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State Bar Court of California
Hearing Department
Los Angeles

Counsel For The State Bar

Suzan J. Anderson
1149 S. Hill Street
Los Angeles, CA 90015
213-765-1209

Bar # 160559

In Pro Per Respondent

Alan Mark Schnitzer
2750 Bellflower Blvd., #212
Long Beach, CA 90815
562-627-8422

Bar # 129024

In the Matter Of:
Alan Mark Schnitzer

Bar # 129024

A Member of the State Bar of California
(Respondent)

Case Number (s)

05-0-05359
06-0-11532

(for Court's use)

FILED

MRS

MAY 22 2007

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

Submitted to: Assigned Judge

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND
DISPOSITION AND ORDER APPROVING

PUBLIC REPROVAL

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 June 17, 1987 .
- (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 14 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."



- (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 added to membership fee for calendar year following effective date of discipline (public reproof)
 - case ineligible for costs (private reproof)
 - 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)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - 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

(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:

see pages 11-12

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 of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the 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 30 (thirty) 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 the 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 reproof.
- (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.

(Do not write above this line.)

- (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) 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 recommended. Reason:
- (11) The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

In the Matter of
Alan Mark Schnitzer

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06-0-11532

A Member of the State Bar

Law Office Management Conditions

- a. Within _____ days/ _____ months/ _____ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within _____ days/ 6 months/ _____ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than 6 hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for _____ year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ALAN MARK SCHNITZER

CASE NUMBER(S): 05-O-05359, 06-O-11532

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 NUMBER 05-O-05359

COUNT ONE

FACTS

1. On December 20, 2001, Ralph Bogart with Adriatic Insurance (“Bogart”) employed respondent to handle a subrogation file. Respondent was to receive a 25% contingency fee for any funds recovered out of court and a 33.3% contingency fee for any funds recovered through the court. On this date, Bogart sent Respondent the Independent Cab file.

2. On January 1, 2002, Respondent wrote to Bogart confirming receipt of the Independent Cab file and outlined his proposed plan.

3. On January 15, 2002, Bogart sent Respondent the Sandra Jackson file to handle on a subrogation basis. Respondent was to receive a 25% contingency fee for any funds recovered out of court and a 33.3% contingency fee for any funds recovered through the court.

4. On May 20, 2004, Respondent filed a lawsuit in Los Angeles Superior Court in the Independent Cab matter entitled, *Adriatic Insurance Company v. Xiao Mei Lei*, case number 04K06719.

5. On May 24, 2004, the Clerk of the Los Angeles Superior Court sent proper notice to Respondent regarding the scheduling of the Case Management Conference on October 21, 2004 in the Independent Cab matter.

6. On August 28, 2002, Respondent wrote to Bogart, confirming receipt of the Sandra Jackson file and outlining the action he had taken on recovering the funds.

7. On September 17, 2004, Respondent filed a lawsuit in the United States District Court, Central District of California entitled *Adriatic Insurance Company v. W.D. Young and Son*, case number 5:04-cv-01172-SGL in the Sandra Jackson matter.

8. On October 21, 2004, Respondent failed to appear for the Case Management Conference in the Independent Cab matter and the Court dismissed the case on its own motion.

9. On February 9, 2005, the U.S. District Court issued an order to show cause in the Sandra Jackson matter for Respondent to show cause within 14 days why the case should not be dismissed for lack of subject matter jurisdiction.

10. On April 25, 2006, the Court dismissed the Sandra Jackson matter without prejudice because Respondent did not respond to the Court's order to show cause.

CONCLUSIONS OF LAW

By failing to appear at the Case Management Conference in the Independent Cab matter and failing to respond to the Court's order to show cause in the Sandra Jackson matter and having both cases dismissed by the Courts, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

COUNT TWO

FACTS

11. The stipulated facts of paragraphs 1 through 10 are incorporated herein.

12. On July 27, 2005, August 11, 2005 and October 20, 2005, Bogart sent letters to Respondent requesting the status of the Independent Cab matter and the Sandra Jackson matter. Although Respondent received Bogart's letters, he did not respond.

13. At no time did Respondent inform Bogart that the Independent Cab matter and the Sandra Jackson matter had been dismissed by the Courts.

CONCLUSIONS OF LAW

By failing to respond to Bogart's status requests and failing to inform Bogart that the cases had been dismissed, Respondent wilfully violated section 6068(m) of the Business and Professions Code.

CASE NUMBER 06-O-11532

COUNT THREE

FACTS

14. On August 14, 2002, Lori Villegas with Great Western Insurance Company ("Villegas") employed Respondent to handle a subrogation case on behalf of their insured Contreras Trucking.

15. On September 12, 2003, Respondent filed a lawsuit in Orange County Superior Court in the Contreras Trucking matter entitled, *Great West Casualty Company v. Allison Kelly, et al.*, case number 03CL06324.

16. Respondent took no further action on the Contreras Trucking matter.

CONCLUSIONS OF LAW

By failing to take any further action after filing the complaint in the Contreras Trucking matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

COUNT FOUR

FACTS

17. The stipulated facts of paragraphs 14 through 16 are incorporated herein.

18. On November 16, 2004, December 14, 2004, January 11, 2005, February 21, 2005, March 16, 2005 and April 6, 2005, Villegas wrote to Respondent regarding the status of the Contreras Trucking matter. Although Respondent received Villegas's letters, he failed to respond.

CONCLUSIONS OF LAW

By failing to respond to Villegas' requests for status on the Contreras Trucking matter, Respondent wilfully violated section 6068(m) of the Business and Professions Code.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was November 21, 2006.

MITIGATING CIRCUMSTANCES.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent was admitted to the State Bar in 1987 and has no prior record of discipline.

