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State Bar Court of California
Hearing Department
Los Angeles

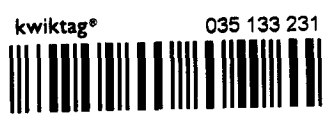
PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Brandon K. Tady Office of the Chief Trial Counsel 1149 South Hil Street Los Angeles, California 90015-2299 (213) 765-1385</p> <p>Bar # 83045</p>	<p>Case Number (s) 06-O-11685</p>	<p>(for Court's use)</p> <p style="font-size: 1.5em; font-weight: bold; text-align: center;">FILED</p> <p style="text-align: center;">DEC 17 2008</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Philip A. Segal Sutter Plaza, Suite 600 1388 Sutter Street San Francisco, California 94109 (415) 474-1900</p> <p>Bar # 137633</p>	<p>Submitted to: Assigned 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: Bruce Alexander Thabit 1106 2nd Street, Ste. 310 Encinitas, CA 92024 (877) 248-2936</p> <p>Bar # 138864</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 22, 1988.**
- (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.”
- (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)]
- (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. **Respondent's misconduct evidences multiple acts of wrongdoing. In a single client matter, Respondent engaged in the unauthorized practice of law in Nevada and Kentucky. Respondent also aided a person in the unauthorized practice of law in Nevada and Kentucky. Respondent's misconduct does not evidence a pattern of wrongdoing.**
- (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. **Although the present misconduct is serious, Respondent was admitted to practice on December 22, 1988 and he does not have a record of prior State Bar discipline.**
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct. **Respondent's misconduct did not harm his client Ms. Sandra Kruszewski**
- (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:**
 - (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 **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3) **Actual Suspension:**
 - (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **30 days**.
 - 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.
- (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:
 - Substance Abuse Conditions
 - Medical Conditions
 - Law Office Management Conditions
 - 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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, 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 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and 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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Bruce Alexander Thabit

CASE NUMBER(S): 06-O-11685-RAP

FACTS AND CONCLUSIONS OF LAW.

Respondent admits the following facts are true and he is culpable of the violations of the specified statutes.

FACTS

1. Respondent is a member of the State Bar of California. From March 15, 2005 to November 30, 2005, Respondent's official State Bar membership records address was P.O. Box 42722, Las Vegas, Nevada, 89116 ("Las Vegas Address").
2. From March 2005 to the present, Respondent identified himself as the principal attorney working for DogBite, a Professional Corporation ("DogBite") located at the Las Vegas Address. DogBite also operated a website that advertised on the Internet and offered to provide legal representation to persons who were victims of dog bites. DogBite's website advertised in states outside of California including the states of Nevada and Kentucky.
3. Respondent is not and has never been an attorney licensed to practice in the state of Nevada.
4. In March and April, 2005, only a person admitted to the Nevada Bar was entitled to practice law and represent clients in Nevada. Under Nevada law, a person who represented clients in Nevada and who was not a member of the Nevada Bar would be engaged in the unauthorized practice of law.
5. Respondent is not and has never been an attorney licensed to practice law in Kentucky.
6. In March and April, 2005, Kentucky Supreme Court Rule 189 provided that only a person admitted to the Kentucky Bar was entitled to practice law and to represent clients in Kentucky. Under Kentucky law, a person who represented clients in Kentucky and who was not a member of the Kentucky Bar would be engaged in the unauthorized practice of law.

7. From March 2005 to May, 2005, Jack Thompson ("Thompson") wrote, signed and mailed at least one letter on behalf of DogBite. In this letter, Thompson represented that he was writing on behalf of DogBite. Thompson is not an attorney and he has never been licensed to practice law in California, Nevada, or Kentucky.

8. In March, 2005, Sandra Kruszewski ("Kruszewski"), a Lexington, Kentucky resident, learned of Respondent through Dogbite's website advertisement.

9. In March, 2005, Kruszewski orally agreed to hire Respondent to represent her in a claim for damages against Henry and Anna Finley ("Finley") for damages allegedly sustained when the Finley's dog attacked and killed her dog and injured her minor child. The alleged dog attack occurred in Lexington, Kentucky.

10. On March 28, 2005, Respondent wrote, signed, and mailed a letter to Henry Finley on Dog Bite's letterhead with the Las Vegas Address. In that letter, Respondent wrote that he represented Kruszewski as her attorney concerning a dog bite injury that occurred at or near the Finley's property in Lexington, Kentucky.

11. On April 6, 2005, Finley wrote to Respondent and told him that he and Anna Finley were represented by attorney Carolyn Carroway ("Carroway) concerning Kruszewski's dog bite claim and that Respondent should communicate with her. Attorney Carroway is an attorney licensed to practice in Kentucky.

12. On April 14, 2005, Thompson wrote, signed and mailed a letter to Finley on DogBite's letterhead with the Las Vegas address. In that letter, Thompson wrote that DogBite would continue to communicate directly with Finley, rather than with Carroway, because the Finleys were not represented by counsel until DogBite received a letter of representation from Carroway. Thompson also wrote: "Your failure to cooperate in reporting the claim is now causing you to be sued. We are now coming for the family home."

13. On April 21, 2005, Carroway wrote, signed, and mailed a letter to Respondent and Thompson concerning Kruszewski's claim against Finley. In that letter, Carroway asked Respondent to provide her with documents showing that Respondent was authorized to practice law in Kentucky.

14. On April 22, 2005, Respondent wrote, signed, and, mailed a letter to Carroway stating that DogBite, Respondent, and Dogbite's associates in the Lexington, Kentucky area were not representing Kruszewski. Ms. Kruszewski did not return to Respondent a signed fee agreement.

15. On May 12, 2005, Carroway filed a complaint with the State Bar of Nevada on behalf of the Finleys against Respondent and Thompson.

