

PUBLIC MATTER



FILED

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FEB 05 2018

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No. 14-H-06099-LMA
)	
VICTOR RENE CANNON,)	DECISION AND ORDER SEALING
)	CERTAIN DOCUMENTS
A Member of the State Bar, No. 159841.)	
)	
_____)	

Introduction¹

In this disciplinary proceeding, respondent Victor Rene Cannon was accepted for participation in the State Bar Court’s Alternative Discipline Program (ADP). As the court has now found that respondent has successfully completed the ADP, respondent is hereby publicly reprovved with attached conditions.

Significant Procedural History

The Office of Chief Trial Counsel of the State Bar of California (State Bar) filed a Notice of Disciplinary Charges (NDC) against respondent on April 23, 2015. Respondent filed a response on June 25, 2015.

¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

Respondent requested referral for evaluation of his eligibility for participation in the State Bar Court's ADP. Respondent then contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his mental health issue.

On December 7, 2015, respondent submitted a declaration which established a nexus between respondent's mental health issue and his misconduct in this matter.

The State Bar and respondent entered into a Stipulation Re Facts and Conclusions of Law (Stipulation). The Stipulation, filed May 9, 2016, sets forth the factual findings, legal conclusion, and mitigating and aggravating circumstances in this matter.

The court issued a Confidential Statement of Alternative Dispositions and Orders, formally advising the parties of: (1) the discipline which would be recommended to the Supreme Court if respondent successfully completed the ADP; and (2) the discipline which would be recommended if respondent failed to successfully complete, or was terminated from, the ADP. Agreeing to those alternative possible dispositions, respondent executed the Contract and Waiver for Participation in the State Bar Court's ADP; the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began on May 9, 2016.

Respondent thereafter participated successfully in both the LAP and the State Bar Court's ADP. After receiving a Certificate of One Year of Participation in the Lawyer Assistance Program - Mental Health, the court found that respondent has successfully completed the ADP at a status conference on January 8, 2018.

This matter was submitted for decision on January 8, 2018.

Findings of Fact and Conclusions of Law

Culpability Findings

The parties' Stipulation filed on May 9, 2016, including the court's order approving the Stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein.

Respondent stipulated to willfully violating rule 1-110 by failing to comply with the conditions attached to his public reproof.

Aggravation²

Prior Record of Discipline (Std. 1.5(a).)

Respondent was publicly reproofed for his failure to obtain court permission to withdraw, improper withdrawal from employment, failure to communicate, and failure to update membership records address, effective April 24, 2014. (State Bar Court case No. 11-O-18687, filed February 12, 2014.)

Multiple Acts (Std. 1.5(b).)

Respondent's multiple acts of misconduct constitute an aggravating circumstance.

Mitigation

Extreme Emotional/Physical/Mental Disabilities (Std. 1.6(d).)

Respondent's depression and anxiety were mitigating factors.

Other

Respondent's successful completion of the ADP is considered as a mitigating circumstance in this matter.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, preserve public confidence in the legal profession, and maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

² All further references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

In determining the appropriate alternative discipline recommendations if respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered the discipline recommended by the parties, as well as certain standards and case law, including standards 1.8(a), and 2.14 and *Conroy v. State Bar* (1990) 51 Cal.3d 799.

Because respondent has now successfully completed the ADP, this court, in turn, now issues the imposition of the lower level of discipline, set forth more fully below.

Disposition

It is hereby ordered that respondent Victor Rene Cannon, State Bar Number 159841, is publicly reprov³ed with the following conditions attached for one year:

1. During the reprobation period, respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California.
2. Within 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 Business and Professions Code section 6002.1.
3. Within 30 days after 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 reprobation. 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 reprobation, 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 reprobation. 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 reprobation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him 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

³ Pursuant to the provisions of rule 5.127(A) of the Rules of Procedure of the State Bar, the public reprobation will be effective when this decision becomes final.

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 20 days before the last day of the period of reprobation and no later than the last day of the reprobation period.

5. Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation which are directed to respondent personally or in writing relating to whether respondent is complying or has complied with the reprobation conditions.
6. Within one year after the effective date of this order, respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)
7. Respondent must fully comply with respondent's Lawyer Assistance Program (LAP) Participation Agreement/Plan. Respondent must provide the LAP with a satisfactory written waiver authorizing the LAP to provide the Office of Probation and the State Bar Court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of such waiver is a violation of this condition. Respondent will be relieved of this condition upon providing satisfactory certification of completion of the LAP to the Office of Probation.
8. Respondent must take and pass the Multistate Professional Responsibility Examination (MPRE) within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

Costs

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Direction Re Decision and Order Sealing Certain Documents

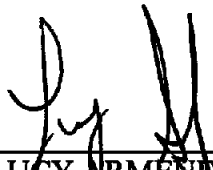
The court directs a court case administrator to file this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 5.388(C) of the Rules of Procedure of the State

Bar of California (Rules of Procedure), all other documents not previously filed in this matter are ordered sealed pursuant to rule 5.12 of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their official duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosure. All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

IT IS SO ORDERED.

Dated: February 5, 2018



LUCY ARMENDARIZ
Judge of the State Bar Court



ORIGINAL

(Do not write above this line.)

**State Bar Court of California
Hearing Department
San Francisco
ALTERNATIVE DISCIPLINE PROGRAM**

<p>Counsel For The State Bar</p> <p>Catherine Taylor Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2537</p> <p>Bar # 210540</p>	<p>Case Number (s) 14-H-06099-PEM</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED</p> <p><i>rs</i></p> <p>MAY - 9 2016</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Victor R. Cannon 2600 Overland Avenue, #313 Los Angeles, CA 90064 (213) 760-1400</p> <p>Bar # 159841</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: VICTOR RENE CANNON</p> <p>Bar # 159841</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 **October 1, 1992**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **7** pages, excluding 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."

