 21, 2004, Respondent appeared at the hearing regarding the motion to set aside the dismissal. On or about September 21, 2004, the court denied the motion to set aside the dismissal. Respondent did not inform Lauren that the court had denied the motion to set aside the dismissal in the personal injury action.

9. On September 24, 2004, Respondent filed a Notice of Appeal, appealing the trial court's September 21, 2004 ruling. On December 8, 2004, Respondent filed a brief with the California Court of Appeal appealing the trial court's decision denying the motion to set aside the dismissal. Respondent did not inform Lauren that the dismissal of her action had been appealed to the California Court of Appeal.

10. On April 14, 2005, the California Court of Appeal issued an order reversing the trial court's order denying the motion to set aside the dismissal because the trial court judge abused his discretion in dismissing the matter. As a result, in May 2005, the personal injury action returned to the civil court's active list.

11. On or about September 2, 2005, the Law Offices of David A. Belofsky, defense counsel in the personal injury action, served Respondent with a Notice of Deposition and Request for Production of Documents at Time of Deposition. Pursuant to the Notice of Deposition, Lauren's deposition was set for October 11, 2005. Respondent was properly served with the Notice of Deposition.

12. On or about September 2, 2005, Belofsky's office served Respondent with Form Interrogatories and a Request for Production of Documents. Responses to the discovery were due by October 7, 2005. Respondent received the discovery requests.

13. As of October 7, 2005, Respondent had not provided any discovery responses. Therefore, on or about October 10, 2005, Karie Ellen Schroder, an associate with the Law Offices of David A. Belofsky, wrote Respondent regarding his failure to provide the responses. In the October 10, 2005 letter, Schroder told Respondent that if the discovery responses were not provided, without objection, before the close of business on October 17, 2005, they would have to file a motion to compel. In the October 10, 2005 letter, Schroder asked Respondent to contact her if he needed a brief extension of time. On October 10, 2005, Schroder properly mailed the letter to Respondent. Respondent received the October 10, 2005 letter but failed to respond and failed to provide discovery responses.

14. On October 11, 2005, Schroder wrote Respondent regarding the October 11, 2005 deposition. In the letter, Schroder stated that she had received Respondent's "eleventh hour phone message" the day before in which Respondent indicated that he did not have the deposition "on calendar." In the October 11, 2005 letter, Schroder told Respondent that she wanted to reschedule the deposition for the week of October 31, 2005 and asked Respondent to call her office by October 14, 2005 to tell her what day would be best for Respondent. On October 11, 2005, Schroder sent the letter to Respondent via facsimile. Respondent received the October 11, 2005 letter but failed to respond to Schroder's letter.

15. As of on or about October 28, 2005, Respondent had not provided any discovery responses to the defense in the personal injury action. Therefore, on October 28, 2005, Schroder filed a motion to compel responses to the Form Interrogatories previously served on Respondent in the personal injury action. In the motion, Schroder also requested sanctions. The hearing regarding the motion to compel was scheduled for December 9, 2005. Respondent was properly served with the motion.

16. On October 28, 2005, Schroder also filed a motion to compel responses to the Request for Production of Documents served on Respondent in the personal injury action. In the motion, Schroder again requested sanctions. The hearing regarding the motion to compel was scheduled for December 9, 2005. Respondent was properly served with the motion to compel.

17. On December 9, 2005, the court held a hearing in the personal injury action regarding the defendant's motion to compel discovery responses, motion to compel deposition and requests for sanctions. Respondent appeared at the December 9, 2005 hearing. On that date, the court granted all of the defendant's motions to compel. In addition, the court ordered discovery cost sanctions of \$672.60 and \$411.30, totaling \$1,083.90 against Respondent and Lauren, jointly and severally which Respondent originally understood to be against Lauren only.

18. Respondent was present at the December 9, 2005 hearing and therefore was aware of the court's orders in the personal injury action. Respondent informed Lauren of the court ordering her deposition, however, Respondent failed to timely inform Lauren that the defendant's motions to compel had been granted and failed to timely inform Lauren that she had been sanctioned by the court. The sanctions order was eventually waived by defendant's insurance.

19. On July 12, 2006, National American Insurance Company of California (NAICC) issued a settlement check in the amount of \$2,458 and made payable to Respondent and Lauren as settlement of the personal injury action. Respondent received the settlement check.

20. As of January 31, 2007, Respondent had not deposited the settlement check for \$2,458 into his trust account, and the check had become stale dated. The check had become stale because Respondent had failed to obtain Lauren's signature for the check. Therefore, on January 31, 2007, Respondent drafted a letter to defense counsel, Karie Ellen Schroder, asking her to reissue the settlement check. In his letter, Respondent enclosed the July 12, 2006 settlement check that had become stale dated.

21. On March 27, 2007, NAICC issued a second settlement check in the amount of \$2,458 and made payable to Respondent and Lauren. On April 16, 2007, Respondent deposited the settlement check for \$2,458 into his client trust account.

22. On April 26, 2007, Respondent issued a check to Lauren in the amount of \$575 as her portion of the settlement funds in the personal injury action.