16. On October 21, 2005, the State Bar of Nevada ordered that Respondent be disciplined. The State Bar of Nevada found that Respondent engaged in professional misconduct by misleading the public that Respondent was licensed to practice law in Nevada when his licensure was limited to California, that Respondent had engaged in the unlicensed practice of law in Nevada by routinely engaging in pre-litigation conduct including writing the letter of representation on behalf of Kruszewski, and that Respondent had aided and abetted the unlicensed practice of law by Thompson.

17. Upon his receiving notice from the Nevada State Bar that attorney Carroway filed a Nevada state bar complaint against him, Respondent corrected his law office letterhead to show that he is licensed to practice law only in the State of California and he terminated Jack Thompson's services.

CONCLUSIONS OF LAW

18. By representing Kruszewski in her dog bite claim against the Finleys, Respondent wilfully engaged in the unauthorized practice of law in another jurisdiction, Kentucky, in violation of California Rules of Professional Conduct, rule 1-300 (B).

19. By representing Kruszewski in her dog bite claim against the Finleys, Respondent wilfully engaged in the unauthorized practice of law in another jurisdiction, Nevada, in violation of California Rules of Professional Conduct, rule 1-300 (B).

20. By allowing Thompson to write, sign, and mail at least one letter on behalf of DogBite where Thompson gave a legal opinion about whether the Finleys were represented by Carroway and by threatening to file a lawsuit that would seek to take the Finley's home, Respondent aided a person in the unauthorized practice of law in both Nevada and Kentucky in wilful violation of California Rules of Professional Conduct, rule 1-300 (A).

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notice of Disciplinary Charges filed on June 18, 2008 and the facts contained in the Stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the Notice of Disciplinary Charges.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was October 17, 2008.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
06-O-11685	Three	Moral Turpitude

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 15, 2008, the costs in this matter are \$2296.00. 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.

DISCUSSION RE STIPULATED DISCIPLINE

Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct identifies the primary purposes of disciplinary proceedings as 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 2.10 applies to violations of the rules of the California Rules of Professional Conduct which are not specified in any other Standard. The range of discipline in Standard 2.10 is reproof or suspension according to the gravity of the offense or the harm, if any, to the victim with due regard to the purposes of imposing discipline set forth in Standard 1.3.

In *In re Silvertown* (2005) 36 Cal. 4th 81, 92, 29 Cal. Rptr. 3d 766, the California Supreme Court affirmed the Standards are entitled to great weight and should be applied unless Respondent demonstrates the existence of extraordinary circumstances justifying a lesser sanction than that required by the Standards.

In *In re Ivan O. B. Morse* (1995) 11 Cal. 4th 184, 206, 44 Cal. Rptr. 620 ("*In re Morse*"), the Supreme Court identified the proper analysis for determining the appropriate level of discipline:

“In deciding appropriate discipline, we consider the underlying misconduct and aggravating and mitigating circumstances.... To determine the appropriate level of

discipline, we, like the review department, must look to the Standards for guidance. ‘These guidelines are not binding on us, but they promote the consistent and uniform application of disciplinary measures. Hence we have said that “we will not reject a recommendation arising from the application of the Standards unless we have grave doubts as to the propriety of the recommended discipline (Citations omitted).” (*In re Morse*, supra, 11 Cal. 4th 184, 206).

Respondent engaged in the unauthorized practice of law in Nevada and Kentucky in the Kruszewski matter. Respondent also aided Thompson in the unauthorized practice of law in Nevada and Kentucky. Standard 2.10 provides a range of discipline from reproof to suspension. The stipulated discipline of one year stayed suspension with thirty days actual suspension and two years probation is within the range of discipline in Standard 2.10.

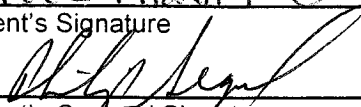
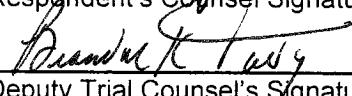
There is not clear and convincing evidence of extraordinary circumstances justifying a lesser sanction than that required by Standard 2.10. (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980).

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In the Matter of Bruce Alexander Thabit	Case number(s): 06-O-11685
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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.

<u>12-2-08</u> Date	<u>Bruce Thabit ©</u> Respondent's Signature	<u>Bruce Alexander Thabit</u> Print Name
<u>12-1-08</u> Date	<u></u> Respondent's Counsel Signature	<u>Philip A. Segal</u> Print Name
<u>12/12/08</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Brandon K. Tady</u> Print Name

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In the Matter Of
Bruce Alexander Thabit

Case Number(s):
06-O-11685

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.

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 9.18(a), California Rules of Court.)**

12-15-08
Date


Judge of the State Bar Court

RICHARD A. PLATEL

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 December 17, 2008, 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:

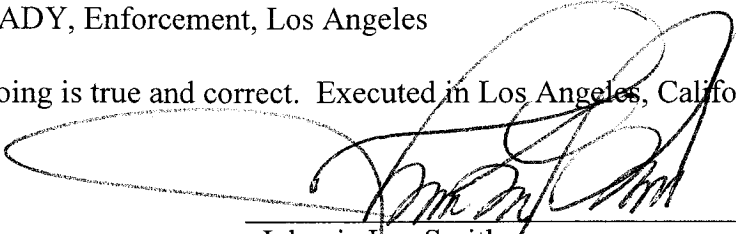
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

PHILIP A. SEGAL
KERN NODA DEVINE & SEGAL
1388 SUTTER ST #600
SAN FRANCISCO, CA 94109

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

BRANDON TADY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 17, 2008.



Johnnie Lee Smith
Case Administrator
State Bar Court