


PUBLIC MATTER

ORIGINAL

~~CONFIDENTIAL~~

(Do not write above this line.)

State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES		
<p>Counsel for the State Bar OFFICE OF THE CHIEF TRIAL COUNSEL - ENFORCEMENT CHARLES A. MURRAY 1149 South Hill Street, 9th Floor Los Angeles, CA 90015-2299 Telephone: (213) 765-1000</p> <p>Bar # 146069</p>	<p>Case Number(s)</p> <p>01-O-03875; 02-O-10041; 02-O-11391; 02-O-14046; 02-O-14789; 03-O-01702;</p> <p>04-C-14577</p> <p> 035 119 081</p>	<p>(for Court use)</p> <p>LODGED</p> <p>JUN 12 2006</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>FILED</p> <p>NOV 27 2007</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p><input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per</p> <p>David Alan Clare 4675 MacArthur Ct., #1250 Newport Beach, California 92660 Telephone: (949) 417-5640</p> <p>Bar # 44971</p>	<p>Submitted to Program Judge</p> <p>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of DAVID M. CORDREY</p> <p>Bar # 136671 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:

- Respondent is a member of the State Bar of California, admitted December 7, 1988 (date)
- The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 14 pages.
- A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."

(Do not write above this line.)

- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§ 6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [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 Action violations _____
- (d) ☐ Degree of prior discipline _____
- (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline" (above)
- (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 the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

(Do not write above this line.)

C. Mitigating Circumstances [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 to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☒ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat of 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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs 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:

ATTACHMENT TO
ADP STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: DAVID M. CORDREY #136671

CASE NUMBER(S): 01-O-03875; 02-O-11391; 02-O-14046; 02-O-10041;
 02-O-14789 03-O-01702; and 04-C-14577

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was October 28, 2005.

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he/she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 01-O-03875 (Gus Miller)

FACTS

On September 28, 2000, Gus Miller ("Miller") employed Respondent to represent him as plaintiff in a lawsuit for breach of contract and fraud. Miller paid Respondent \$3,000 as a minimum fee and agreed orally to an additional contingency fee of 30% of any recovery.

Respondent conferred with Miller in October 2000 and prepared a partial draft of a complaint. Miller responded with his comments. Respondent revised the complaint but it was not filed.

On March 31, 2001, Miller faxed Respondent a request for a copy of the complaint. Respondent did not respond to the request or inform Miller that the complaint had not been completed or filed.

In late April, 2001, Miller called Respondent. Respondent advised Miller that no lawsuit had been filed. Miller requested his file. Respondent did not keep an appointment with Miller on April 29, 2005.

On April 30 and May 1, 2001, Miller went to Respondent's office to get his file. Miller did not have an appointment and Respondent was not present. Miller left his request for his file with the receptionist. On May 2, 2001, Miller telephoned Respondent's office and was told that Respondent was aware of his request. Miller again requested Respondent contact him. Respondent did not contact Miller, return his file, or return the \$3000 in fees Miller had requested.

CONCLUSIONS OF LAW

By failing to prepare and file the lawsuit for Miller, Respondent intentionally, recklessly, or repeatedly failed to perform legal services competently in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to return the \$3000 fee he had not fully earned, Respondent wilfully violated rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 02-O-11391 (Bruce Miller)

FACTS

In May 1999, Bruce Miller ("Miller") hired Respondent to represent him as a plaintiff in a lawsuit for, *inter alia*, breaches of contract, breach of partnership, and fraud. On May 21, 1999, Respondent filed a lawsuit on behalf of Miller against eight defendants in Los Angeles County Superior Court in a matter known as case No. BC 210740. (The "Netrust matter".)

The Netrust was ordered to arbitration. After several difficulties in arranging the arbitration that continued until late 2001, the court issued a stay on the lawsuit and closed it administratively. Beginning in late 2001 and through June 2002, Miller made several attempts to contact Respondent to discuss the developments in the Netrust matter and to inquire about the status of this matter. During this time, Respondent did not respond to Miller by telephone, mail, or otherwise, to inform him of the status of this matter or to inform him of significant developments in this matter.

