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State Bar Court of California

Hearing Department

Los Angeles
DISBARMENT

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Abraham M. Bagheri Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1216</p> <p>Bar # 294113</p>	<p>Case Number(s): 17-C-02391-CV</p> <p>kwiktag® 226 154 727</p> 	<p>For Court use only</p> <p>FILED DEC 15 2017 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Andrew Benjamin Aames 409 N Van Brunt Blvd Kansas City, MO 64123-1313 (816) 787-7974</p> <p>Bar # 117380</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: ANDREW BENJAMIN AAMES</p> <p>Bar # 117380</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 February 5, 1985.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (11) 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):
- Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

B. Aggravating Circumstances [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 **08-C-14289, 10-C-01395. (See page 7; Attached as Exhibit 2, 13 pages.)**
 - (b) Date prior discipline effective **August 26, 2011.**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **The prior discipline involved criminal conviction matters pursuant to Business and Professions Code sections 6101 and 6102. Respondent was convicted of annoying or molesting a child under the age of 18 and felony false imprisonment. Although the facts and circumstances did not involve moral turpitude, they did involve other misconduct warranting discipline.**
 - (d) Degree of prior discipline **15-month actual suspension.**
 - (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 involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.

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- (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. **(See page 8.)**
- (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.
- (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

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

Additional mitigating circumstances: Pretrial Stipulation, see page 8.

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D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.

- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.

- (3) **Other:**

9. Due to respondent's failure to register his new IP address, the officer issued respondent a general order summons, GOS #051501490 and filed a warrant for failing to register as a sex offender.

10. On March 10, 2016, the officer took respondent into custody due to an outstanding warrant because respondent failed to register as a sex offender.

11. On April 6, 2016, the Jackson County Municipal Court convicted respondent of violating POC, Chapter 55, section 5521, which required respondent to register as a sex offender.

CONCLUSIONS OF LAW:

12. The facts and circumstances surrounding the above-described violation did not involve moral turpitude but did involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has one prior imposition of discipline. In State Bar Court Cases Nos. 08-C-14289 and 10-C-01395, effective August 26, 2011, respondent received a 15-month actual suspension and was ordered to take the MPRE and comply with rule 9.20 of the California Rules of Court.

Case No. 08-C-14289: On September 9, 2008, respondent, at the age of 53, visited a neighbor's garage sale at their invitation and spent some time speaking to his neighbor's daughter, then-aged 15 years old. Before parting ways and returning home, respondent held the 15-year-old girl by the waist and leaned in to kiss her on the cheek, but she managed to step away before respondent actually made contact with her face. Respondent was charged and convicted with one count of annoying or molesting a child under the age of 18 in violation of Penal Code section 647.6, subdivision (a)(1). A jury found respondent guilty on the sole count, and a trial court placed him on probation for three years including 120 days in county jail.

Case No. 10-C-01395: On October 17, 2009, at about 10:30 p.m., respondent and Mrs. Aames¹, his wife, were arguing in their home for approximately fifteen minutes. During their argument, respondent threatened to have Mrs. Aames evicted and forcibly removed from their home once their divorce, filed by respondent eight months earlier, was finalized. When respondent and Mrs. Aames had nothing further to say to one another, Mrs. Aames retired to their daughter's bedroom and spent the night on their daughter's bedroom floor where their daughter was sleeping. On the following day, Mrs. Aames went to a local hospital complaining that respondent had assaulted her. Mrs. Aames reported injuries to her neck, shoulder, and wrist. A sexual assault response team exam was conducted. The police was called to the hospital and an incident report was completed. On February 1, 2010, a felony complaint was filed with the Riverside County Superior Court, *People v. Andrew Benjamin Aames*, case no. RIF10-000372. Respondent was charged with violating probation in case no. RIM519498, violating Penal Code section 262(a)(1), a felony, for spousal rape, and violating Penal Code section 273.5(a), a felony, inflicting corporal injury on a spouse.

On August 3, 2010, as part of a plea agreement, respondent pled guilty to a one-count violation of Penal Code section 236, false imprisonment, a felony. That same day, respondent was sentenced to 36 months' probation with conditions to obey all laws, be committed to custody of the Riverside County

¹The name "Mrs. Aames" is used in lieu of the victim's real name.