Respondent cooperated fully with the State Bar; discussed all issues at length and is eager to comply with all conditions.

The Respondent represents the following, which is accepted as mitigation for purposes of this Stipulation, only.

In 2004, Respondent had been married for 21 years and had four children. In the last 8 to 10 years, the relationship had become very difficult. Respondent's then wife regularly made reference to getting a divorce and "how (he) would no longer see (his) children". Respondent felt that she made uncomplimentary, derogatory remarks about him in public throughout this time. Respondent started counseling in 1996, but his wife only attended for about six months. In the interim, Respondent sustained another loss: his father died in August 2003. The struggle and distractions of dealing with his marriage meant that he never fully grieved his father's loss. In March, 2004, Respondent filed for dissolution of the marriage. In October 2004, a settlement was reached and Respondent moved out of the family home in November 2004. The dissolution was finalized in December 2004.

The entire process of the dissolution was also disruptive and emotional for Respondent. Even though Respondent's now ex-wife agreed that Respondent could see the children at any time, she would often withhold visitation during 2004 and part of 2005, which was very painful for Respondent as he had been very involved in raising his children. He believed that his ex-wife was making the children more emotional about the situation and more angry with Respondent. During the divorce process, the Respondent found out that she had even spoken to one or more clients in such a manner that he lost between one and three of them.

Respondent also experienced financial difficulties during the time of the dissolution, in late 2004 and early 2005, as he learned his ex-wife had run up credit card bills to very high amounts and he is still attempting to pay off these bills.

At the time of this misconduct Respondent had an assistant who he was not supervising as much as he should have. He found that many things were mislaid and put in the wrong files. Respondent did not see the letters from Bogart and Villegas at the time they were sent due to them being misfiled.

The cumulative effect of the circumstances was a paralysis that affected the Respondent's ability to face the daily burdens and responsibilities of practicing law.

Finally, in or about mid-2005, Respondent and his ex-wife were able to work out the visitation schedule. Although every vacation visit with his children and every weekend pick up and drop off still results in some challenge with his ex wife, Respondent's ability to cope has significantly improved such that he can focus on his practice.

Respondent is now working his way through all the cases in his office, has an assistant that he supervises very closely and has different office management procedures in place so nothing falls through the cracks. Respondent represents that these changes are such that there will not be a repeat of the circumstances that led to his misconduct.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.6(b)(2) states that where there are compelling mitigating circumstances, a lesser degree of sanction than the appropriate sanction shall be imposed or recommended.

Standard 2.4(b) provides that the culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern shall result in reproof or suspension depending on the extent of the misconduct and the degree of harm to the client.

This case involves two matters involving three client matters although they occurred during the same short time period, late 2004 through early 2005, a time period as explained above during which Respondent was under a great deal of stress from sources other than his law practice. This misconduct was aberrational to Respondent's usual conduct within his law practice. As this is the first discipline for Respondent, a public reproof at the low end of the range of discipline suggested by Standard 2.4(b) is appropriate. Accordingly, this public reproof is appropriate under the circumstances.

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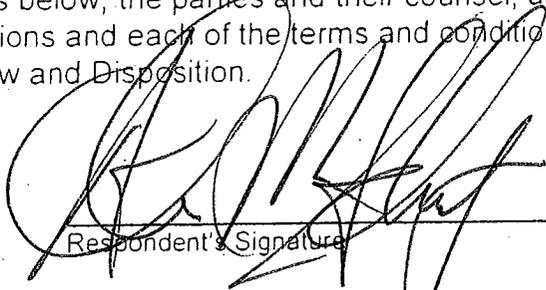
In the Matter of Alan Mark Schnitzer	Case number(s): 05-0-05359 06-0-11532
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SIGNATURE OF THE PARTIES

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.

4-5-07

Date



Respondent's Signature

Alan Mark Schnitzer
Print Name

Date

Respondent's Counsel Signature

Print Name

Date

Deputy Trial Counsel's Signature

Suzan J. Anderson
Print Name

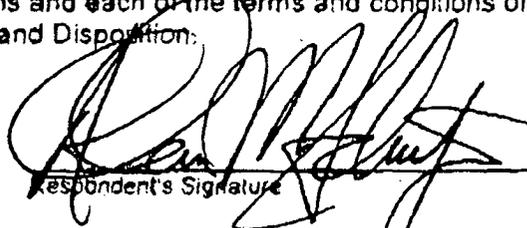
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In the Matter of Alan Mark Schnitzer	Case number(s): 05-0-05359 06-0-11532
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SIGNATURE OF THE PARTIES

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:

3-26-07
Date



Respondent's Signature

Alan Mark Schnitzer
Print Name

Date
3-28-07
Date

Respondent's Counsel Signature

Print Name

Deputy Trial Counsel's Signature

Suzan J. Anderson
Print Name

(Stipulation form approved by SBC Executive Committee 10/18/00. Revised 12/16/2004.)

(Do not write above this line.)

In the Matter Of
Alan Mark Schnitzer

Case Number(s):
05-0-05359
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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:

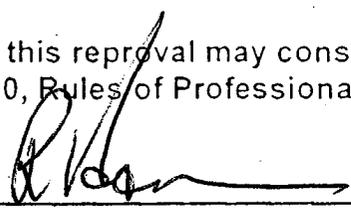
- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

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 125(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.

Date

5/17/07


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 May 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 Los Angeles, California, addressed as follows:

**ALAN M. SCHNITZER
LAW OFC ALAN M SCHNITZER
2750 BELLFLOWER BLVD #212
LONG BEACH, CA 90815**

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

Suzan J. Anderson, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 22, 2007**.



Milagro del R. Salmeron
Case Administrator
State Bar Court