In September 2000, Miller employed Respondent to represent him as plaintiff in a lawsuit against a roofing company and others for personal property damages Miller claimed he sustained when a fire broke out during roofing work on a building occupied by Miller. On October 10, 2000, Respondent filed a lawsuit on behalf of Miller in Los Angeles County Superior Court case No. SC 063535, against three defendants in one cause of action for negligence. (The "roof fire matter".)

On January 9, 2002, the court dismissed this lawsuit. Beginning in late 2001 and through June 2002, Miller made several attempts to contact Respondent to discuss the developments in the roof fire

matter and to inquire about the status of this matter. During this time, Respondent did not respond to Miller by telephone, mail, or otherwise, to inform him of the status of this matter or to inform him of significant developments in this matter, including the dismissal.

In August 2001, Miller hired Respondent to represent him as a plaintiff in a lawsuit against Alisha Azizi and Pat Kimball for conversion of real property Miller had consigned to them for sale. Respondent prepared a suitable complaint but did not file it or otherwise resolve the matter prior to Miller's termination of him in June 2002. (The "Azizi matter".) Beginning in late 2001 and through June 2002, Miller made several attempts to contact Respondent to discuss the developments in the Azizi matter and to inquire about the status of this matter. During this time, Respondent did not respond to Miller by telephone, mail, or otherwise, to inform him of the status of this matter or to inform him of significant developments in this matter.

CONCLUSIONS OF LAW:

By not responding promptly to Miller's reasonable status inquiries regarding the Netrust matter, the roof fire matter, and the Azizi matter, and by failing to keep Miller reasonably informed of significant developments in those matters, from late 2001 through June 2002, Respondent wilfully violated Business and Professions Code, section 6068(m).

Case No. 02-O-14046 (Nanette Jekel)

FACTS

In June 1998, Nanette Jekel ("Jekel") employed Respondent to represent her as plaintiff in a lawsuit against two defendants for fraud, breach of contract, conversion and other counts. On June 9, 1998, Respondent filed a proper lawsuit in the case and followed that with performing proper and necessary services in the lawsuit.

On March 6, 2000, Respondent obtained an order for entry of the default of the defendants as a sanction for failure to comply with discovery orders. A jury trial had previously been set in the case for

March 8, 2000, but the court clerk erroneously failed to take the trial off calendar after the matter was no longer at-issue.

On March 8, 2000, the case was erroneously called for trial and was then erroneously dismissed due to the clerk's error and Respondent's purported failure to appear for trial. On March 9, 2000, Respondent was served with notice of the dismissal.

After learning of the dismissal, Respondent failed to take any corrective action to set aside the dismissal.

Jekel brought a malpractice claim against Respondent. In July 2003, Respondent settled Jekel's malpractice claim against him, while she was represented by counsel, paid all money pursuant to the settlement, and the settlement was satisfied by February 2, 2004.

CONCLUSIONS OF LAW:

By failing to take any action to correct the clerk's error or vacate the dismissal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services competently in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

Case No. 02-O-10041 (Achiu):

FACTS:

In May 1999, Jimet L. Achiu and her daughter, Ululani Achiu, employed Respondent to represent them in a personal injury action arising from a motor vehicle accident occurring on May 6, 1999. Respondent filed a lawsuit on behalf of these clients on May 8, 2000, and a Status Conference was set for November 6, 2000. Respondent never served the lawsuit on the defendants.

Respondent failed to appear at the Status Conference in this matter on November 6, 2000. The Court issued an Order to Show Cause re Sanctions and Dismissal and set it for hearing on January 11, 2001. The Court served the Order and notice of the hearing on Respondent.

Respondent did not serve the defendants and did not file any documents with the Court requesting additional time or opposing dismissal.

Respondent failed to appear at the January 11, 2001, hearing. The court dismissed the action due to Respondent's failure to prosecute. The Court served notice of the dismissal on Respondent. Thereafter, Respondent failed to take action to correct the situation or otherwise vacate the dismissal.

In February 2000, Jimet L. Achui and Brunsun Achui employed Respondent to represent them in a personal injury action arising from a motor vehicle accident occurring on February 7, 2000, and to represent them to a conclusion of their matter. Respondent failed to do so, resulting in a loss of their rights to pursue their action.

