

ORIGINAL

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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>DISBARMENT</b>		
<b>Counsel For The State Bar</b>  Hugh G. Radigan Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 213-765-1206  Bar # 94251	<b>Case Number(s):</b> 08-O-10593 09-O-11568 10-O-00285	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>Rv</i>  SEP 22 2011  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>In Pro Per Respondent</b>  Barry L. McCown Post Office Box 1430 Bakersfield, California 93302-1430 661-319-6923  Bar # 89603	<b>Submitted to: Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT  <b>DISBARMENT</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> Barry L. McCown  Bar # 89603  A Member of the State Bar of California (Respondent)		

**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 November 11, 1979.
- (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 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."

(Effective January 1, 2011)

Disbarment



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- (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 to be awarded to the State Bar.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

**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**
- (a) ☒ State Bar Court case # of prior case 90-O-14628
  - (b) ☒ Date prior discipline effective May 22, 1992
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: rules 3-300 and 4-100 (A) and (B)
  - (d) ☒ Degree of prior discipline 45 day actual, one year six month stayed suspension, and one year six month probation
  - (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. In case No. 09-O-11568, Respondent secured for himself \$24,112.90 in trustee fees in derogation of an express trust clause that precluded him from any fee for services or compensation incurred while administering the trust in question. Respondent maintained a mistaken good faith construction of the clausal language as allowing for Respondent to be compensated for attorney's fees incurred during the administration of the trust.

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- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. In Case No. 09-O-11568, the trust beneficiary was required to retain counsel to secure an accounting and petition for Respondent's removal as trustee. A significant legal issue was raised under Probate Code section 16062(b) with respect to the obligation of the trustee to account and the power of a discretionary income beneficiary to demand an accounting with respect to a trust created prior to the operative date of the above-referred code section. The court ruled that an accounting was required and Respondent filed an interim and supplemental accounting in belated compliance.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7) ☒ **Good Faith:** Respondent acted in good faith. Respondent construed the clausal language of the trust to allow for him to recover attorney's fees which the Probate Court later determined were trustee's fees which were not permissible.
- (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. On March 3, 2007, Respondent suffered a heart attack

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which required hospitalization and the discontinuance of his law practice for eight weeks. Respondent's sister died on April 16, 2007 after a brief illness and several weeks of hospitalization during which Respondent was in charge of managing her affairs. During this period of time Respondent was without a secretary or any clerical assistance. On September 28, 2009, Respondent required surgery for an ascending aortic aneurism the recovery from which was prolonged due to an adverse reaction to high blood pressure medications administered to Respondent.

- (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. Contemporaneous with the trust matter involved herein, Respondent was actively involved with the prosecution of the appeal relating to the Jovela Mendez Irrevocable Trust over the course of three years during which Respondent was not being compensated in either matter resulting in the reduction of Respondent's annual income by 90% between 2007 and 2010.
- (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:**        **Disbarment.**

**E. Additional Requirements:**

- (1) **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.
- (2) ☒ **Restitution:** Respondent must make restitution to the successor trustee of the Juliet E. Thorner Irrevocable inter vivos trust dated July 16, 1987, in the amount of \$ 24,112.90 plus 10 percent interest per year from March 12, 2008. If the Client Security Fund has reimbursed the successor trustee for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than 180 days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      Barry L. McCown

CASE NUMBER(S):                      08-O-10593, 09-O-11568 and 10-O-00285

**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 No. 08-O-10593 (Complainant: Quinton)

**FACTS:**

1. On March 30, 2006, Norma L. Quinton and Silver D. Ordiway employed Respondent to prepare a living trust, and paid him an advanced fee of \$250. On April 4, 2006, Ms. Quinton and Mr. Ordiway paid Respondent an additional advanced fee of \$1,000.

2. In June 2006, Ms. Quinton and Mr. Ordiway returned documents to Respondent he had mailed them for completion of their living trust.

3. On July 4, 2007, Respondent called Ms. Quinton and Mr. Ordiway and promised to send them documents for their signatures. Ms. Quinton and Mr. Ordiway never received those documents and never were contacted by Respondent again. Respondent never completed the performance for which Ms. Quinton and Mr. Ordiway employed him.

At all times pertinent herein, the State Bar was conducting a disciplinary investigation concerning Respondent's conduct in Case No. 08-O-10593, which arose out of a complaint filed by Norma L. Quinton and Silver D. Ordiway.

4. On April 18, 2008, a State Bar investigator mailed a letter to Respondent at his State Bar membership records address, which he received, requesting that Respondent cooperate and participate in the investigation by providing a written response to the allegations under investigation.

5. To date, Respondent has not responded to the allegations under investigation as requested by the investigator.

## CONCLUSIONS OF LAW:

6. By not completing performance of Ms. Quinton and Mr. Ordiway's living trust, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

7. By not responding to the State Bar letter and by not otherwise responding to the allegations as requested by the investigator, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in willful violation of Business and Professions Code section 6068(i).

