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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
<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-02599-YDR</p> <p>kwiktag® 226 154 760</p> 	<p>For Court use only</p> <p style="text-align: center;">FILED</p> <p style="text-align: center;">DEC 20 2017 </p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Leslie Michael Alberts 1800 Laniloa Pl Apt A Wahiawa, HI 96786-5954</p> <p>Bar # 194907</p>	PUBLIC MATTER	
<p>In the Matter of: LESLIE MICHAEL ALBERTS</p> <p>Bar # 194907</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>Submitted to: Assigned 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>	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **May 20, 1998**.
- (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."
- (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 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 [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 **05-O-03823**. (See page 8; Attached as Exhibit 1, 15 pages.)
 - (b) Date prior discipline effective **May 19, 2006**.
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-310 and 3-700(D)(2); Business and Professions Code, sections 6068(m), 6002.1, and 6068(j)**.
 - (d) Degree of prior discipline **private reproof of one year**.
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (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. **Business and Professions Code, section 6068(a)**. (See page 8.)
- (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..

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- (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) **Candor/Lack of 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 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.

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- (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.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one (1) year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

The above-referenced suspension is stayed.

- (2) **Probation:**

Respondent is placed on probation for a period of **one (1) year**, 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

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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.
- (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:**

The following shall be deemed to comply with Section E(7): Within one year of the effective date of the discipline herein respondent must attend six hours of participatory MCLE classes in ethics

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given by a certified provider (See rule 5.135(B), Rules Proc. of State Bar) and must provide the Office of Probation proof of the classes' completion.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: LESLIE MICHAEL ALBERTS

CASE NUMBER: 17-C-02599

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. 17-C-02599 (Conviction Proceeding)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On January 3, 2013, the Hawaii state prosecutor filed a criminal complaint charging respondent with Hawaii Revised Statutes, section 710-1027 (Resisting An Order to Stop a Motor Vehicle).
3. On September 24, 2013, respondent entered a no contest plea and the First District Court of Hawaii entered judgment against respondent and fined him \$200.00.
4. On August 17, 2017, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department found that the facts and circumstances surrounding the misdemeanor violation of Hawaii Revised Statutes, section 710-1027 involved moral turpitude or other misconduct warranting discipline.

FACTS:

5. On December 26, 2012 at approximately 11:57 p.m., respondent drove his car 52 miles per hour in a 35 mile-per-hour zone.
6. A Honolulu Police Officer ("officer") saw respondent's speeding car, turned on his police car's flashing blue lights and sirens, and pursued respondent.
7. Respondent refused to stop.
8. During the pursuit, respondent passed two red lights.
9. When respondent slowed his car and began to stop, the officer got out of his car with his gun drawn and ordered respondent to stop.
10. The officer yelled at respondent to stop, but respondent drove his car past the officer at close

range.

11. The officer shattered respondent's car window with his gun, but respondent drove away from the officer.

12. At approximately 12:24 a.m., the officer ended the pursuit.

13. On January 2, 2013, respondent turned himself into the Wahiawa police station where officers arrested and booked him for resisting an order to stop his car.

CONCLUSIONS OF LAW:

14. The facts and circumstances surrounding the above-described violations 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 Case No. 05-O-03823, effective May 19, 2006, respondent stipulated to a private reproof (public disclosure) and one year of probation for misconduct occurring from September 2004 through December 2004. Respondent's misconduct consisted of failing to perform legal services with competence in violation of Rules of Professional Conduct, rule 3-110, failing to communicate with his client in violation of section 6068(m) of the Business and Professions Code, failing to refund unearned fees in violation of rule 3-700(D)(2) of the California Rules of Professional Conduct, and failing to maintain a mailing address and telephone number at which he can be contacted, in violation of section 6068(j) of the Business and Professions Code. In mitigation, respondent demonstrated genuine remorse and an interest in making amends to the client. Once respondent was notified of the charges against him in State Bar Court, he was very cooperative in coming to a stipulation. The parties stipulate to the authenticity of Exhibit 1, a certified copy of respondent's prior discipline.

Uncharged Violations of the Business and Professions Code (Std. 1.5(h)). Under Business and Professions Code section 6068(a), it is the duty of an attorney to support the Constitution and laws of the United States and of this state. Respondent breached his duty when he was convicted of violating Hawaii Revised Statutes (H.R.S.), section 286-102, a misdemeanor. Specifically, on May 26, 2014, at 1:25 a.m., Officer Ahnee cited respondent for driving without a valid driver's license. On June 25, 2014, after respondent pled no contest, the Court convicted respondent of violating H.R.S. section 286-102 and fined him \$100.00.

MITIGATING CIRCUMSTANCES.