In August 2000, Jimet L. Achui and Eneyda Achui employed Respondent to represent them in a personal injury action arising from a motor vehicle accident occurring on August 4, 2000, and to represent them to a conclusion of their matter. Respondent failed to do so, resulting in a loss of their rights to pursue their action.

As a result of Respondent's failure to represent them as agreed, Jimet Achui, Brunsun Achui, Ululani Achui, and Eneyda Achui (collectively referred to hereafter as "Achui") brought a legal action against Respondent for his failure to perform the legal services he had agreed to perform and the loss of their rights to pursue their claims. On October 20, 2003, a Judgment was entered in favor of Achui and against Respondent as follows:

Jimet Achui	\$ 16,601.50	(May 6, 1999 accident)
Ululani Achui	\$ 8,194.75	(May 6, 1999 accident)
Brunson Achui	\$ 8,039.50	(February 7, 2000 accident)
Jimet Achui	\$ 13,604.75	(August 4, 2000 accident)
Eneyda Achui	\$ 23,599.50	(August 4, 2000 accident)

Respondent has not satisfied this Judgment.

Since the entry of this judgement, Respondent has provided legal services to Jimet Achui, without charge.

CONCLUSIONS OF LAW:

By failing to serve the lawsuit on the defendants, by failing to appear at the Status Conferences, by failing to take any action to inform the Court of the situation prior to dismissal, and by failing to take any action to vacate the dismissal, in the action involving Jimet Achui and Ululani Achui for the May 6, 1999 accident; by failing to provide the agreed upon legal services to represent Jimet Achui and Brunsun Achui in the action involving them for the February 7, 2000 accident; by failing to provide the agreed upon legal services to represent Jimet Achui and Eneyda Achui in the action involving them for the August 4, 2000 accident; the Respondent intentionally, recklessly, or repeatedly failed to perform legal services competently in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

Case No. 02-O-14789 (Chiarelli/Rosenstein)

FACTS:

At various times prior to July 11, 2002, Robert Chiarelli ("Chiarelli") employed Respondent to represent him in three civil litigation matters. On or about July 11, 2002, Chiarelli hired Michael H. Rosenstein ("Rosenstein") as his new attorney in these matters.

Beginning in July 2002, and continuing thereafter into 2003, Rosenstein wrote to Respondent several times requesting Chiarelli's files. A written instruction from Chiarelli authorizing the immediate release of his files to Rosenstein was also delivered to Respondent. Respondent failed to promptly return Chiarelli's files to Rosenstein or to otherwise make them available.

CONCLUSIONS OF LAW:

By failing to release Chiarelli's files to his new counsel as instructed, Respondent failed, upon termination of his services to promptly release to the client his files, in wilful violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

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FACTS:

On or about June 1, 2000, Robert Chiarelli employed Respondent to represent him in a breach of contract matter. Respondent attempted to settle the matter and filed a lawsuit. On April 6, 2001, the court ordered the case to binding arbitration pursuant to a written agreement covering all parties to the lawsuit. On July 25, 2001, the court appointed an arbitrator.

On or about August 1, 2001, Respondent received written notice from the State Bar that he was not in compliance with his Minimum Continuing Legal Education ("MCLE") reporting requirements and that if he did not comply he would be enrolled as an inactive member effective September 1, 2001. Respondent did not comply and was enrolled inactive as of September 1, 2001.

On September 25, 2001, Respondent met with Chiarelli in Respondent's office to discuss the case and an upcoming deposition of a defendant ("Joplin") set by Respondent and scheduled for the next day, and otherwise held himself as being entitled to practice law.

On September 26, 2001, Respondent conducted the deposition of Joplin and otherwise held himself as being entitled to practice law.

On October 10, 2001, Respondent attended the deposition of his client Chiarelli as Chiarelli's attorney and gave his client legal advice, made legal objections and argument with the deposing attorney, waived cross-examination of his client and otherwise held himself as being entitled to practice law.

On October 13, 2001, Respondent met with Chiarelli in Respondent's office to discuss the case and the pending arbitration hearing set for December 3, 2001, and otherwise held himself as being entitled to practice law.