## Case No. 09-O-11568 (Complainant: Wingfield)

### FACTS:

8. On January 25, 2005, Respondent became the Successor Special Trustee ("Trustee") for the "Juliet E. Thorner Revocable Inter Vivos Trust made July 16, 1987" ("Operative Trust"), succeeding the late Paul Coombs, who had been the Trustee upon the death of Juliet Thorner on February 8, 1988 until Coombs's death on or about January 25, 2005.

9. The Operative Trust superseded a prior version entitled the "Juliet E. Thorner Revocable Inter Vivos Trust made May 29, 1987" ("Inoperative Trust").

10. At the time Respondent became the Trustee, Darlene Wingfield was the last remaining noncharitable beneficiary of the Operative Trust. Ms. Wingfield, who had also been the last remaining noncharitable beneficiary of the Inoperative Trust, was unaware of the existence of the Operative Trust.

11. On March 12, 2008, Ms. Wingfield filed an ex parte application for the suspension of powers of Respondent as Special Trustee ("Suspension Petition"), pending a hearing on removal of Respondent as Special Trustee ("Removal Petition").

12. On March 14, 2008, Ms. Wingfield and Respondent appeared at the ex parte hearing on the Suspension Petition, at which Respondent agreed to provide an accounting to Ms. Wingfield by May 15, 2008, and Ms. Wingfield withdrew the request for ex parte relief. The court set a May 1, 2008 date for a hearing on the Removal Petition.

13. On May 1, 2008, the court conducted a hearing on the Removal Petition. Respondent did not appear. The court set an order to show cause hearing for May 23, 2008 regarding Respondent's failure to appear at the May 1, 2008 hearing ("OSC"), and continued the Removal Petition hearing to the same date.

14. On May 23, 2008, the parties appeared at the continued hearing, the court granted the Removal Petition, awarded Ms. Wingfield attorneys fees in the sum of \$4,500, and ordered Respondent to provide an accounting to Ms. Wingfield by June 19, 2008. The court continued the OSC hearing to June 19, 2008.

15. On June 19, 2008, the court conducted the OSC hearing. Respondent did not appear. The court noted that, in addition to his non-appearance, Respondent had not filed the accounting. The court issued to Respondent an Order to Appear ("Order to Appear") on July 3, 2008, and served it on Respondent, who received it.

16. On July 3, 2008, the court conducted a hearing on the Order to Appear. Respondent failed to appear. The court continued the hearing to July 31, 2008 and mailed notice of the continuance to Respondent, who received it.

17. On July 31, 2008, the court conducted the continued hearing on the Order to Appear. Respondent again failed to appear. The court set a hearing on an order to show cause re: contempt and sanctions for August 28, 2008 and mailed notice thereof to Respondent, who received it.

18. On August 28, 2008, the court conducted the contempt hearing. Respondent appeared, and the court ordered him to hand serve his accounting on all parties by September 12, 2008. The court also scheduled a hearing on the accounting ("Accounting Hearing") for September 18, 2008.

19. On September 18, 2008, the court conducted the Accounting Hearing. Respondent appeared, but had not served the accounting as ordered. The court ordered Respondent to hand serve his accounting on all parties by September 24, 2008, and continued the Accounting Hearing to September 25, 2008.

20. On September 25, 2008, the court conducted the continued Accounting Hearing. Respondent appeared, but had still not served the accounting as ordered. The court ordered Respondent



to hand serve his accounting on all parties by September 30, 2008, and continued the Accounting Hearing to October 2, 2008.

21. On September 30, 2008, Respondent filed a "First and Final Interim Account and Report of the Successor Special Trustee, Petition for Instructions and Petition for Settlement of Interim Account" ("Respondent's Accounting"). Attached to Respondent's Accounting was Exhibit "B", the declaration of the Operative Trust. This was the first time that Respondent had disclosed the existence of the Operative Trust to the court or to the other parties.

22. Included among the provisions of the Operative Trust was section 5.03, which provided that "each Trustee and Special Trustee nominated herein shall receive reasonable compensation for his or her services rendered in such capacity, except for Barry L. McCown, who shall serve at no fee...". As such, this provision contradicted section 5.03 of the Inoperative Trust, which provided that "each Trustee and Special Trustee nominated herein shall receive reasonable compensation for his or her services rendered in such capacity."

23. Respondent either knew, or was grossly negligent in not knowing, that the Operative Trust prohibited his taking a fee for his service as Special Trustee.

24. From January 25, 2005 until May 23, 2008, Respondent paid himself "Trustee Fees" from the Operative Trust in the sum of \$24,112.90. Respondent has not repaid the Operative Trust the fees he paid himself in contravention of the terms of that trust.

