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**State Bar Court of California
Hearing Department
San Francisco**

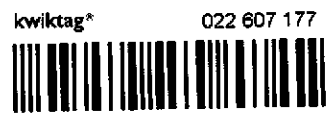
<p>Counsel For The State Bar</p> <p>Sherrie B. McLetchie Deputy Trial Counsel 180 Howard Street San Francisco CA 94105 (415) 538-2297</p> <p>Bar # 85447</p>	<p>Case Number (s) 05-O-4749-PEM</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>[Signature]</i></p> <p>FEB 22 2007</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Arturo Hernandez-Melendez 15 S. 34th Street San Jose CA 95116 (408) 729-5785</p> <p>Bar # 108980</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: George Bumanglag</p> <p>Bar # 56646</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 19, 1973.
- (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 12 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".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)
Actual Suspension



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- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
- costs to be paid in equal amounts prior to February 1 for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) Prior record of discipline [see standard 1.2(f)] See "Facts Supporting Aggravating Circumstances, Prior Discipline," pp. 8-9.
- (a) State Bar Court case # of prior case
- (b) Date prior discipline effective
- (c) Rules of Professional Conduct/ State Bar Act violations:
- (d) Degree of prior discipline
- (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (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:

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

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

Additional mitigating circumstances

D. Discipline:

- (1) **Stayed Suspension:**

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

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(a) Respondent must be suspended from the practice of law for a period of one year.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

(b) The above-referenced suspension is stayed.(2) Probation:

Respondent must be placed on probation for a period of _____, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 953, Calif. Rules of Ct.)

(3) Actual Suspension:

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of six months.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

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- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and

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Actual Suspension

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perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:

(5) **Other Conditions:**

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

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ATTACHMENT TOSTIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: George Burnanglag

CASE NUMBER(S): 05-O-4749-PEM

FACTS AND CONCLUSIONS OF LAW.Facts:

1. In 1982 respondent represented Clarence Ray Allen ("Allen") at trial in July 1982 in his death-penalty eligible case. When he agreed to represent Allen, respondent had never represented any criminal defendant at trial beyond the penalty phase.
2. On August 22, 1982, the jury found Allen guilty as charged of a triple murder and conspiracy to murder seven people.
3. The penalty phase of Allen's trial began eight days after the guilty verdict was handed down. Respondent represented Allen during the penalty phase of the trial.
4. Respondent did not move for a continuance of the penalty phase in order to conduct further investigation or further prepare for the penalty phase of Allen's trial.
5. Allen presented respondent with a list of 26 potential witnesses. Allen's probation reports also listed potential witnesses. Respondent and his investigator, who also was not experienced in handling capital cases, spoke with no more than nine witnesses. Of the potential witnesses respondent contacted, many were unwilling to testify. Respondent did not explain to potential witnesses the importance of mitigation testimony in the penalty phase of a death penalty trial.
6. Respondent presented only one witness during the penalty phase of the trial, although many family members, friends, and former associates would have testified as mitigation witnesses if respondent had asked them or, in some cases, if respondent had explained the importance of their testimony.
7. At no time did respondent associate or professionally consult another lawyer who respondent reasonably believed was experienced in presenting penalty phase evidence where the defendant was facing a possible death sentence.
8. Allen received a death sentence.
9. On May 6, 2004, the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") issued an opinion on Allen's petition for writ of habeas corpus in which it found respondent's preparation for the penalty phase to be "constitutionally deficient." On January 24, 2005, the Ninth Circuit amended its opinion. A true and correct copy of the amended opinion is attached hereto as Attachment 1 and incorporated herewith.
10. On January 17, 2006, Allen was executed.

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 G. Burnanglag
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Conclusion of Law:

By not thoroughly investigating and presenting the penalty phase of Allen's case, including by not moving for a continuance in order to adequately prepare for the penalty phase, respondent wilfully violated former rule 6-101(2), Rules of Professional Conduct.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph A.(7), was January 11, 2007.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 11, 2007, the estimated prosecution costs in this matter are approximately \$2,343.50. Respondent acknowledges that this figure is an estimate only. 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.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES**Prior Discipline**

Standard 1.7(b) of the Standards for Attorney Sanctions for Professional Misconduct ("standard" or "Std.") provides that if respondent has a record of two prior impositions of discipline, the degree of discipline shall be disbarment "unless the most compelling mitigating circumstances clearly predominate."

Respondent has been disciplined on three occasions:

In S018174 (89-O-12490), effective March 16, 1991, the California Supreme Court ordered respondent suspended for six months, that the suspension be stayed, and placed respondent on probation for one year on conditions including thirty days actual suspension based on respondent's misconduct in two matters. In one matter during the period 1983 through 1988, respondent made misrepresentations to his client that there were no statutory time limits for bringing the civil action to trial, and thereafter, allowed the case to be dismissed for failing to bring the matter to trial within the statutory time limits. In the other matter, respondent's misconduct occurred from September 1987 through September 1988, including failing to complete the probate of a decedent's estate, failure to communicate with his client, and failing to promptly return the client's files upon termination.

In S032910 (90-O-15039), effective August 27, 1993, the California Supreme Court ordered respondent suspended for two years, stayed, and placed him on probation for two years on conditions including five months actual suspension based on misconduct in three separate client matters: a civil action against a peace officer, a criminal appeal, and a real property dispute. Among other things, in all three cases respondent in effect abandoned his clients. In the real

property matter respondent again allowed a statute of limitations to expire prior to filing a civil complaint. In addition, respondent failed to cooperate and participate in the State Bar's disciplinary investigation. The stipulated misconduct in the three matters occurred during 1979 through 1982, 1987 through 1991, and 1989 through 1991, respectively.

