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

<p>Counsel For The State Bar</p> <p>Robin Brune Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2218</p> <p>Bar # 149481</p>	<p>Case Number(s): 12-O-10055</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED </p> <p>MAR 18 2014</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Samuel C. Bellicini Fishkin & Slatter, LLP 1575 Treat Blvd., Ste. 215 Walnut Creek, CA 94598 (925) 944-5600</p> <p>Bar # 152191</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: DANIEL HERBERT NEUFELD</p> <p>Bar # 68476</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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 **May 11, 1976**.
- (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."

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- (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.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Costs are added to membership fee for calendar year following effective date of discipline.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **the two billing cycles immediately following the effective date of the Supreme Court's order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
 - (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 intentional, 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.

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- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment, p. 9.**
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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 subsequent rehabilitation.

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(13) No mitigating circumstances are involved.

Additional mitigating circumstances

Pre-filing Stipulation. See Attachment , p. 10.
No Prior Discipline. See Attachment, p. 10.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one (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 1.2(c)(1), 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 **two (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 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 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 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**

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In the Matter of: DANIEL HERBERT NEUFELD	Case Number(s): 12-O-10055
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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
Client Security Fund	\$16,050.00	N/A

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 30 days prior to conclusion of probation.

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 reprobation), 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

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

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.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: DANIEL HERBERT NEUFELD

CASE NUMBER: 12-O-10055

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.

Case No. 12-O-10055 (State Bar Investigation)

FACTS:

1. At all relevant times herein, "US Loan Auditors, LLC", "US Loan Auditors, Inc." and "My US Legal Services" (hereinafter "USLS") were companies owned, in part, by non-attorneys. At all relevant times herein, homeowners hired USLS to file predatory lender lawsuits and paid advanced attorney's fees in monthly installments to USLS. Thereafter, USLS hired outside attorneys ("contract attorneys") to handle the predatory lender lawsuits. USLS paid the contract attorney \$250 per month per client as attorney's fees. The \$250 was paid from the monthly installments paid to USLS by the homeowners as advanced attorney's fees.

2. From June 2010 to December 2010, USLS hired Respondent as a contract attorney to handle predatory lender lawsuits on behalf of the homeowners. From June 2010 through December 2010, USLS paid Respondent a total of \$16,050 as fees from a portion of the monthly installments paid to USLS as advanced attorney's fees by Respondent's clients. To date, Respondent has not refunded any portion of those fees to his clients.

3. In October 2010, USLS effectively ceased operations following the filing of a civil action by the California Attorney General.

CONCLUSIONS OF LAW:

4. The \$16,050 represents an impermissible fee split with a non-attorney. By splitting the legal fees with USLS, Respondent shared a legal fee with a person who is not a lawyer in willful violation of rule 1-320(A) of the Rules of Professional Conduct.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent represented 24 clients through USLS and accepted impermissible fees on behalf each client. This represents multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Record of Discipline: Although Respondent's misconduct is serious, he is entitled to significant mitigation for having practiced law for approximately 34 years without discipline before his misconduct began. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Pre-filing Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of the Chief Trial Counsel prior to the filing of charges, thereby saving the State Bar Court time and resources. (*In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993-994.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

The settlement in this matter was reached in 2013, during the operation of the former standards. Under the former standards, the standard applicable to Respondent's misconduct is found in Standard 2.10, which provides that culpability of a member of a willful violation of any Rule of Professional Conduct not specified (e.g., Rules of Professional Conduct, rule 1-320(A)) shall result in reproof or suspension according to 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.

Here, Respondent shared legal fees with an entity (USLS) that was owned, in part, by non-attorneys. In total, Respondent collected \$16,050 from USLS which was paid from a portion of the advanced fees USLS collected from Respondent's clients.

Respondent's misconduct is serious. It has long been a fundamental premise of the practice of law that "the relationship between an attorney and client is of the highest order of fiduciary relation. [citation.]" (*In the Matter of Feldsott* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754, 757.) This relationship is compromised when an attorney splits fees with a non-attorney. The ban against a lawyer sharing fees with a non-lawyer was enacted to prevent the non-lawyer from gaining control over a client's matter where the non-attorney could be motivated by personal profit rather than the client's best interests. (*In the Matter of Scapa and Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635; Accord, *In the Matter of Jones* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411.) Respondent's fee-splitting arrangement exposed his clients to the risk that the non-attorneys would be looking after their personal interests, rather than those of the client.

Respondent's misconduct is aggravated by multiple acts of misconduct. Respondent's fee splitting arrangement exposed 24 clients to harm. In total, Respondent collected \$16,050 as a result of the improper fee split. As part of Respondent's rehabilitation, Respondent has agreed to refund the fees he obtained from fee splitting by making payments to the Client Security Fund. In mitigation, Respondent has no prior record of discipline and has agreed to enter into this stipulation. Of note, Respondent's lack of prior discipline in 34 years is entitled to significant weight in mitigation. In view of the mitigation in this matter, discipline at the mid-range recommended by the standard is appropriate. A one-year stayed suspension with probation conditions including restitution of \$16,050 is appropriate to protect the public and maintain the high standards applicable to attorneys.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of February 6, 2014, the prosecution costs in this matter are approximately \$3,200.00. 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.

EXCLUSION FROM MCLE CREDIT



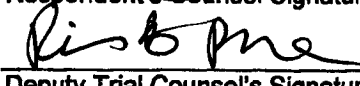
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of Ethics School (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: DANIEL HERBERT NEUFELD	Case number(s): 12-O-10055
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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>2/12/14</u> Date	 Respondent's Signature	<u>DANIEL HERBERT NEUFELD</u> Print Name
<u>13 Feb 2014</u> Date	 Respondent's Counsel Signature	<u>SAMUEL C. BELLICINI</u> Print Name
<u>2/18/2014</u> Date	 Deputy Trial Counsel's Signature	<u>ROBIN BRUNE</u> Print Name

(Do not write above this line.)

In the Matter of: DANIEL HERBERT NEUFELD	Case Number(s): 12-O-10055
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STAYED SUSPENSION 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.

On page 5 of stipulation, insert an "X" on paragraph (D) (2)

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 5.58(E) & (F), 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.)

March 17, 2014

Date


LUCY ARMENDARIZ
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 18, 2014, 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:

SAMUEL C. BELLICINI
FISHKIN & SLATTER, LLP
1575 TREAT BLVD
STE 215
WALNUT CREEK, CA 94598

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

ROBIN BRUNE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 18, 2014.



Bernadette C.O. Molina
Case Administrator
State Bar Court