#### CONCLUSIONS OF LAW:

25. By failing to timely provide a trust accounting, and by taking fees for from the Operative Trust for his service as Special Trustee for that trust, when he knew or was grossly negligent in not knowing that the Operative Trust forbade him from doing so, Respondent breached his fiduciary duties as the Special Trustee, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

26. By not filing the accounting as he was repeatedly ordered by the court to do, and by not appearing in court on July 3, 2008 as he was ordered by the court to do, Respondent wilfully disobeyed or violated an order or orders of the court requiring him to do or forbear an act or acts connected with or

in the course of Respondent's profession which he ought in good faith to do or forbear in willful violation of Business and Professions Code section 6103.

Case No. 10-O-00285 (State Bar Investigation)

**FACTS:**

27. At all times pertinent herein, the State Bar was conducting a disciplinary investigation concerning Respondent's conduct in Case No. 10-O-00285, which arose out of a complaint filed by the Honorable Louie L. Vega, Judge of the Kern County Superior Court.

28. On May 20, 2010, a State Bar investigator mailed a letter to Respondent at his State Bar membership records address, which he received, requesting that Respondent cooperate and participate in the investigation by providing a written response to the allegations under investigation.

29. To date, Respondent has not responded to the allegations under investigation as requested by the investigator.

**CONCLUSIONS OF LAW:**

30. By not responding to the State Bar letter and by not otherwise responding to the allegations as requested by the investigator, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in willful violation of Business and Professions Code section 6068(i).

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was August 26, 2011.

**AUTHORITIES SUPPORTING DISCIPLINE.**

Under Standard 1.7(a), Respondent's current discipline shall be greater than his one prior unless it was remote in time and the offense minimal in degree.

Respondent's misconduct involves multiple acts which took place over the course of a year or more, which is an aggravating factor.<sup>1</sup>

Respondent's misconduct warrants disbarment. In many respects this matter is analogous to that situation when the member is culpable of wilful misappropriation of entrusted funds, where disbarment is the norm. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed, and even then, the discipline imposed shall not be less than a one-year actual suspension, regardless of mitigating circumstances.<sup>2</sup> Further, a member's culpability of an act of moral turpitude shall result in actual suspension or disbarment, depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law.<sup>3</sup> Standard 2.6(a) provides for disbarment or suspension depending upon the gravity of the harm to the victim for a willful violation of sections 6103 and 6068(i) of the Business and Professions Code. Standard 2.4(b) provides for reproof or suspension for a failure to perform where Respondent willfully fails to perform services not demonstrating a pattern of misconduct.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 26, 2011, the prosecution costs in this matter are approximately \$5,182.00. 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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<sup>1</sup> Standard 1.2(e)(ii).

<sup>2</sup> Standard 2.2.

<sup>3</sup> Standard 2.3.

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In the Matter of: Barry L. McCown	Case number(s): 08-O-10593 09-O-11568 10-O-00285
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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 Facts, Conclusions of Law, and Disposition.

<u>Sept. 12, 2011</u> Date	<u>Barry L. McCown</u> Respondent's Signature	<u>Barry L. McCown</u> Print Name
<u>                    </u> Date	<u>Not Applicable</u> Respondent's Counsel Signature	<u>                    </u> Print Name
<u>September 15 '11</u> Date	<u>Hugh G. Radigan</u> Deputy Trial Counsel's Signature	<u>Hugh G. Radigan</u> Print Name

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In the Matter of: Barry L. McCown	Case Number(s): 08-O-10593 09-O-11568 10-O-00285
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### DISBARMENT 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 5.58(E) & (F), 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.)

Respondent Barry L. McCown is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

09-20-11  
Date

  
Judge of the State Bar Court  
RICHARD A. PLATEL

# DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **08-O-10593; 09-O-11568; 10-O-00285**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

## STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT



**By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))**

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.



**By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").



**By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



**By Electronic Service: (CCP § 1010.6)**

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



*(for U.S. First-Class Mail)* in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: *(see below)*



*(for Certified Mail)* in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,  
Article No.: \_\_\_\_\_ at Los Angeles, addressed to: *(see below)*



*(for Overnight Delivery)* together with a copy of this declaration, in an envelope, or package designated by UPS,  
Tracking No.: \_\_\_\_\_ addressed to: *(see below)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
Barry L. McCown	P.O. Box 1430 Bakersfield, CA 93302-1430	Electronic Address	

- ☐ via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: September 15, 2011

SIGNED: \_\_\_\_\_

**JULI JENEWEIN**  
Declarant

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 September 22, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND  
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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:

BARRY LEE MCCOWN  
LAW OFFICE OF BARRY L MCCOWN  
PO BOX 1430  
BAKERSFIELD, CA 93302

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

HUGH G. RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 22, 2011.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court