Sheriff for 240 days with credit for time served for 53 days plus 48 pursuant to Penal Code section 4019 for a total of 100 days, 20 hours of community service and fees, restitution to the victim, and a 52-week domestic violence group counseling program, among other things.

The parties stipulate to the authenticity of (1) Exhibit 1, a copies of the review department orders referring respondent's prior conviction matters to the hearing department, (2) Exhibit 2, a copy of respondent's prior discipline, and (3) Exhibit 3, the Supreme Court Order imposing respondent's prior discipline.

Indifference Toward Rectification or Atonement for the Consequences of the Misconduct (Std. 1.5(k)): On February 3, 2015, respondent wrote a letter to the State Bar in which he referred to the victim of his 2008 conviction as a "fifteen-year-old, African American, hoodrat gal." On February 26, 2015, respondent was charged with failing to register as a sex offender. On the same day, respondent emailed the State Bar a draft of a Federal Court Complaint that he intended to file in which he 1) disputed Jackson County's ability to enact sex-offender-related ordinances, 2) stated that sex-offender registration laws are against public policy, 3) stated that offering a fifteen-year-old a kiss is "non-sexual" because it involves no sex organs, and 4) that "all Aames did was offer a kiss to a fifteen-year-old female."

From June 10, 2017 to October 4, 2017, respondent resided within one thousand feet of a school. On November 15, 2017, the Jackson County Municipal Court convicted respondent in case numbers 051401837 and 051401803 of violating POC, Chapter 55, section 5523, which prohibits certain offenders from residing within one thousand feet of a school or child care facility. On November 20, 2017, respondent filed an application for trial de novo on both cases. On February 5, 2018, the 16th Circuit Court of Missouri will conduct a new trial on each case.

Despite receiving a conviction in 2008 for annoying or molesting a child, respondent's subsequent statements and actions demonstrate a lack of remorse, lack of insight, and failure to appreciate the seriousness of his current and past misconduct.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: By entering into this stipulation, respondent is entitled to mitigation for saving the State Bar significant resources and time. (*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].)

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 Silvertton* (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)).

Standard 2.16(b) holds that suspension or reproof is presumed for a misdemeanor conviction in which the facts and circumstances surrounding the crime do not involve moral turpitude but which involve other misconduct warranting discipline. Failure to register as a sex offender in violation of POC, Chapter 55, section 5521 does not involve moral turpitude, but does involve other misconduct warranting discipline because the State of Missouri had previously placed respondent on notice of his duty to register as a sex offender and respondent had previously failed to comply with the same law on November 30, 2014. Respondent should have had heightened awareness of his duty to comply with the sex offender laws of the state in which he resided. Therefore, respondent’s failure to register as a sex offender involves other misconduct warranting discipline. Because respondent has a prior record of misconduct resulting in a 15-month actual suspension, Standard 1.8(a) must be reviewed for guidance.

Standard 1.8(a) provides that if respondent has a record of one prior discipline, the discipline imposed for the current misconduct must be greater than the previous discipline unless the prior discipline was “so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.” Here, respondent’s prior discipline was not remote in time because respondent’s prior discipline became effective August 26, 2011, and respondent committed subsequent misconduct on November 30, 2014. The misconduct at issue here occurred in January 2016. Therefore, only four and a half years passed from the date of respondent’s prior discipline and the date on which respondent committed the misconduct at issue. Moreover, respondent’s prior misconduct involved convictions for false imprisonment and annoying or molesting a 15-year old child. These violations are serious offenses that harmed his victims and placed the public at risk. Therefore, the discipline for respondent’s current misconduct must be greater than respondent’s previous discipline of 15 months actual suspension.

When determining the level of discipline, consideration must be given to the aggravating and mitigating circumstances. OCTC has to establish aggravating circumstances by clear and convincing evidence, as does the respondent, in establishing mitigating circumstances. (Rules Proc. of State Bar, tit. IV, Stds. for Attorney Sanctions for Prof. Misconduct, std. 1.5). Here, respondent’s misconduct is significantly aggravated by his prior record of discipline. Specifically, in State Bar Court Cases Nos. 08-C-14289 and 10-C-01395, effective August 26, 2011, respondent received a 15-month actual suspension. Respondent’s misconduct is further aggravated by his indifference toward rectification or atonement for the consequences of his misconduct. The aggravating circumstances outweigh the slight mitigation respondent has received for entering into a pre-trial stipulation. Balancing the aggravating and mitigating circumstances, disbarment is warranted.

