ORIGINAL

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State Bar Court of California

Hearing Department ☒ Los Angeles ☐ San Francisco

Counsel for the State Bar Jean Cha, Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1157 Bar # 228137	Case number(s) 05-H-00463-RAH PUBLIC MATTER kwiktag® 022 605 567	(for Court's use) FILED NOV 01 2005 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
☐ Counsel for Respondent ☒ In Pro Per, Respondent MARY ANNE DEN BOK 8033 Sunset Blvd., #403 Los Angeles, CA 90046 Bar # 129489	Submitted to ☐ assigned judge ☒ settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of MARY ANNE DEN BOK Bar # 129489 A Member of the State Bar of California (Respondent)	REPROVAL ☐ PRIVATE ☒ PUBLIC ☐ PREVIOUS STIPULATION REJECTED	

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

A. Parties' Acknowledgments:

(1) Respondent is a member of the State Bar of California, admitted July 20, 1987 (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.

(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 reproval)

(b) ☐ case ineligible for costs (private reproval)

(c) ☒ costs to be paid in equal amounts for the following membership years: 2007, 2008, 2009 and 2010

(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 reproval 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 inquires and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproval 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 reproval 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 reproval 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 include 02-O-12693, 02-O-13280, 02-O-14083, 02-O-15362, 03-O-02176, 03-O-05103, 04-O-10170, and 04-O-10466

(b) ☒ Date prior discipline effective August 10, 2004

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: 4-100(A)

(d) ☒ Degree of prior discipline private reproval

(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.

(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.

Additional mitigating circumstances:

(Do not write above this line.)

D. Discipline:

(1) ☐ Private reproval (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 reproval (check applicable conditions, if any, below)

E. Conditions Attached to Reproval:

(1) ☒ Respondent must comply with the conditions attached to the reproval for a period of 2 years

(2) ☒ During the condition period attached to the reproval, 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 reproval. 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 reproval 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.

(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 reproval.

(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 F. Other Conditions Negotiated by the parties.

(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 reproval.

☒ No MPRE ordered. Reason: "not required in this case for the protection of the public or the interests of the Respondent." (See In the Matter of Respondent G (Review Dept. 1992) Cal. State Bar Ct. Rptr. 181.)

(11) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☐ Financial Conditions

F. Other Conditions Negotiated by the Parties:

(1) Proof of Ethics School passage was due by August 9, 2005, according to the private reproval order which commenced on August 10, 2004. However, the parties have agreed to extend the period deadline for completion of Ethics School from August 9, 2005 to January 16, 2006. Specifically, Respondent must attend State Bar Ethics School and provide to the Office of Probation satisfactory proof of attendance of that Ethics School and passage of the test given at the end of that session as an extension to the previously missed deadline as it pertains to Respondent's past private reproval which expired on August 9, 2005. Should Respondent fail to comply by January 16, 2006, Respondent will be in violation of rule 1-110 of the Rules of Professional Conduct.

(2) 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 Client Trust Accounting School and passage of the test given at the end of that session.

(3) Respondent must complete six (6) hours of general Continuing Legal Education (CLE) credit in addition to her preexisting obligation of the Minimum Continuing Legal Education (MCLE) requirement. Respondent must provide proof of said CLE credit to the Office of Probation before the end of the two-year reproval period.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Mary Anne den Bok

CASE NUMBER: 05-H-00463-RAH

STATEMENT OF THE FACTS AND CONCLUSIONS OF LAW

One Count—1-110

On June 22, 2004, Respondent entered into a stipulation with the State Bar in case numbers 02-O-12693, 02-O-13280, 02-O-14083, 02-O-15362, 03-O-02176, 03-O-05103, 04-O-10170, and 04-O-10466. Respondent used her CTA solely for personal use from in or about September 2001 through in or about January 2004. Respondent commingled personal funds in a client trust account in violation of rule 4-100(A) of the Rules of Professional Conduct. Respondent received a private reproval for the aforementioned misconduct.

On July 20, 2004, the Hearing Department of the State Bar Court filed an order approving the stipulation with minor modifications and imposing the reproval with conditions set forth in the stipulation (reproval order). Respondent was ordered to comply with the conditions attached to the reproval for a period of one year; to comply with the State Bar Act and the Rules of Professional Conduct during the condition period attached to the reproval; and to submit to the Probation Unit written quarterly reports (report) each January 10, April 10, July 10, and October 10 of the condition period attached to the reproval, certifying under penalty of perjury whether she had complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reproval during the preceding calendar quarter, and to file a final report no earlier than twenty days prior to the last day of the condition period and no later than the last day of the condition period. Respondent has not conformed with any of the conditions set out in the reproval order.

