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State Bar Court of California Hearing Department Los Angeles		
Counsel For The State Bar Mia R. Ellis Deputy Trial Counsel State Bar of California 1149 S. Hill Street Los Angeles, CA 90015 Bar # 228235	Case Number (s) 09-C-12896 and 09-C-13759	(for Court's use) <div style="text-align: center;"> PUBLIC MATTER  FILED MAR 30 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO </div>
In Pro Per Respondent Stevan L. Denenberg 7676 Hazard Ctr. Dr., #500 San Diego, CA 92108 Bar # 159326	Submitted to: Settlement Judge	
In the Matter Of: Stevan L. Denenberg Bar # 159326 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING 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 15, 1992.
- (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 12 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".

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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: (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.
- (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.

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- (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.
- (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

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of two 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 two years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of 9 months.
Respondent shall receive credit for time served on interim suspension in case number 09-C-12896. The interim suspension shall remain in effect until the Supreme Court issues the final disciplinary order.
 - 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: completes 12 weeks of Anger Management Classes.

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:
- | | |
|---|---|
| <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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

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- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, 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 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, 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: Stevan L. Denenberg

CASE NUMBER(S): ET AL. 09-C-12896 and 09-C-13759

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.

09-C-13759

Facts:

1. On August 18, 2008, Respondent and his wife were arguing. Respondent grabbed his wife by her arms, shook her violently, and hit her in the face. The force knocked her back a few feet. She screamed that she was going to call the police. Respondent pushed her into the pantry and held her against the shelving by her collar and shoulders. He finally let go and his wife went to the phone and began dialing 911. Respondent took the phone out of her hands, broke the phone, and threw it on the floor. Respondent's wife ran downstairs and called 911 from another phone. The police arrived and Respondent was arrested.
2. Respondent was charged with violating California Penal Code sections 242-243(e)(1), Penal Code section 136.1(b)(1), and Penal Code section 591. Respondent signed a declaration that he owned firearms but he could not find the firearms. A restraining order was issued against Respondent.
3. On August 28, 2008, Respondent pled guilty to violating California Penal Code section 242-243(e)(1) and Penal Code section 591. He was sentenced to three-years summary probation, and ordered to pay fines/fees, three days public service program, complete a 52 week domestic violation recovery program, and ordered not to own, possess, or have custody/control of any weapons. Respondent was also advised that within 10 years of this conviction, owning/possessing/having custody or control of any firearm is a crime pursuant to penal code section 12021(c)(1).
4. On August 29, 2008, and September 3, 2008, his wife called the police regarding Respondent violating the restraining order as she received calls from telephone numbers identified as belonging to the Respondent.
5. On September 15, 2008, the Court issued a civil restraining order against Respondent.
6. On March 13, 2009, Respondent's wife filed an ex parte application to vacate the civil restraining order because she wanted to begin family counseling. The Court granted the application. On March 25, 2009, Respondent filed a Motion to Modify the terms of his

Probation. On April 6, 2009, the Court modified the terms of Respondent's probation to a No Negative Contact Order.

Conclusions of Law

The parties stipulate that by violating California Penal Code sections 242-243(e)(1) and California Penal Code section 591, Respondent did not commit acts involving moral turpitude; however, Respondent committed other misconduct warranting discipline.

The parties further stipulate that by violating California Penal Code section 242-243(e)(1) and California Penal Code section 591, Respondent wilfully violated California Business and Professions Code section 6068, subdivision (a), which imposes a duty upon Respondent to support the Constitution and laws of the United States and this state.

09-C-12896

Facts

1. On April 29, 2009, Respondent and his wife argued about Respondent moving out and the fact that he had stopped going to family therapy. Respondent threatened that he would kill his wife and the fact that he still had his guns. Respondent told his wife that the police would never find his guns.
2. On April 30, 2009, Respondent and his wife argued and he pushed her away when she reached to use the phone. During the argument, Respondent picked up a folding knife, which was on the counter, opened it and held it up at his waist towards his wife. He left the home.
3. On May 1, 2009, his wife asked him to turn in his guns. She called the police. The police arrived and inquired about his guns. Initially, Respondent said that he did not know where they were. The police officer expressed that it was irresponsible not to know where the guns in a house with children. Respondent disclosed that the guns were on top of a kitchen cabinet. The police found two loaded guns.
4. On May 1, 2009, Respondent was arrested and charged with violating California Penal Code section 422, Penal Code section 12021(c)(1), Penal Code section 273.6(a), and Penal Code section 417(a)(1). On May 11, 2009, the court issued a temporary restraining order against Respondent.
5. On July 14, 2009, Respondent pled guilty to violating California Penal Code section 12021(c)(1) and Penal Code section 417(a)(1). The remaining counts were dismissed. He was sentenced to work furlough.

Conclusions of Law

The parties stipulate that by violating California Penal Code section 12021(c)(1) and California Penal Code section 417(a)(1), Respondent did not commit acts involving moral turpitude; however, Respondent committed other misconduct warranting discipline.