Pre-Trial Stipulation: By entering into this stipulation, respondent has acknowledged his misconduct and is entitled to mitigation for recognition of wrongdoing and 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 Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

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 May 19, 2006 and respondent committed the misconduct at issue on December 26, 2012. Therefore, only six and a half years passed between the date of respondent’s prior discipline and the date respondent committed the misconduct at issue. Moreover, respondent’s prior misconduct involved his failure to perform legal services with competence, failure to communicate with his client, and failure to refund unearned fees. These violations are serious offenses that financially harmed respondent’s client and went against the high professional standards expected of attorneys. Therefore, the discipline for respondent’s current misconduct must be greater than respondent’s previous discipline of a private reproof (public disclosure).

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. Here, respondent’s misconduct does not involve moral turpitude but does warrant discipline because respondent disobeyed a law enforcement officer’s order to stop and ran two red lights.

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, aggravating circumstances are present because respondent has uncharged misconduct and one prior discipline, effective May 19, 2006. In mitigation, respondent has agreed to a pre-trial stipulation.

Balancing the aggravating and mitigating circumstances, a one (1) year stayed suspension and one (1) year probation with conditions is warranted.

This disposition is consistent with case law. In *In re Kelley* (1990) 52 Cal.3d 487, the attorney was convicted of two DUI's. She was convicted of the second DUI while on probation for the first DUI. Kelley had a high blood alcohol level, told the officers on the scene that she had not been drinking, refused to submit to field sobriety tests, sat on the curb, and became agitated. The Court also found that Kelley lacked respect of the legal system and disregarded the conditions of probation, the law, and the safety of the public. As mitigating factors, the attorney lacked prior disciplinary record, had extensive involvement in community service, and cooperated during disciplinary proceedings. The Court found the facts and circumstances surrounding the criminal conviction involved other misconduct warranting discipline and found public reproof was the appropriate level of discipline.

Like Kelley, respondent refused to comply with an officer's orders, lacked respect for the legal system, and disregarded the safety of the public. Kelley's intoxication and two DUIs placed the public at risk in a similar manner and to a similar degree as respondent's refusal to stop his car upon police officers' orders. Although respondent did not drive while intoxicated, he refused to stop after officers ordered him to, ran two red lights, and drove his car past a police officer at a close distance. However, no pedestrians or cars were present when respondent passed the red lights and there is no evidence indicating that respondent intended to strike the police officer with his car. Upon review of the circumstances in *Kelley* and in this case, the severity of respondent's and Kelley's misconduct are similar. Nevertheless, a one-year stayed suspension is appropriate here. Although respondent has entered into a pretrial stipulation, Kelley had more mitigating circumstances because she performed community service and had no prior record of discipline. Moreover, respondent has more aggravating circumstances than Kelly did because he has a record of prior discipline and uncharged misconduct.

Therefore, a one-year stayed suspension is sufficient to achieve the purposes of discipline: to protect the public, the courts and the legal profession; to maintain high professional standards by attorneys; and to 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 November 6, 2017, the discipline costs in this matter are \$2629. 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 ("MCLE") CREDIT.

Respondent may not receive MCLE credit for completion of State Bar Ethics School or any other educational course to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)


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In the Matter of: LESLIE MICHAEL ALBERTS	Case number(s): 17-C-02599-YDR
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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.

November 16 2017  LESLIE MICHAEL ALBERTS
Date Respondent's Signature Print Name

11-28-2017  ABRAHIM M. BAGHERI
Date Deputy Trial Counsel's Signature Print Name

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In the Matter of: L. MICHAEL ALBERTS	Case Number(s): 17-C-02599
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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:

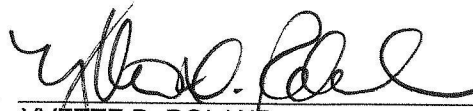
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated

1. "On page 1 of the Stipulation in case No. 17-C-02599, where Respondent's name appears as "Leslie Michael Alberts," in the caption box under the heading, "In Pro Per, Respondent" and also appears in the bottom box on page 1 in the far left column of the stipulation under the heading "In the Matter of," the name "Leslie" should be deleted; and, in its place, the initial "L." should be inserted. Similarly on pages 11 and 12, in each of the boxes that appear at the top of those pages, the name "Leslie" should be deleted and in its place the initial "L." should be inserted. Finally, on page 12, under the heading, "SIGNATURE OF THE PARTIES," above the first line in the last column and above the line that says "Print Name," the name "LESLIE MICHAEL ALBERTS" appears. However, as that name has been superseded in the official membership records of the State Bar by the name "L. Michael Alberts," Respondent's name on that line should appear as "L. Michael Alberts."

