

(Do not write above this line.)

State Bar Court of California  
Hearing Department  
Los Angeles



<p>Counsel For The State Bar</p> <p><b>Charles T. Calix</b> Deputy Trial Counsel 1140 S. Hill Street, 10<sup>th</sup> Floor Los Angeles, CA 90015 (213) 765-1255</p> <p>Bar # 146853</p>	<p>Case Number (s) 07-O-10596</p>	<p>(for Court's use)</p> <p><b>FILED</b> <b>JAN 14 2009</b> ✓ STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p><b>Jerrold L. Bregman</b> c/o Curtis, Mallet-Prevost, Colt &amp; Mosle, LLP 101 Park Avenue New York, NY 10178 (212) 696-6185</p> <p>Bar # 149896</p>	<p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	<p><b>PUBLIC MATTER</b></p>
<p>In the Matter Of: <b>Herbert M. Bregman</b></p> <p>Bar # 27701</p> <p>A Member of the State Bar of California (Respondent)</p>	<p><b>PUBLIC REPROVAL</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 **June 4, 1957**.
- (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 **13** 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. **Respondent was admitted on June 4, 1957, and has no prior record of discipline over the course of his more than 51 years of practicing law in the State of California.**
- (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. **Respondent displayed candor and cooperation to the State Bar by willingly admitting his misconduct in this matter.**
- (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. **Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of his wrongdoing, including by sending a thoughtful and sincere letter of apology to the Superior Court before whom Respondent had failed to appear in person, which failure to appear led to this proceeding. Respondent explained that in his more than 51 years in practice, he had never before been required to personally attend a court hearing himself, especially in a location remote from Respondent's offices, and that appearance through local counsel for the first Order to Show Cause, was a common and accepted practice in the legal community in which Respondent has practiced for more than 51 years. In his letter, Respondent also offered to appear before the Court in person, at a time of the Court's choosing, to discuss the matters before the Court. The Court accepted Respondent's apology, did not request that Respondent personally appear, and requested that the State Bar withdraw its disciplinary complaint, which was the catalyst for this disciplinary proceeding.**
- (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. **Respondent failed to obey orders of the Superior Court to personally appear at hearings in connection with a collections suit involving less than \$20,000, which Respondent commenced in a venue approximately 300 miles from his offices within the state of California. Respondent appeared for the first Order to Show Cause through local counsel after which the Court ordered Respondent to appear personally. While the Court's orders clearly required Respondent to appear in person, the orders also stated that failure to comply would be met with sanctions, including fines and/or dismissal of the underlying lawsuit. Respondent erroneously but in good faith construed the Court's orders as offering the alternative of appearing personally or suffering the sanctions described in such orders, including the imposition of monetary fines and/or the dismissal of the underlying lawsuit. Respondent consulted with his client who made the judgment based on economic considerations to request dismissal of the underlying lawsuit to avoid expending resources for Respondent to personally appear. Respondent failed to pay the sanctions in a timely manner, in part, because his long-time client, a sophisticated and licensed debt collections agency, who has paid litigation costs on prior occasions where Respondent was its counsel, assured Respondent that the client would pay the sanctions.**
- (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. **Respondent's good character is broadly supported by a wide range of references and by his prior actions, including pro bono legal services and counseling to members of the public in his community in which he has practiced with a high level of integrity and professionalism over the past more than 51 years, as evidenced by the offer of testimony from Respondent's friends, family and professional colleagues as well as his current and former clients and employees.**
- (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)  **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 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 **one (1) year**.
- (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 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 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 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 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 at a session of the Ethics School, and passage of the test given at the end of that session.

No Ethics School recommended. Reason: \_\_\_\_\_

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- (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 reprobation.

No MPRE recommended. Reason: **The protection of the public and the interests of the Respondent do not require passage of the MPRE in this case. See In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181.**

- (11)  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) The parties may sign this settlement agreement on more than one signature page; however, upon the delivery and collection of all parties' signature pages, the agreement shall be deemed one and the same integrated document.

(2) Signatures transmitted via facsimile or other electronic means shall have the same force and effect as original signatures signed in ink.



2006. Respondent received the OSC. The notice stated that sanctions for noncompliance include monetary sanctions and the possible dismissal of the underlying lawsuit.