The parties further stipulate that by violating California Penal Code section 12021(c)(1) and California Penal Code section 417(a)(1), Respondent wilfully violated California Business and

Professions Code section 6068, subdivision (a), which imposes a duty upon Respondent to support the Constitution and laws of the United States and this state.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(6), was March 3, 2010.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of March 3, 2010, the prosecution costs in this matter are \$3,272. 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.

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING.

09-C-13759

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On August 26, 2008, respondent was convicted of violating Penal Code Section 242/243(e)(1) and Penal Code section 591.
3. On January 14, 2010, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: whether facts and circumstances surrounding violation of Penal Code Section 242/243(e)(1) and Penal Code section 591 involved moral turpitude or other misconduct warranting discipline.

09-C-12896

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On July 14, 2009, Respondent was convicted of violating Penal Code Section 12021(c)(1) and Penal Code Section 417(a)(1).
3. On December 11, 2009, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: whether facts and circumstances surrounding violation of Penal Code Section 12021, subdivision (c)(1) involved moral turpitude or other misconduct warranting discipline

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 3.4 states that when a member has been convicted of a crime not involving moral turpitude, the sanction shall be according to those prescribed under Part B of the standards appropriate to the nature and extent of the misconduct.

Under Part B, the appropriate standard is 2.6 – the standard applicable to violations of Business and Professions Code section 6068(a), failure to obey the law. Standard 2.6 states that the level of discipline shall be disbarment or suspension.

In *In re Otto* (1989) 48 Cal.3d 970, respondent was convicted of two felonies: assault by means likely to produce great bodily injury (penal code section 245(a)) and infliction of corporal punishment on a cohabitant of the opposite sex resulting in a traumatic condition (penal code section 273.5). At trial, the court reduced both counts to misdemeanors and placed respondent on probation with conditions including 90 days in jail. The Supreme Court adopted the recommendation of the Review Department of the State Bar Court that the attorney be suspended for two years, that execution be stayed, and that he be placed on probation for two years with conditions including six months actual suspension. The Review Department found the attorney's acts did not involve moral turpitude but did constitute other misconduct warranting discipline.

In re Larkin (1989) 48 Cal.3d 236, respondent received three years stayed probation with one year actual suspension for misdemeanor convictions of assault with deadly weapon, penal code section 245(a)(1) and conspiracy to commit it, in violation of penal code section 182. The case involved respondent hiring a client to threaten respondent's estranged wife's boyfriend. The client assaulted the boyfriend. The court did not find moral turpitude but held that the commission of the offenses warranted discipline. Respondent had over ten years experience and no prior record of discipline.

AGGRAVATING CIRCUMSTANCES.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Respondent's actions caused harm to his spouse.

ADDITIONAL AGGRAVATING CIRCUMSTANCES.

Respondent's actions involved multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Although the misconduct is serious, Respondent has had no prior discipline since being admitted to the practice of law on June 15, 1992.

Respondent cooperated to the extent that he stipulated to facts, conclusions of law and level of discipline.

STATE BAR ETHICS SCHOOL.

Because Respondent has agreed to attend State Bar Ethics School as part of this stipulation, Respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

COMPLIANCE WITH CONDITIONS OF PROBATION IN UNDERLYING CRIMINAL MATTER.

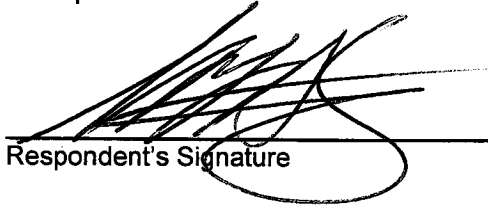
Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the Office of Probation.

(Do not write above this line.)

In the Matter of Stevan L. Denenberg	Case number(s): 09-C-12896 and 09-C-13759
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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.

<u>3-16-10</u> Date	 Respondent's Signature	<u>STEVAN L. DENENBERG</u> Print Name
<u>3/17/10</u> Date	<u>Mia R. Elm</u> Deputy Trial Counsel's Signature	<u>Mia R. Elm</u> Print Name

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In the Matter Of Stevan L. Denenberg	Case Number(s): 09-C-12896 and 09-C-13759
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ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, *PAJ*
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.

- 1) PAGE 1 - INSERT "CONS.", AFTER CASE NUMBER
- 2) PAGE 4 - D. (3) (iii) - INSERT AFTER WORD "CLAUSE" - "CONSISTING OF AN HOUR SESSION EACH WEEK."
- 3) PAGE 4 - E. (1) - CHECK BOX
- 4) PAGE 6 F. (14) - CHECK BOX - Add COMMENCEMENT DATE OF INTERIM SUSPENSION - "9/21/09"

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.)**

3/29/10
Date


Judge of the State Bar Court

RICHARD A. PLATEL

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 30, 2010, 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:

**STEVAN L. DENENBERG
7676 HAZARD CTR DR #500
SAN DIEGO, CA 92108**

- 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:

MIA R. ELLIS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 30, 2010.



Bernadette C.O. Molina
Case Administrator
State Bar Court