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

<p>Counsel For The State Bar</p> <p>Sherrie B. McLetchie Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2297</p> <p>Bar # 85447</p>	<p>Case Number(s): 12-O-15890- 12-O-16364</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED <i>Rv</i></p> <p>SEP 24 2013</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p> <p>kwiktag* 152 149 791</p> 
<p>Counsel For Respondent</p> <p>Jonathan I. Arons 221 Main Street, Suite 740 San Francisco, CA 94105 (415) 957-1818</p> <p>Bar # 111257</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: MITCHELL LUKE ABDALLAH</p> <p>Bar # 231804</p> <p>A Member of the State Bar of California (Respondent)</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 July 13, 2004.
- (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: (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 [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.

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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 "Additional Facts Re Aggravating Circumstances", page 9.
- (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. See "Additional Facts Re Mitigating Circumstances", page 9.
- (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 "Additional Facts Re Mitigating Circumstances", page 9.
- (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.

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(13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

No Prior Discipline -- See "Additional Facts Re Mitigating Circumstances", page 9.

Prefiling Stipulation -- See "Additional Facts Re Mitigating Circumstances", page 9.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of one 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 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.)

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 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason: _____
- (2) **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MITCHELL LUKE ABDALLAH

CASE NUMBERS: 12-O-15890-PEM
12-O-16364

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-15890 (State Bar Investigation)

FACTS:

1. By order filed on March 1, 2010, in *In re Fu Lee and Ka May Kha*, United States Bankruptcy Court, Eastern District of California, case number 09-38388-A-7, Respondent was sanctioned in the amount of \$5,757.50, and was prohibited for a one-year period from filing documents with the electronic signature designation "/s/ Name". The sanction was not a discovery sanction.
2. Although at all times pertinent herein Respondent was aware of the March 1, 2010 sanction order, at no time did Respondent report the sanction in *In re Fu Lee and Ka May Kha* to the State Bar. Respondent paid the sanction.
3. On September 12, 2011, Respondent caused an application to employ his firm, Abdallah Law Group, P.C., to be electronically filed in *In re Arsenio and Rizalina Hipolito*, United States Bankruptcy Court, Eastern District of California, case number 11-39844-D-11, prior to obtaining the original signatures of the debtors in violation of the Eastern District of California General Order 04-01, paragraph 12.d ("General Order"), and Local Rule of Bankruptcy Procedure 9004-1(c)(I)(c).
4. By order filed on December 5, 2011, Respondent was sanctioned in *In re Arsenio and Rizalina Hipolito* in the amount of \$2,000, and prohibited for a two-year period from filing documents bearing the electronic signature designation "/s/ Name". The sanction was not a discovery sanction.
5. Although at all times pertinent herein Respondent was aware of the December 5, 2011 sanction order, at no time did Respondent report the sanction in *In re Arsenio and Rizalina Hipolito* to the State Bar. Respondent paid the sanction.

CONCLUSIONS OF LAW:

6. By not reporting to the State Bar that he had been sanctioned by the Bankruptcy Court in *In re Fu Lee and Ka May Kha*, Respondent failed to report to the agency charged with attorney discipline,

in writing, within 30 days of the time Respondent had knowledge of the imposition of a judicial sanction against him, Respondent violated Business and Professions Code section 6068(o)(3).

7. By causing an application to employ his firm to be electronically filed in *In re Arsenio and Rizalina Hipolito* prior to obtaining the debtors' original signatures in violation of the General Order, Respondent wilfully disobeyed or violated an order of the court requiring him to forbear an act in the course of Respondent's profession which he ought in good faith forbear in violation of Business and Professions Code section 6103.

8. By not reporting to the State Bar that he had been sanctioned by the Bankruptcy Court in *In re Arsenio and Rizalina Hipolito*, Respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of a judicial sanction against him, Respondent violated Business and Professions Code section 6068(o)(3).

Case No. 12-O-16364 (Complainant: Sherry Yetter)

FACTS:

9. On March 21, 2011, Sherry Yetter ("Yetter") hired Respondent to pursue litigation against Chase Bank.

10. On September 1, 2011, Respondent filed a civil complaint on behalf of Yetter: *Yetter v. Clarion Mortgage Capital, Inc., et al.*, San Diego County Superior Court case number 37-2011-00057749-CU-OR-NC.

11. Shortly thereafter, Yetter authorized Respondent to dismiss case number 37-2011-00057749-CU-OR-NC.

12. On September 13, 2011, Yetter requested her client file from Respondent.

13. On September 14, 2011, an associate in Respondent's firm sent Yetter an e-mail stating that her file would be sent to her when the signed dismissal order was received from the court. Respondent was copied on the e-mail.

14. On September 29, 2011, the court dismissed case number 37-2011-00057749-CU-OR-NC.

15. By e-mail dated January 1, 2012, Yetter notified Respondent that she had not received her client file. Respondent received the e-mail shortly after it was sent.

16. By e-mail dated March 28, 2012, Yetter notified Respondent that she still had not received the file. Respondent received the e-mail shortly after it was sent.