This disposition is supported by case law. In *In re Lesansky* (2001) 25 Cal.4th 11, the Supreme Court ordered disbarment after Lesansky was convicted of a felony for attempting a lewd act on a child who was 14 or 15 years old and at least 10 years younger than Lesansky. Here, respondent's conduct is more egregious because respondent was convicted in 2016 for failing to register as a sex offender, a crime which directly relates to his prior 2008 conviction for annoying or molesting a child 38 years younger than respondent. More importantly, respondent had previously failed to register as a sex offender in 2014. By failing to register as a sex offender once again, respondent failed to appreciate the seriousness of his prior misconduct, breached his responsibility to society, and demeaned the integrity of the legal profession. Respondent's repeated violations, indifference, and ongoing lack of insight demonstrate that he is either unwilling or unable to conform to his professional responsibilities. (See *Barnum v. State Bar* (1990) 52 Cal.3d 104, 111.) Due to the significant aggravating circumstances, an actual suspension longer than respondent's prior 15-month actual suspension is insufficient.

In light of the Standards, disbarment is warranted to protect the public, courts and legal profession; maintain high professional standards by attorneys; and preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of December 6, 2017, the discipline costs in this matter are \$2,629. 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.

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In the Matter of: ANDREW BENJAMIN AAMES	Case Number(s): 17-C-02391-CV
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DISBARMENT 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.)**

Respondent ANDREW BENJAMIN AAMES is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

December 14, 2017


YVETTE D. ROLAND
Judge of the State Bar Court

08-C-14289

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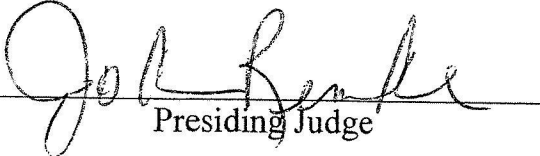
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK

In the Matter of ANDREW BENJAMIN AAMES

a Member of the State Bar of California

This case is referred to the hearing department under the authority of rule 9.10(a), California Rules of Court, for a hearing and decision recommending the discipline to be imposed in the event that the hearing department finds that the facts and circumstances surrounding the violation of Penal Code section 647.6, subdivision (a) (annoy/molest child under 18), of which Andrew Benjamin Aames was convicted, involved moral turpitude or other misconduct warranting discipline.


Presiding Judge

10-C-01395

REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK

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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

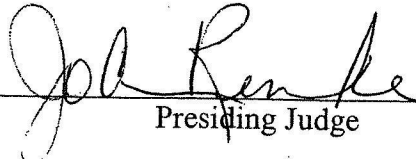
In the Matter of A. BENJAMIN AAMES

No. 117380

a Member of the State Bar of California

Since respondent A. Benjamin Aames has been convicted of violating Penal Code section 236 (false imprisonment), a felony which may or may not involve moral turpitude, under the authority of rule 9.10(a), California Rules of Court, it is ordered pursuant to Business and Professions Code section 6102 that respondent be suspended from the practice of law effective November 29, 2010, pending final disposition of this proceeding. It is also ordered that respondent comply with rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this suspension.

As the judgment of conviction is final, this case is referred to the hearing department for a hearing and decision as to whether the facts and circumstances surrounding the violation of which respondent was convicted involved moral turpitude or other misconduct warranting discipline, and if so found, the discipline to be imposed.



Presiding Judge

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION			PUBLIC MATTER
Counsel For The State Bar Jean Cha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1000 Bar # 228137	Case Number(s): 08-C-14289 10-C-01395	For Court use only <div style="text-align: center;"> FILED MAR 29 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
In Pro Per Respondent A. Benjamin Aames 4540 Paulhan Ave Los Angeles, CA 90041 Bar # 117380	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: Andrew Benjamin Aames Bar # 117380 A Member of the State Bar of California (Respondent)			

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 February 5, 1985.
- (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 11 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."

(Do not write above this line.)

- (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):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2012, 2013 & 2014. (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.
- (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.