(Do not write above this line.)

- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case 11-O-18687. See Attachment at p. 6.
- (b) Date prior discipline effective **March 20, 2014**.
- (c) Rules of Professional Conduct/ State Bar Act violations: **rules 3-700(A)(1) & 3-700(A)(2); B&P 6068(m); 6068(j)**.
- (d) Degree of prior discipline **public reproof**.
- (e) If Respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involved uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7) **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.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Attachment at p. 6.

(Do not write above this line.)

- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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. **See Attachment at p. 6.**
- (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 convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

(Do not write above this line.)

Additional mitigating circumstances:

Pre-trial stipulation: See Attachment at p. 6.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: VICTOR CANNON

CASE NUMBER: 14-H-06099

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. 14-H-06099 (Probation Referral)

FACTS:

1. Respondent received a public reproof in State Bar case no. 11-O-18687. Among the terms and conditions of probation, respondent was required to contact the Office of Probation ("Probation") within 30 days of the effective date of discipline, or by April 19, 2014.
2. On March 18, 2014, correspondence from Probation to respondent was returned to Probation as undeliverable. Respondent did not update his member records address until April 18, 2014.
3. By April 17, 2014, respondent had established contact with Probation.
4. Respondent's first Quarterly Report ("QR") was due July 10, 2014. While the report was received by Probation on July 10, 2014, it was not filed because respondent checked the section indicating he was in compliance "except" but did not explain or attach a declaration under penalty of perjury regarding any exception. As such, the QR was deemed incomplete and not filed.
5. On August 8, 2014, Probation left a voicemail message for respondent advising him of the problem with the QR and directing him to re-submit the report with the required explanation. To date, respondent has not completed the report.
6. On August 25, 2014, Probation sent respondent a letter reminding him of his obligations, particularly regarding quarterly reports. The letter stated in bold italicized print: "***Please submit the required report immediately.***" Respondent did not respond.
7. Respondent's QR due October 10, 2014, was received by probation on October 10, 2014. However, the report again indicated respondent was in compliance with everything "except" but did not explain or attach a declaration explaining any exceptions. Respondent was again advised the QR was rejected and the reason why. Respondent did not respond.
8. Respondent's subsequent QR reports due January 10, 2015 and April 10, 2015 were received but not filed due to unclear compliance.
9. Respondent had stopped practicing law in September 2011, when he relocated to Sacramento.

CONCLUSIONS OF LAW:

10. By failing to report any change in his current office address and telephone number within 10 days of any change; by failing to timely file Quarterly Report due by July 10, 2014; October 10, 2014; January 10, 2015; April 10, 2015; and by failing to answer fully, promptly and truthfully any inquiries of the Office of Probation that were directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's reproof conditions, respondent failed to comply with conditions attached to the public reproof administered to respondent by the State Bar in case no. 11-O-18687, in willful violation of Rules of Professional Conduct, rule 1-110.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent received a public reproof in case no. 11-O-18687, effective March 20, 2014, for violations of rules 3-700(A)(1) [failure to obtain court permission to withdraw] and 3-700(A)(2) [improper withdrawal from employment]; and violations of Bus. & Prof. Code sections 6068(m) [failure to communicate] and 6068(j) [failure to update membership records address] in one client matter.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent has failed to properly file four Quarterly Reports and did not respond to the Office of Probation's repeated requests for him to call or otherwise contact Probation.

MITIGATING CIRCUMSTANCES.

Emotional/Physical Difficulties (Std. 1.6(d)): Respondent provides evidence of depression and anxiety issues which prevented him from dealing with the shortcomings in his compliance with the terms of his public reproof.

Pretrial Stipulation: Respondent has stipulated to the facts and legal conclusions prior to a hearing, thereby sparing the State Bar's time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of December 4, 2015, the prosecution costs in this matter are \$5,680. 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 State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: VICTOR RENE CANNON	Case number(s): 14-H-06099-PEM
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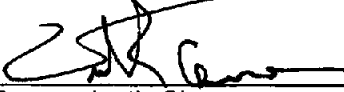
SIGNATURE OF THE PARTIES

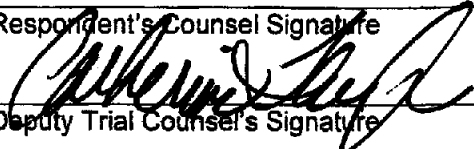
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

12/6/15  VICTOR R. CANNON
Date Respondent's Signature Print Name

1.25.16  CATHERINE TAYLOR
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: VICTOR RENE CANNON	Case Number(s): 14-H-06099-PEM
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ALTERNATIVE DISCIPLINE PROGRAM 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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

Date

May 9, 2016


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 May 9, 2016, I deposited a true copy of the following document(s):


STIPULATION RE FACTS AND CONCLUSIONS OF LAW

By personally delivering a copy of said document(s) to:

VICTOR R. CANNON
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105

Erica Denning S
~~CATHERINE E. TAYLOR~~
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 9, 2016.



Mazie Yip
Case Administrator
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 February 5, 2018, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING CERTAIN DOCUMENTS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

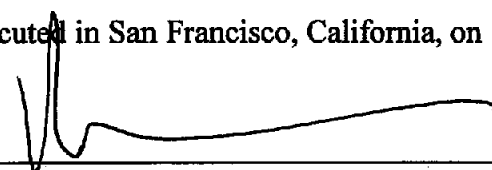
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

VICTOR R. CANNON
1238 BERKELEY DR
GLENDALE, CA 91205 - 3613

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

Erica L.M. Dennings, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on February 5, 2018.



Vincent Au
Case Administrator
State Bar Court