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.)**

December 20, 2017

Date


YVETTE D. ROLAND
Judge of the State Bar Court

ORIGINAL

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State Bar Court of California Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar CHRISTINE SOUHRADA Deputy Trial Counsel 1149 South Hill Street, 9 th Floor Los Angeles, CA 90015-2299 Telephone: (213) 765-1162 Bar # 228256	Case number(s) 05-O-03823 PUBLIC MATTER NOT FOR PUBLICATION	(for Court's use) FILED APR 28 2006 <i>ROC</i> STATE BAR COURT CLERKS OFFICE LOS ANGELES
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent LESLIE M. ALBERTS HHC 3 rd IBCT, #132 SCHOFIELD BARRACKS, HI 96857 Telephone: (808) 561-6724 Bar # 194907	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL <input checked="" type="checkbox"/> PRIVATE <input type="checkbox"/> PUBLIC <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of LESLIE MICHAEL ALBERTS Bar # 194907 A Member of the State Bar of California (Respondent)		

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A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted May 20, 1998
(date)
- (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 and order consist of 13 pages.
- (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."
- (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.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a) costs added to membership fee for calendar year following effective date of discipline (public reproof)
- (b) case ineligible for costs (private reproof)
- (c) costs to be paid in equal amounts for the following membership years:
_____ (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- (d) costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (e) costs entirely waived

(9) The parties understand that:

- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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 _____

(Do not write above this line.)

- (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.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (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.

(Do not write above this line.)

- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) No mitigating circumstances are involved.

Additional mitigating circumstances:

(Do not write above this line.)

D. Discipline:

- (1) Private reproof (check applicable conditions, if any, below)
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).
- or
- (2) Public reproof (check applicable conditions, if any, below)

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of One (1) Year
- (2) During the condition period attached to the reproof, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office 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 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 thirty (30) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.
- (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 such reports as may be requested, in addition to quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

(Do not write above this line.)

- (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 conditions attached to the reprobation.
- (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 of the Ethics School and passage of the test given at the end of that session.
- No Ethics School ordered. Reason: See Section VI of Factual Attachment
- (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 required to be filed with the Office of Probation.
- (10) 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 of the effective date of the reprobation.
- No MPRE ordered. Reason: See Section VI of Factual Attachment
- (11) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

(Do not write above this line.)

In the Matter of LESLIE MICHAEL ALBERTS Member #: 194907	Case Number(s): 05-O-03823
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF of the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
JAMES SLATIC	\$625.00	SEPTEMBER 21, 2004

- Respondent must pay the above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than _____.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
JAMES SLATIC	\$250.00/Qtr	QUARTERLY FOR 1 st THREE QTRS.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Do not write above this line.)

In the Matter of LESLIE MICHAEL ALBERTS Member #: 194907	Case Number(s): 04-O-03823
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- b. Respondent has kept and maintained the following:
- i. a written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
 - iii. all bank statements and canceled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

Attachment to Stipulation Re Facts, Conclusions of Law and Disposition
in the Matter of Leslie Michael Alberts
Case no. 05-O-03823

I. Facts

1. On August 30, 2004, James Slatik ("Slatik") employed Respondent to represent him in a family law matter, including modifying Slatik's spousal and child support obligations, and appearing at an order to show cause ("OSC") on September 21, 2004. Slatik paid Respondent \$625.

2. Respondent did not appear on behalf of Slatik at the OSC on September 21, 2004, or take any action to modify Slatik's spousal support and child support obligations.

3. At no time did Respondent inform Slatik that Respondent did not appear at the OSC, or that Respondent had not taken any action to modify Slatik's spousal support and child support obligations.

4. Between late September 2004 and December 2004, Slatik placed 10 to 12 telephone calls to Respondent's office telephone number. Slatik was unable to speak with Respondent, but left messages for Respondent on his telephone voice message system requesting that Respondent return his calls regarding the status of the case. When Respondent failed to return Slatik's calls Slatik left messages terminating Respondent and requesting that Respondent refund the \$625 that he had paid to Respondent.

5. Respondent did not respond to any of Slatik's telephone calls.

6. Respondent provided no services of value to Slatik and did not earn the advanced fees paid by Slatik. At no time did Respondent refund any of the \$625 paid by Slatik.

7. On September 23, 2004, the State Bar sent an "MCLE Non-Compliance - Notice of Enrollment on Not Entitled Status" to Respondent at his State Bar membership records address for failure to comply with MCLE requirements. The Notice was returned by the U.S. Post Office on October 15, 2004 as undeliverable.

8. On August 29, 2005, the State Bar sent a letter to Respondent, which was properly mailed but which was returned by the U.S. Post Office on or about September 20, 2005 as undeliverable.

9. On October 12, 2005, a State Bar Deputy Trial Counsel Charles Calix called Respondent at his State Bar membership records telephone number. The person who received the telephone call identified himself as Respondent's father, Leslie George Alberts, and stated that Respondent had not resided at that address or used that telephone number in approximately ten months and that he did not know how to contact Respondent.