7. On or about September 20, 2006, Respondent filed a Request for Entry of Default and Court Judgment in *Union v. Harris*. The Clerk of the Court entered the default for \$15,664.19.

8. On or about October 2, 2006, Respondent caused a duly licensed attorney in good standing to appear on his behalf at the hearing on the OSC in *Union v. Harris*. The Superior Court informed the attorney that Respondent's personal appearance was required and that the attorney's appearance was considered a non-appearance by Respondent. The Superior Court sanctioned Respondent \$300 for failing to personally appear and ordered Respondent to "make a personal appearance" on November 13, 2006. The notice stated that sanctions that may be levied for failure to appear at the hearing, including not only the monetary fine but also the possible dismissal of the underlying lawsuit.

9. The Superior Court is located approximately 300 miles from Respondent's offices.

10. On or about October 10, 2006, the Superior Court filed and served on Respondent an "Order for Sanctions and Order to Appear" in *Union v. Harris* that ordered him to pay "forthwith" sanctions of \$300 and personally appear on November 13, 2006. The notice stated that sanctions for noncompliance include monetary sanctions and the possible dismissal of the underlying lawsuit. Respondent received the order.

11. Respondent did not pay the \$300 in sanctions forthwith to the clerk of the court. Respondent's client, a sophisticated and licensed collections agency, who had previously paid litigation related expenses in connection with other matters where Respondent was the client's counsel, assured Respondent that the client would pay this sanction.

12. On or about October 24, 2006, a Judicial Assistant/Deputy Clerk mailed a letter to Respondent that stated, in part, that an OSC had been set for November 13, 2006. Respondent received the letter.

13. On or about November 13, 2006, Respondent failed to personally appear for the OSC in *Union v. Harris*. The Superior Court sanctioned Respondent \$500 for failing to personally appear and ordered Respondent to make personal appearance on January 18, 2006.

14. On or about November 17, 2006, the Superior Court filed and served on Respondent an "Order for Sanctions and Order to Appear" in *Union v. Harris* that ordered him to pay sanctions of \$500 on or before December 13, 2006, and personally appear on January 18, 2007. Respondent received the order.

15. Respondent's client assured Respondent that the client would pay this sanction. Respondent did not pay the \$500 in sanctions to the clerk of the court on or before December 13, 2006.

16. On or about January 18, 2007, Respondent failed to personally appear for the OSC in *Union v. Harris*. The Superior Court sanctioned Respondent \$1,000 for failing to personally appear and pay the sanctions previously imposed, and ordered Respondent to appear on February 23, 2007.

17. On or about January 22, 2007, Respondent filed a Request for Entry of Default and Court Judgment in *Union v. Harris*, which requested that the Court entered the default for \$15,664.19.

18. On or about January 31, 2007, the Superior Court filed and served on Respondent an "Order for Additional Sanctions and Order to Appear" in *Union v. Harris* that stated that ordered him to pay sanctions of \$1,000 on or before February 20, 2007, and personally appear on February 23, 2007. Respondent received the order.

19. Respondent's client assured Respondent that the client would pay this sanction. Respondent did not pay the \$1,000 in sanctions to the clerk of the court by February 20, 2007.

20. On or about February 15, 2007, a Judicial Assistant mailed a letter to Respondent that stated that his proposed January 22, 2007 default judgment was being returned unsigned and the OSC remained on calendar for February 23, 2007. Respondent received the letter.

21. On or about February 23, 2007, Respondent failed to appear for the OSC in *Union v. Harris*. The Superior Court sanctioned Respondent \$1,500 for failing to personally appear and ordered Respondent to personally appear on April 5, 2007.

22. On or about March 5, 2007, the Superior Court filed and served on Respondent an "Order for Additional Sanctions and Order to Appear" in *Union v. Harris* that stated that ordered him to pay \$1,500 on or before March 23, 2007 and personally appear on April 5, 2007. Respondent received the order.

23. On or about March 21, 2007, Respondent filed a Request for Dismissal without Prejudice in *Union v. Harris*, which was granted by a Deputy Clerk on or about March 21, 2007. Respondent

consulted with his client who made the judgment based on economic considerations to request dismissal of the underlying lawsuit to avoid expending resources for, Respondent to travel to and from the Superior Court's courtroom.