In S044340 (93-N-19297), effective April 21, 1995, the California Supreme Court ordered respondent suspended for six months, stayed; and placed him on probation for one year, based on: 1) his failure in 1993 to comply with their prior order that he comply with rule 955(c), California Rules of Court, ordered in connection with his five-month suspension; and 2) his unauthorized practice of law in 1994 during a suspension for failure to pay State Bar membership fees and disciplinary costs.

However, respondent's prior incidents of discipline were not true "priors" because the misconduct charged in this case occurred prior to the misconduct found in all but one count of one of the three previous impositions of discipline.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES

Good Faith – Std. 1.2(e)(ii)

Respondent held a good faith belief that his penalty phase representation of Allen was adequate.

Lack of Harm – Std. 1.2(e)(iii)

According to the Court of Appeal opinion,

Even considered cumulatively . . . these errors [committed by the trial court, prosecutor, and defense counsel in both the guilt and penalty proceedings] are not sufficiently prejudicial to overcome the overwhelming evidence, derived from numerous sources, of Allen's guilt, or the uniquely aggravating circumstances surrounding Allen's crimes. *Allen v. Woodford* (as amended January 24, 2005) 395 F.3d 979, 1019.

Cooperation – Std. 1.2(e)(v)

That respondent entered into this stipulation at a relatively early stage of the disciplinary proceeding demonstrates his cooperation with the State Bar and the State Bar Court.

Good Character – Std. 1.2(e)(vi)

At trial respondent's good character would have been attested to by a wide range of references in the legal and general communities.

Remorse/Recognition of Wrongdoing – Std. 1.2(e)(vii)

Respondent has not handled any capital case since the *Allen* matter.

Passage of Considerable Time Since the Acts of Professional Misconduct – Std. 1.2(e)(ix)

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way to the delay of over 24 years since respondent's misconduct.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.4 provides that culpability of a member for wilfully failing to perform services in an individual matter not demonstrating a pattern of misconduct shall result in **reproval or suspension**.

Generally, the Standards articulate a system of progressive discipline. The stipulated discipline here follows that theory of discipline: a six-month actual suspension is greater than respondent's last incident of discipline which included a five-month actual suspension. However, standard 1.7(b) mandates disbarment where there are two prior of incidents of discipline, and respondent has already been disciplined on three occasions.

In *In re Silverton* (2005) 36 Cal.4th 81, 90, the Supreme Court criticized the State Bar Court's departure from the Standards in recommending a 60-day suspension rather than disbarment as not convincingly justified. This is one of the rare cases where because: 1) respondent's prior incidents of discipline are not "true priors;" 2) the misconduct in the *Allen* matter occurred prior to the adoption of the Standards (effective January 1, 1986); and 3) there is extensive mitigation, a six-month actual suspension, coupled with the requirement that respondent comply with rule 955, California Rules of Court, appears adequate to protect the public.

If in the future respondent is found to have committed further misconduct, he cannot reasonably expect to escape disbarment.

RESTRICTIONS WHILE ON ACTUAL SUSPENSION.

1. During the period of actual suspension, respondent shall not:

- a. Render legal consultation or advice to a client;
- b. Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;
- c. Appear as a representative of a client at a deposition or other discovery matter;
- d. Negotiate or transact any matter for or on behalf of a client with third parties;
- e. Receive, disburse, or otherwise handle a client's funds; or
- f. Engage in activities which constitute the practice of law.

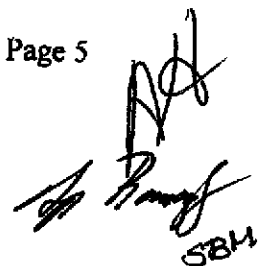
2. Respondent shall declare under penalty of perjury that he or she has complied with this

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provision in any quarterly report required to be filed with the Probation Unit, pertaining to periods in which the respondent was actually suspended from the practice of law.

STATE BAR ETHICS SCHOOL.

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



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In the Matter of George Bumanglag	Case number(s): 05-O-4749-PEM
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SIGNATURE OF THE PARTIES

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

1-29-07
Date


Respondent's Signature

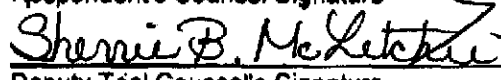
George Bumanglag
Print Name

1-29-07
Date


Respondent's Counsel Signature

Arturo Hernandez-Melendez
Print Name

1-30-07
Date


Deputy Trial Counsel's Signature

Sherrie B. McLetchie
Print Name

(Stipulation form approved by SEC Executive Committee 10/16/00. Revised 12/16/2004.)

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In the Matter Of George Bumanglag	Case Number(s): 05-O-4749-PEM
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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 stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

PAGE 4, D (2) PROBATION (INSERT) PERIOD OF PROBATION OF TWO (2) YEARS.

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.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)

02-21-07
Date


Judge of the State Bar Court

RICHARD A. PLATEL

AD Actual Suspension Order
AP
TOTAL P. 15

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 San Francisco, on February 22, 2007, 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:

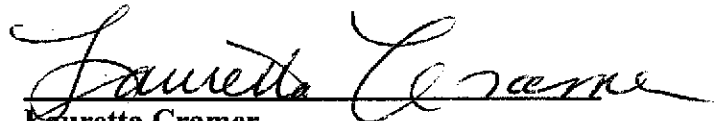
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**ARTURO HERNANDEZ-MELENDEZ
15 S. 34TH STREET
SAN JOSE, CA 95116**

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

SHERRIE McLETCHIE , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **February 22, 2007.**



Laurette Cramer
Case Administrator
State Bar Court