II. Legal Conclusions

10. By failing to appear on behalf of Slatik at the OSC on September 21, 2004, and failing to take any action to modify Slatik's spousal support and child support obligations, Respondent failed to perform legal services with competence in violation of Rule 3-110 of the California Rules of Professional Conduct.

11. By failing to inform Slatic that Respondent did not appear at the OSC and had not taken any action to modify Slatic's spousal support and child-support obligations, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of Section 6068(m) of the Business and Professions Code.

12. By failing to respond to the 10 to 12 messages left on Respondent's office telephone number from September to December 2004, Respondent failed to respond promptly to reasonable status inquiries of a client in violation of Section 6068(m) of the Business and Professions Code.

13. By not refunding the \$625 to Slatic, Respondent failed to refund unearned fees in violation of Rule 3-700(D)(2) of the California Rules of Professional Conduct.

14. By failing to maintain a mailing address and telephone number at which he can be contacted, Respondent failed to comply with section 6002.1, which requires the member to maintain his current office address and telephone number with official membership records of the State Bar in violation of Business and Professions Code section 6068(j).

III. Supporting Authority

15. Standard 2.4(b) states "Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client."

16. Standard 2.10 states "Culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or of a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

17. Standard 1.6(b) states "The appropriate sanction shall be the sanction imposed unless: ... (ii) Mitigating circumstances are found to surround the particular act of misconduct found or acknowledged and the net effect of those mitigating circumstances, by themselves and in balance with any aggravating circumstances found, demonstrates that the purposes of imposing sanctions set forth in standard 1.3 will be properly fulfilled if a lesser degree of sanction is imposed. In that case, a lesser degree of sanction than the appropriate sanction shall be imposed or recommended."

IV. Dismissals

18. The parties respectfully request that the Court dismiss the following alleged violation in the interest of justice:

19. Count five, Failure to Cooperate in State Bar investigation in violation of Business and Professions Code section 6068(i).

V. Mitigation

20. Once Respondent was notified of the charges against him in State Bar Court, he was very cooperative in coming to a stipulation. Respondent also demonstrated genuine remorse and an interest in making amends to the client.

VI. Miscellaneous

21. Respondent is currently serving in the United States Army and is stationed in Hawaii. Respondent is scheduled to receive training at the United States National Training Center at Fort Irwin from April 19, 2006 to June 3, 2006. Respondent is then scheduled to be deployed to the Middle East for 13 months on or around August 1, 2006.

22. As respondent is not currently practicing law and will not be practicing law during his period of reproof, and as he will be overseas for most of his reproof period, the Office of the Chief Trial Counsel is not requiring that respondent comply with the following conditions under section "E. Conditions Attached to Reproof" of this stipulation: (4), (6), (8), and (10).

(Do not write above this line.)

In the Matter of LESLIE MICHAEL ALBERTS Member #: 194907	Case number(s): 05-O-03823
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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.

12 April 06 *Leslie M. Alberts* LESLIE M. ALBERTS
Date Respondent's signature Print name

Date Respondent's Counsel's signature Print name

April 19, 2006 *Christine Souhrada* CHRISTINE SOUHRADA
Date Deputy Trial Counsel's signature Print name

(Do not write above this line.)

In the Matter of LESLIE MICHAEL ALBERTS Member #194907	Case number(s): 05-O-03823-RAP
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- 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 135(b), Rules of Procedure.) Otherwise, the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

04-27-06
Date


RICHARD A. PLATEL
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on April 28, 2006, 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:

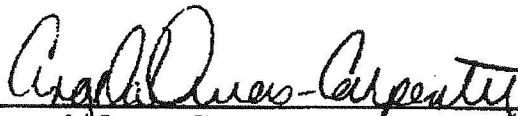
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**LESLIE M ALBERTS
HHC 3rd IBCT #132
SCHOFIELD BARRACKS HI 96857**

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

CHRISTINE SOUHRADA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 28, 2006.


Angela Owens-Carpenter
Angela Owens-Carpenter
Case Administrator
State Bar Court



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST September 26, 2017

State Bar Court, State Bar of California,
Los Angeles

By Elizabeth Amey
Clerk

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 20, 2017, 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:

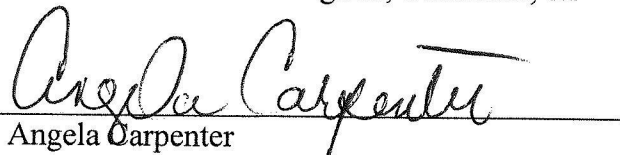
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

L. MICHAEL ALBERTS
1800 LANILOA PL APT A
WAHIAWA, HI 96786 - 5954

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

Abraham M. Bagheri, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 20, 2017.


Angela Carpenter
Case Administrator
State Bar Court