17. On April 2, 2012, Respondent sent Yetter her client file.

CONCLUSION OF LAW:

18. By not returning Yetter's file for approximately six and one-half months after her first request, and after two additional requests, Respondent failed to release promptly, upon termination of

employment, to the client, at the request of the client, all the client papers and property in wilful violation of rule 3-700(D)(1).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent failed to comply with the General Order 04-01, and Local Rule of Bankruptcy Procedure 9004-1(c)(I)(c), in *In re Arsenio and Rizalina Hipolito*, even though he had been sanctioned for similar conduct in *In re Fu Lee and Ka May Kha*. In addition, Respondent's failure to promptly return Yetter's file brings the total of Respondent's multiple acts of misconduct to four, an aggravating factor pursuant to Standard 1.2(b)(ii).

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

No Prior Discipline: Though Respondent did not have any prior discipline in the five years and nine months that preceded the misconduct, the short duration of Respondent's discipline-free practice limits the weight of this factor in mitigation. (*In the Matter of Duxbury* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61, 66.)

Remorse (Std. 1.2(e)(vii)): Prior to being contacted by the State Bar, Respondent reduced his office staff from 12 (including three attorneys) to three total staff members, moved into a smaller office, hired an accounting and payroll firm, and worked through the majority of the Chapter 11 bankruptcy cases in the office which had presented the most challenges to his law practice. Respondent's changes in his law practice were objective steps designed to timely atone for the consequences of his misconduct.

Family Problems: Respondent filed for divorce in 2009. As a consequence of his filing, Respondent's two daughters refused to communicate with him during the time of his misconduct (March 2010 – March 2012). The anguish this estrangement caused Respondent was a contributing factor to the stipulated misconduct. Only recently has Respondent been able to reconnect with his daughters. Estrangement of family members can be given some weight in mitigation even without expert testimony clearly establishing a nexus between the personal difficulties and the attorney's disregard of professional duties. (*In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47, 59-60.)

Prefiling Stipulation: Respondent cooperated with the State Bar by entering into this stipulation at this early stage in the proceeding saving the State Bar resources and time. Respondent's stipulation to facts, his culpability, and discipline is a mitigating circumstance. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed 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." (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

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.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing four acts of professional misconduct. Standard 1.6(a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent’s misconduct is found in standard 2.6(a), which applies to Respondent’s violations of Business and Professions Code sections 6068(o)(3) and 6103.

Standard 2.6(a) provides 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”

In this case, the US Trustee’s Office reported both sanctions imposed against Respondent to the State Bar. Respondent’s violation of the General Order [electronically filing bankruptcy court documents prior to obtaining the clients’ original signatures on the documents], while improper, did not *significantly* harm the bankruptcy court. Nor did Respondent’s six and one-half month delay in returning Yetter’s client file *significantly* harm her. Respondent paid the court-ordered sanctions *and* returned Yetter’s client file *before* he was contacted by the State Bar. The gravity of Respondent’s offenses is not extreme, and the total harm is not serious. Therefore, discipline at the lowest end of that mandated by standard 2.6(a) – stayed suspension – is appropriate. The purposes of imposing discipline as set forth in standard 1.3 – “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” – do not require disbarment or an actual suspension in this case.

Respondent’s several mitigating factors: lack of prior discipline, remorse, family problems, and cooperation with the State Bar in entering into this prefiling stipulation outweigh the sole aggravating factor of Respondent’s multiple acts of misconduct.

Balancing all of the appropriate factors, a one year stayed suspension; two year period of probation, is consistent with the Standards and achieves the purposes of discipline as expressed in standard 1.3.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 28, 2013, the prosecution costs in this matter are \$3,858. 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 MINIMUM CONTINUING LEGAL EDUCATION CREDIT

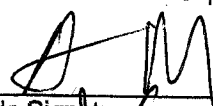
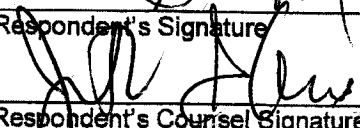
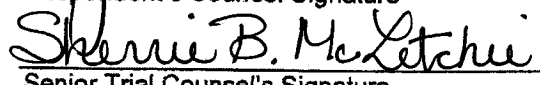
Pursuant to rule 3201, Respondent may not receive Minimum Continuing Legal Education credit for completion of State Bar Ethics School or passage of the Multi-State Professional Responsibility Examination. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: MITCHELL LUKE ABDALLAH	Case number(s): 12-O-15890-PEM 12-O-16364
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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>9/5/13</u> Date	 Respondent's Signature	<u>Mitchell Luke Abdallah</u> Print Name
<u>September 9, 2013</u> Date	 Respondent's Counsel Signature	<u>Jonathan I. Arons</u> Print Name
<u>9/10/13</u> Date	 Senior Trial Counsel's Signature	<u>Sherrie B. McLetchie</u> Print Name

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In the Matter of: MITCHELL LUKE ABDALLAH	Case Number(s): 12-O-15890-PEM 12-O-16364
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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.

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.)

Date

Sept. 24, 2013


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 September 24, 2013, I deposited a true copy of the following document(s):

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

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

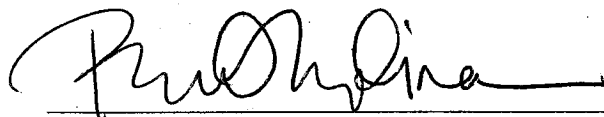
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JONATHAN IRWIN ARONS
LAW OFC JONATHAN I ARONS
221 MAIN ST STE 740
SAN FRANCISCO, CA 94105

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

SHERRIE B. McLETCHE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 24, 2013.



Bernadette C.O. Molina
Case Administrator
State Bar Court