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- (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. Respondent's misconduct involves two criminal conviction matters.
- (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. Respondent has agreed to discipline without requiring a hearing.
- (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.

* to the extent allowed by restraining orders. se
ABA

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(12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

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

Additional mitigating circumstances:

Respondent's misconduct did not involve any clients and did not occur during the practice of law.

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 THREE 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 FIFTEEN (15) MONTHS.

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:

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 the 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.

(Do not write above this line.)

- (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**

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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) **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 language (if any):

**ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF: ANDREW BENJAMIN AAMES, 117380
CASE NUMBERS: 08-C-14289 & 10-C-01395

Respondent admits the facts set forth in the stipulation are true and that he is culpable of misconduct warranting discipline.

Case No. 08-C-14289

1. On September 9, 2008, Respondent, at the age of 53, visited a neighbor's garage sale at their invitation and spent some time speaking to his neighbor's daughter, then-aged 15 years old, who appeared to him to be age 18. Before parting ways and returning home, Respondent held the 15-year-old girl by the waist and leaned in to kiss her on the cheek, but she managed to step away before Respondent actually made contact with her face.

2. Respondent was charged and convicted with one count of annoying or molesting a child under the age of 18 in violation of Penal Code section 647.6, subdivision (a)(1). A jury found Respondent guilty on the sole count, and a trial court placed Respondent on probation for three years including 120 days in County jail.

3. A violation of Penal Code section 647.6(a) (Annoy/Molest Child Under the Age of 18 Years), a misdemeanor.

Case No. 10-C-01395

4. On October 17, 2009, at about 10:30 p.m., Respondent and Mrs. Aames,¹ his wife and mother of two daughters, were arguing in their home for approximately fifteen minutes. During their argument, Respondent threatened to have Mrs. Aames legally evicted and forcibly removed from their home once their divorce filed by Respondent eight months earlier was finalized. When Respondent and Mrs. Aames had nothing further to say to one another, Mrs.

¹ The name "Mrs. Aames" is used in lieu of the victim's real name.

Aames retired to their daughter's bedroom and spent the night on their daughter's bedroom floor where their daughter was sleeping.

5. On the following day, Mrs. Aames went to a local hospital complaining that Respondent had assaulted her. Mrs. Aames reported injuries to her neck, shoulder, and wrist. A sexual assault response team exam was conducted. The police were called to the hospital and an incident report was completed.

6. On February 1, 2010, a felony complaint was filed with the Riverside County Superior Court, *People v. Andrew Benjamin Aames*, case no. RIF10-000372. Respondent was charged with violating probation in case no. RIM519498, violating Penal Code section 262(a)(1), a felony, for spousal rape, and violating Penal Code section 273.5(a), a felony, inflicting corporal injury on a spouse.

7. On August 3, 2010, as part of a plea agreement, Respondent pled guilty to a one-count violation of Penal Code section 236, false imprisonment, a felony. That same day, Respondent was sentenced to 36 months' probation with conditions to obey all laws, be committed to custody of the Riverside County Sheriff for 240 days with credit for time served for 53 days plus 48 pursuant to Penal Code section 4019 for a total of 100 days, 20 hours of community service and fees, restitution to the victim, and a 52-week domestic violence group counseling program, among other things.

8. Respondent's misconduct involved acts warranting discipline.

AUTHORITIES.

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; Std. 1.3.)

The determination of discipline begins "by looking to the purpose of sanctions for attorney misconduct." (*In re Morse* (1995) 11 Cal.4th 184, 205.) The chief purposes of State Bar disciplinary proceedings are to protect the public, courts, and legal profession, to maintain the

highest possible professional standards for attorneys, and to preserve public confidence in the legal profession. (Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, Std. 1.3.) In determining the appropriate level of discipline, the court looks to the standards for guidance, then to case law. (*Drociak v. State Bar* (1991) 52 Cal.3d 1095, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating and aggravating circumstances, with due regard for the purposes of imposing discipline.

Standard 3.2 provides for disbarment where the crime involves moral turpitude or at least two years' actual suspension if there is compelling mitigation.

In *In re Safran* (1976) 18 Cal. 3d 134, an attorney in his mid-20's was convicted of two counts of violating *Pen. Code* § 647(a) was disciplined with three years' stayed suspension, three years' probation and no actual suspension under intensive supervision in a plan of psychiatric care. Safran demonstrated remorse, candor and professionalism regarding the practice of law. Here, the misconduct was more serious because of the 38-year age difference between the victim and Respondent. Therefore, actual suspension is warranted.