The reproval order became effective on August 10, 2004.

On July 23, 2004, Probation Deputy Shuntinee Brinson (Brinson) of the Office of Probation of the State Bar of California wrote a letter to Respondent in which she reminded Respondent of the terms and conditions of her reproval imposed pursuant to the reproval order. The letter addressed Respondent's obligation to file quarterly reports, with the first due date of October 10,

2004. Enclosed, among other things, were copies of the relevant portion of the stipulation setting forth the conditions of Respondent's reproval, a Quarterly Report Instructions sheet, and a Quarterly Report form to use in submitting her required quarterly reports.

As of the date of the Notice of Disciplinary Charges (NDC), Respondent had failed to file any reports with the Office of Probation.

By failing to timely file quarterly reports that were due on October 10, 2004, January 10, 2005, and April 10, 2005, Respondent failed to comply with the terms and conditions of the July 20, 2004 reproval order in wilful violation of rule 1-110 of the Rules of Professional Conduct.

On June 16, 2005, Respondent filed three quarterly reports for October 10, 2004, January 10, 2005, and April 10, 2005 with the Office of Probation with errors. On July 11, 2005, Respondent submitted corrected quarterly reports with the Office of Probation.

RESPONDENT'S SEPARATE CONTENTIONS

The Office of the Chief Trial Counsel of the State Bar of California does not stipulate to the factual accuracy of the information contained in the Respondent's Separate Contentions section of the stipulation nor does it stipulate that the following information is recognized as mitigation under the Standards for Attorney Sanctions for Professional Misconduct and case law.

1. Respondent contends that she was not engaged in the practice of law and did not maintain an office or office staff at the time of her failure to timely file quarterly reports.

2. Respondent contends that she made multiple attempts to obtain replacement forms from the State Bar after she misplaced the quarterly reports form initially provided to her.

3. Respondent contends that she suffers from health problems which substantially and adversely affected her ability to comply and to provide timely quarterly reports.

4. Respondent contends that she suffered from severe depression as a result of the death of her son's father on June 10, 2004, which substantially and adversely affected her ability to comply and to provide timely quarterly reports.

5. Respondent contends that she did not commit any violation in the underlying matter, and that she was persuaded to sign the stipulation therein, at the urging of State Bar counsel. [By facsimile], on the date of her son's father's death, under extreme emotional distress.

6. Respondent contends that she suffers from health problems which have substantially and

adversely affected her ability to participate in these proceedings and that she has made multiple requests for a continuance in these proceedings, all of which have been refused by the State Bar.

AGGRAVATING CIRCUMSTANCES

Prior Record of Discipline

August 10, 2004—Private Reproval—One Year

On July 20, 2004, Respondent received a private reproval, with the reproval conditions of quarterly reports, one year of probation, and a State Bar Ethics school requirement. See description, *supra.*[1]

Multiple Acts of Wrongdoing

Standard 1.2(b)(ii) states that multiple acts of wrongdoing shall be considered aggravating circumstances. A failure to file two quarterly reports and provide proof of timely completion of six hours of continuing legal education was considered three separate acts of wrongdoing, and applied standard 1.2(b)(ii).[2] Respondent took no steps to attempt compliance until June of 2005.

The case law implies that a failure to file corrected reports may be an aggravating factor.[3] While recognizing that a misinterpretation of reproval conditions may preclude a finding of bad faith aggravation, "evidence that Respondent had notice of the probation department's interpretation is both relevant and admissible."[4]

Here, Respondent's failure to file three quarterly reports is an aggravating circumstance. And each standing alone is a single violation. "[W]hen an attorney commits multiple violations of the same probation condition, the gravity of each successive violation increases."[5]

In the present case, any alleged defense that Respondent misunderstood the reporting requirements is contradicted by the Respondent's stipulation. In addition, the letter to Respondent prior to the first deadline preclude a finding of misinterpretation or confusion. Each missed deadline represented an additional violation of rule 1-110. Respondent had ample time

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[1] Also see executed stipulation enclosed herein.

[2] *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 702.

[3] *In the Matter of Carr* (1992) 2 Cal. State Bar Ct. Rptr. 244, 254.

[4] *Id.* at 256.