On October 17, 2001, the State Bar received proof of Respondent's compliance with his MCLE requirements and he was enrolled back as an active member that day.

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CONCLUSIONS OF LAW:

By his participation in the depositions of September 26 and October 10, 2001; and by conferring on legal matters related to the case with his client on September 25 and October 13, 2001; Respondent held himself as an attorney entitled to practice law, and actually practiced law, when he was not a member entitled to practice law, in wilful violation of sections 6125 and 6126 fo the Business and Professions Code, and in wilful violation of Business and Professions Code section 6068(a).

Case No. 04-C-14577 (DUI conviction):

FACTS:

On January 9, 2002, Respondent was convicted of a misdemeanor violation of Vehicle Code section 23152(b) - driving with a blood alcohol level of .08% or more (drunk driving). This conviction resulted from an arrest on September 13, 2001. Imposition of sentencing was stayed and Respondent was placed on informal probation for three years on terms that included that he not drive with any measurable amount of alcohol in his blood and that he violate no law.

On September 7, 2003, police stopped Respondent for driving after dark without having his headlights on. Police observed objective symptoms that Respondent was under the influence of alcohol and arrested him. A blood alcohol breath test was administered and indicated a blood alcohol level of .26%. Respondent was charged with violating Vehicle Code sections 23152(a) and (b), both misdemeanor drunk driving offenses, enhanced by his January 2002 prior drunk driving conviction.

On November 25, 2003, Respondent pled nolo contendere to a misdemeanor violation of section 23152(b) - a driving with a blood alcohol level of .08% or more (drunk driving)- and was convicted of same. The court stayed imposition of sentencing and placed Respondent on five years informal probation and ordered conditions of probation appropriate for a high blood alcohol, second time drunk driving offender. This incident was a violation of his probation for his January 2002 drunk driving conviction.

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CONCLUSIONS OF LAW:

The facts and circumstances surrounding Respondent's conviction for violation of Vehicle Code section 23152(b), driving a vehicle with a blood alcohol level of .08% or more [to wit: .26%], do not involve moral turpitude but do involve other misconduct warranting discipline.

RESTITUTION

The principal amount of \$3000 to Gus Miller w/interest at 10% per annum from May 1, 2001.

(Do not write above this line.)

In the Matter of DAVID M. CORDREY Bar # 136671	Case number(s): 01-O-03875; 02-O-10041; 02-O-14789; 02-O-11391 03-O-01702; 04- 0 14577 02-O-14046;
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SIGNATURE OF THE PARTIES

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

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

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


If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

Date 11/4/05


Respondent's signature

DAVID M. CORDREY
Print name

Date 11-4-05


Respondent's Counsel's signature

DAVID A. CLARE
Print name

Date 11-4-05


Deputy Trial Counsel's signature

CHARLES A. MURRAY
Print name

(Do not write above this line.)

In the Matter of DAVID M. CORDREY Bar #136671	Case number(s): 01-O-03875; 02-O-11391; 02-O-14046; 02-O-10041; 02-O-14789; 03-O-01702; 04-C-14577
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ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ The stipulation as to facts and conclusions of law is APPROVED.
- ☒ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- ☐ All Hearing dates are vacated.

1. On page 4 of the Stipulation, Case No. 01-O-03875, the fourth paragraph under the heading "Facts," the date "April 29, 2005" should be changed to "April 29, 2001."

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(d), Rules of Procedure.)

6/12/06
Date

R. Honn
RICHARD A. HONN
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 July 3, 2006, I deposited a true copy of the following document(s):

CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS;

STIPULATION RE FACTS AND CONCLUSIONS OF LAW; and,

CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S ALTERNATIVE DISCIPLINE PROGRAM

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

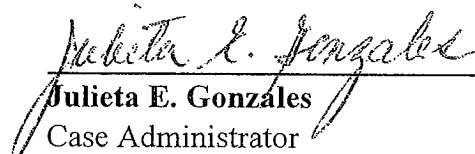
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**DAVID A CLARE ESQ
4675 MACARTHUR CT #1250
NEWPORT BEACH, CA 92660**

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

Charles A. Murray, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **July 3, 2006**.



Julieta E. Gonzales
Case Administrator
State Bar Court