24. On or about March 21, 2007, Respondent' paid \$1,500 in sanctions to the Clerk of the Court in *Union v. Harris*, which left a balance due of \$1,800.

25. On or about April 5, 2007, Respondent failed to appear for the OSC in *Union v. Harris*. The Superior Court found that Respondent had paid \$1,500 in sanctions, but still owed \$1,800 in sanctions. The Court continued the OSC to May 24, 2007 to monitor payment of the unpaid sanctions.

26. On or about April 9, 2007, the Superior Court filed and served on Respondent an "Order After Hearing on Order to Show Cause and Order Continuing Order to Appear" in *Union v. Harris* that ordered Respondent to pay the remaining balance of unpaid sanctions of \$1,800 on or before May 24, 2007, and appear on May 27, 2007 if the sanctions were not paid. Respondent received the order.

27. On or about May 23, 2007, Respondent paid \$1,800 in sanctions to the Clerk of the Court in *Union v. Harris*, which left a balance due to the Court of \$0.

28. By failing to: (a) appear as ordered for the CMC on or about August 22, 2006; (b) pay forthwith sanctions of \$300, ordered by the Court on or about October 2, 2006; (c) personally appear as ordered for the OSC on or about November 13, 2006; (d) pay sanctions of \$500 by December 13, 2006, ordered by the Court on or about November 13, 2006; (e) personally appear as ordered for the OSC on or about January 18, 2007; (f) pay sanctions of \$1,000 by February 20, 2007, ordered by the Court on or about January 18, 2007; and (g) personally appear as ordered for the OSC on or about February 23, 2007, Respondent willfully disobeyed or violated orders of the court requiring him to do or forbear an act connected with in the course of Respondent's profession which he ought in good faith to do or forbear in violation of Business and Professions Code section 6103.

## **MITIGATION**

The Superior Court that issued the monetary sanctions described above accepted Respondent's apology which was stated in a letter. The Court not only accepted Respondant's apology, it declined Respondent's offer to appear before the Court to apologize and withdrew its disciplinary complaint against Respondent by so notifying the State Bar, which was the catalist for this proceeding.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was December 12, 2008.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 12, 2008, the prosecution costs in this matter are \$\$1,214.00. 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.



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In the Matter of Herbert M. Bregman	Case number(s): 07-O-10596
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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.

Dec - 20, 2008  
Date

  
Respondent's Signature

Herbert M. Bregman  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent's Counsel Signature

Jerrold L. Bregman  
Print Name

12-23-08  
Date

  
Deputy Trial Counsel's Signature

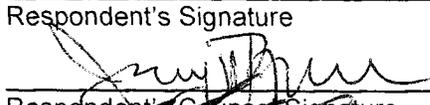
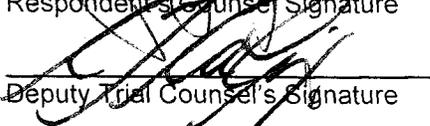
Charles T. Calix  
Print Name

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In the Matter of Herbert M. Bregman	Case number(s): 07-O-10596
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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.

Date	Respondent's Signature	Herbert M. Bregman
<u>12/22/08</u>		Print Name
Date	Respondent's Counsel Signature	Jerrold L. Bregman
<u>12.23.08</u>		Print Name
Date	Deputy Trial Counsel's Signature	Charles T. Calix
		Print Name

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In the Matter Of  
**Herbert M. Bregman**

Case Number(s):  
**07-O-10596**

### ORDER

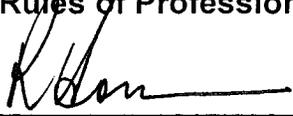
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

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

1-13-09  
Date

  
Judge of the State Bar Court

**RICHARD A. HONN**

**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 January 14, 2009, 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:

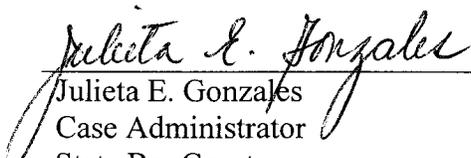
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JERROLD L. BREGMAN ESQ  
CURTIS MALLET PREVOST ET AL  
101 PARK AVE  
NEW YORK, NY 10178

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

Charles T. Calix, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 14, 2009.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court