[5] *In the Matter of Tiernan* (1996) 3 Cal. State Bar Ct. Rptr. 523.

between each deadline to inquire about the reporting requirements. Consequently, the passage of multiple deadlines are aggravating factors of great weight for the purpose of discipline.

AUTHORITIES SUPPORTING DISCIPLINE

Standards for Attorney Sanctions for Professional Misconduct, Title IV of the Rules of Procedure of the State Bar of California ("Standard")

Standard 1.3 states that the purposes of sanctions are the protection of the public, the courts and the legal profession, the maintenance of high professional standards by attorneys, and the preservation of public confidence in the legal profession.

Standard 1.7(a) states that the degree of discipline shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

Standard 2.9 states that a wilful violation of rule 1-110 of the Rules of Professional Conduct, shall result in suspension.

Standard 2.10 states that a member's culpability for 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 reproval or suspension according to the gravity of the offense or the harm, if any, to the victim with due regards to the purposes of imposing discipline set forth in standard 1.3.

The Supreme Court gives the Standards "great weight," and will reject a recommendation consistent with the Standards only where the Court entertains "grave doubts" as to its propriety.[6]

Case Law

Under rule 6077 of the Rules of Professional Conduct, wilful breach of conditions of private reproval can lead to public or private reproval or suspension up to three years. The "quarterly probation reporting is an important step towards an attorney probationer's rehabilitation because it requires the attorney, four times a year, to review and reflect upon [her] professional conduct in light of the minimum professional standards that are set forth... [and] it requires the attorney to review [her] conduct to ensure that [s]he complies with all of the conditions of [her] disciplinary probation."[7]

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[6] *In re Naney* (1990) 51 Cal.3d 186, 190.

[7] *In the Matter of Wiener* (1997) 3 Cal. State Bar Ct. Rptr. 759, 763.

Respondent failed to comply with the condition of her reproval order.

Whether Respondent acted in wilful breach of conditions of private reproval is demonstrated when Respondent acts or omits to act purposely. "[T]hat [s]he knew what [s]he was doing or not doing and that [s]he intended either to commit the act or to abstain from committing it."[8] This standard applies in reproval violation matters as in other matters.[9]

Wilfulness is presumed in the absence of evidence of an inability to perform wilfully. In *Conroy v. State Bar*, *supra*, 51 Cal.3d 799, the Court upheld a finding that an attorney had wilfully violated a probationary condition attached to a reproval where the attorney made no showing of an inability to comply.[10]

Respondent's act or omission to act was wilful. Gross carelessness in failing to ascertain the correct due date and to properly calendar the matter for timely compliance supports a culpability finding. (See *In the Matter of Broderick*, *supra*, 3 Cal. State Bar Ct. Rptr. 138, 149 (an attorney heedless of his quarterly reporting obligation who takes no steps to ascertain what is required acts with gross carelessness in failing to file a quarterly report, and thereby violates, inter alia, Business and Professions Code section 6103).)

In the present case, Respondent's failure to abide by the reporting requirements and failure to take any steps to redress or explain her lapse until after the hearing department's involvement precludes a finding of mitigation. In addition, any claims of confusion, misunderstanding, or error are barred due to the clarity of the reproval condition and the failure by Respondent to take any steps to request clarifying information.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph A. (7), was July 22, 2005, again, on August 31, 2005 and for a third time on October 11, 2005.

[8] *Zitny v. State Bar* (1966) 64 Cal.2d 787, 792.

[9] See *Conroy v. State Bar* (1990) 51 Cal.3d 799, 804 (applying the standard to a violation of Former Rule of Professional Conduct 9-101).

[10] *Conroy v. State Bar*, *supra*, 51 Cal.3d 799, 803-804.

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In the Matter of	Case number(s):
MARY ANNE DEN BOK	05-H-00463-RAH

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.

10-28-05		MARY ANNE DEN BOK
Date	Respondent's signature	Print name
Date	Respondent's Counsel's signature	Print name
10/28/05		JEAN CHA
Date	Deputy Trial Counsel's signature	Print name

(Do not write above this line.)

In the Matter of	Case number(s):
MARY ANNE DEN BOK	05-H-00463-RAH

ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- [x] 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 futher 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 reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

10/31/05
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 November 1, 2005, 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:

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

MARY ANNE DEN BOK ATTORNEY AT LAW
8033 SUNSET BLVD #403
LOS ANGELES, CA 90046

[X] 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 **November 1, 2005**.

Julieta E. Gonzales

Julieta E. Gonzales
Case Administrator
State Bar Court