In *In re Hickey* (1990) 50 Cal. 3d 571, an attorney convicted of a violation of *Pen. Code* § 12025(b) (carrying a concealed weapon), and had failed to give notice of withdrawal from representation of a client matter in violation of Rules of Professional Conduct former rule 2-111, was disciplined with three years' stayed suspension, three years' probation, and 30 days' actual suspension and was the result of alcoholism from which he had recovered and marital difficulties that had been resolved. Respondent's mitigation is more limited than that in *Hickey* and his culpability involves two separate criminal convictions.

In examining the totality of the circumstances (*In re Larkin* (1989) 48 Cal.3d 236) in both criminal matters, fifteen (15) months' actual suspension is sufficient to protect the public.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was March 3, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 3, 2011, the estimated prosecution costs in this matter are approximately \$5,517.00. Respondent acknowledges that this figure is an estimate only and that it might not include State Bar Court costs that will be included in any final cost assessment (see *Bus. & Prof. Code* section 6068.10(c)) or taxable costs (see *C.C.P.* section 1033.5(a)), which will be included in any final cost assessment. 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

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to the cost of further proceedings. It is also noted that if Respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision(c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 5.134). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

ETHICS SCHOOL.

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

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In the Matter of: Andrew Benjamin Aames	Case Number(s): 08-C-14289 & 10-C-01395
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ACTUAL 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.

Page 6, Section F. (4) - Place an "X" in the box. The commencement date of interim suspension is November 29, 2010.

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

03-25-11

Judge of the State Bar Court

RICHARD A. PLATEL

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 Los Angeles, on March 29, 2011, 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:

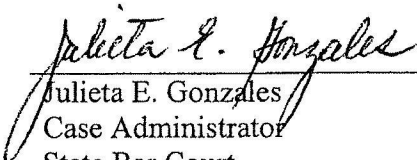
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

A BENJAMIN AAMES ESQ
4540 PAULHAN AVE
LOS ANGELES, CA 90041

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

Jean H. Cha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 29, 2011.



Julieta E. Gonzales
Case Administrator
State Bar Court

(State Bar Court Nos. 08-C-14289; 10-C-01395)

S193227

SUPREME COURT
FILED

JUL 27 2011

IN THE SUPREME COURT OF CALIFORNIA

En Banc

Deputy Clerk
K. Chritch Clerk

Deputy

In re ANDREW BENJAMIN AAMES on Discipline

The court orders that Andrew Benjamin Aames, State Bar Number 117380, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and he is placed on probation for three years subject to the following conditions:

1. Andrew Benjamin Aames is suspended from the practice of law for the first 15 months of probation (with credit given for the period of interim suspension which commenced on November 29, 2010);
2. Andrew Benjamin Aames must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on March 29, 2011; and
3. At the expiration of the period of probation, if Andrew Benjamin Aames has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

Andrew Benjamin Aames must also take and pass the Multistate Professional Responsibility Examination during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Andrew Benjamin Aames must also comply with California Rules of Court, rule 9.20, 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 this order. Failure to do so may result in disbarment or suspension.

RECEIVED

AUG - 3 2011

CENTRAL ADMINISTRATION

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. One-third of the costs must be paid with his membership fees for each of the years ~~2012, 2013 and 2014. If Andrew Benjamin Aames 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.

I, Frederick K. Ohlrich, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office

Witness my hand and the seal of the Court this
27 day of July 2011

By [Signature]
Clerk
Deputy

CANTIL-SAKAUYE

Chief Justice

RECEIVED

AUG - 3 2011

CENTRAL ADMINISTRATIVE

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 Los Angeles, on December 15, 2017, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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 Los Angeles, California, addressed as follows:

**A. BENJAMIN AAMES
409 N VAN BRUNT BLVD
KANSAS CITY, MO 64123 - 1313**

**ANDREW BENJAMIN AAMES
500 WOODINGHAM DR., APT. 22
EAST LANSING, MI 48823**

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

ABRAHIM M. BAGHERI, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 15, 2017.



Paul Barona
Case Administrator
State Bar Court