CONCLUSIONS OF LAW (COUNT ONE)

23. By failing to appear at the February 10, 2004, Order to Show Cause, by failing to provide discovery responses before the motion to compel was heard. (Respondent did not adequately advise Lauren of the urgency of timely providing the responses which ultimately led to sanctions against client) and by failing to completely respond to Schroder's letters, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3 110(A).

CONCLUSIONS OF LAW (COUNT TWO)

24. By failing to inform Lauren that her personal injury action had been dismissed, by failing to inform Lauren that the motion to set aside the dismissal had been denied, by failing to inform Lauren that the dismissal of her action had been appealed to the California Court of Appeal, and by failing to timely inform Lauren that the court had granted the motions to compel and had issued discovery cost sanctions against Lauren totaling \$1,083.90, Respondent failed to inform Lauren of significant developments in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m).

CONCLUSIONS OF LAW (COUNT THREE)

25. By holding on to the first settlement check for over eight months and failing to obtain Lauren's signature and by failing to deposit the first settlement check issued by NAICC into his client trust account prior to it becoming stale dated, Respondent failed to maintain client funds in a Client Trust Account in wilful violation of Rules of Professional conduct, rule 4-100(A).

WAIVER 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 January 14, 2009, in case no. 07-O-10544 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), April 15, 2009.

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>
07-O-10544	4	Business and Professions Code section 6103 (Failure to Obey a Court Order)
07-O-10544	5	Business and Professions Code section 6068(i) (Failure to Cooperate in State Bar Investigation)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 15, 2009, the approximate costs in this matter is \$2,314.43. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.”

Recently, the Supreme Court emphasized the importance of the standards and held that great weight should be given to the application of the standards in determining the appropriate level of discipline. The Court indicated that unless it has “grave doubts as to the propriety of the recommended discipline,” it will uphold the application of the standards. *In re Silvertown* (2005) 36 Cal. 4th 81, 91-92.

However, the Court in *Silvertown* also indicated that the State Bar may deviate from the Standards where there exists grave doubt as to the propriety of applying them in a particular case. (*Silvertown* 36 Cal. 4th at 92.) For example, deviation from the Standards may be appropriate where extraordinary circumstances exist or where the imposition of discipline called for by the Standards would be manifestly unjust.

Standard 2.2(b) provides that culpability of a member of commingling entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

The parties submit it would be manifestly unjust to apply Standard 2.2(b) in this matter without deviation for the following reasons. During a substantial portion of the time of the misconduct, Respondent was preoccupied with his father’s serious medical condition and numerous surgeries. Respondent’s father, who lives in Minnesota, suffered from and received extensive surgery at the Mayo Clinic for skin cancer. Part of that surgery occurred in early December 2004. At the end of December 2004, Respondent’s father underwent triple heart by-pass surgery. In February 2005, Respondent’s father underwent nerve surgery related to his cancer treatment. In April 2005, Respondent’s father had hernia surgery. Further skin cancer surgery was performed in July of 2006. Respondent has provided medical documentation of all of the above-mentioned surgeries to the State Bar.

Respondent made several trips to Minnesota to be with his father during much of his father’s treatment. When Respondent was not physically in Minnesota, he was regularly in touch with his family regarding the situation. Respondent’s involvement in his father’s medical problems caused Respondent to be away from his office for significant periods of time and contributed to his actions in the present matter.

As these were extraordinary circumstances, Respondent’s conduct does not present a significant concern that he poses a future threat to the public or his clients. Finally, Respondent has been practicing law since 1983 and has no prior record of discipline.

Standard 2.4(b) provides “[c]ulpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct . . . shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.”

Standard 2.6(a) provides that Respondent's violation of Business and Professions Code, section 6068(m) shall result in suspension or disbarment "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."

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In the Matter of PAUL MICHAEL KRUEGER (No. 110788)	Case number(s): 07-O-10544-PEM
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SIGNATURE OF THE PARTIES

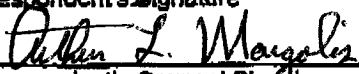
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

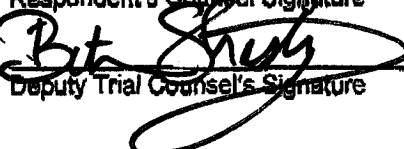
05-01-2009
 Date

5/2/9
 Date

05-04-09
 Date


 Respondent's Signature PAUL MICHAEL KRUEGER
 Print Name


 Respondent's Counsel Signature ARTHUR L. MARGOLIS
 Print Name


 Deputy Trial Counsel's Signature BITA SHASTY
 Print Name

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In the Matter Of PAUL MICHAEL KRUEGER (No. 110788)	Case Number(s): 07-O-10544-PEM
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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 9.18(a), California Rules of Court.)**

5/7/09
Date


Judge of the State Bar Court

RICHARD A. HONN

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 May 12, 2009, 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:

ARTHUR LEWIS MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- by overnight mail at , California, addressed as follows:

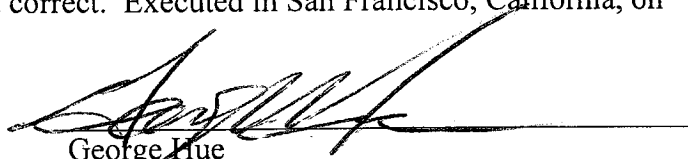
- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Bitu Shasty, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 12, 2009.



George Hue
Case Administrator
State Bar Court