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State Bar Court of California
Hearing Department
Los Angeles

Counsel For The State Bar Terrie Goldade 1149 S. Hill St. Los Angeles, CA 90015	Case Number (s) 09-PM-12955	(for Court's use) <div style="text-align: right;">FILED <i>YRC</i></div> <div style="text-align: center;">SEP 17 2009</div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div> <div style="text-align: center;">PUBLIC MATTER</div>
Bar # 155348 In Pro Per Respondent Frederick Carlos Kumpel 6116 Castleton St. Bakersfield, CA 93313	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PROBATION VIOLATION—"PM" PROCEEDING <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
Bar # 122073 In the Matter Of: Frederick Carlos Kumpel Bar # 122073 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 **December 11, 1985**.
- (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 **10** 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.

(Stipulation for approved by SBC Executive Committee 10/16/2000. Rev. 12/1/2005; 12/13/2006.)
 (Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Probation Violation

Probation Violation

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(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 (no actual suspension).
- ☐ 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 (actual suspension).
- ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: **2011 & 2012** (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 **04-O-15857, 05-O-01232, 05-O-03338/S151096**
 - (b) ☒ Date prior discipline effective **June 13, 2007**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **2 violations of Rules of Professional Conduct, rule 3-110(A), and 1 violation of Business and Professions Code section 6106**
 - (d) ☒ Degree of prior discipline **one year, stayed, two years probation on condition that he be actually suspended for thirty days**
 - (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. **There were multiple acts 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.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See stipulation attachment.

D. Discipline (choose only one):

- (1) ☐ **Probation extended:** Respondent's probation in _____ is extended for _____.
- (2) ☒ **Probation revoked; Probation Reinstated; Actual Suspension:** Respondent's probation is revoked and reinstated for one year on the same terms and conditions as previously imposed in **S151096**. The terms of

probation remain the same as in the prior order except as indicated below. In addition, Respondent must be actually suspended from the practice of law for **60 days**.

(Respondent has completed the MPRE and Ethics School; he will still need to submit quarterly reports.)

- (3) ☐ **Probation revoked; Probation Reinstated; No Actual Suspension:** Respondent's probation is revoked and reinstated for _____ on the same terms and conditions as previously imposed in _____. The terms of probation remain the same as in the prior order except as indicated below.
- (4) ☐ **Probation revoked; Probation not Reinstated; Actual Suspension:** Respondent's probation is revoked. Respondent must be suspended from the practice of law for _____.

E. In addition to conditions previously imposed by the Supreme court in its prior order, the following new conditions are recommended by this stipulation:

- (1) ☐ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☐ 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.
- (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 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 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☐ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

- (8) ☐ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☐ **Probation Conditions Deleted or Modified:** :
- (2) ☐ **Rule 9.20, California Rules of Court:** Respondent must comply with the provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- (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 provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW.

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

1) On November 20, 2006, Respondent executed a Stipulation re Facts, Conclusions of Law and Disposition with the State Bar in State Bar Court Case Nos. 04-O-15857; 05-O-01232; 05-O-03338 ("Stipulation"). The Hearing Department of the State Bar Court filed and served an order approving the Stipulation on December 11, 2006.

2) On May 14, 2007, the California Supreme Court filed an Order in Case No. S151096 (State Bar Court Case Nos. 04-O-15857; 05-O-01232; 05-O-03338) that Respondent be suspended from the practice of law for a period of one year, that execution of suspension be stayed and that Respondent be placed on probation for a period of two years on condition that he be actually suspended for thirty days and that he be subject to the conditions of probation as recommended by the Hearing Department of the State Bar Court in its order approving the Stipulation filed on December 11, 2006. Respondent was ordered to comply with the following terms and conditions of probation, among others:

a. As a condition of probation, Respondent was ordered to contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of his probation within thirty days from the effective date of discipline—by July 13, 2007. Respondent did not comply in that he was four days late in contacting the Office of Probation; he contacted the Office of Probation on July 17, 2007, at which time the meeting was held.

b. As a condition of probation, Respondent was ordered to comply with the Rules of Professional Conduct and the State Bar Act and report such compliance quarterly on each January 10, April 10, July 10, and October 10 under penalty of perjury ("quarterly report"). Respondent filed quarterly reports late, as follows:

<u>Due</u>	<u>Filed</u>
10/10/07	11/26/07
1/10/08	1/11/08
4/10/08	10/10/08
7/10/08	7/3/08 (timely)
10/10/08	10/10/08 (timely)
1/10/09	6/18/09
4/10/09	6/18/09
6/13/09	6/18/09

c. As a condition of probation, Respondent was ordered to provide satisfactory proof of attendance at a session of State Bar Ethics School and passage of the test given at the end of that session within one year of the effective date of his discipline—by June 13, 2008. Respondent did not attend Ethics School until June 19, 2009. Although Respondent did not provide proof of its completion, the Office of Probation independently verified such.

3. On May 23, 2007, the Office of Probation mailed an initial letter to Respondent at his

membership records address outlining the terms and condition of his probation. The letter reminded Respondent of his obligation to contact the Office of Probation within thirty days. The letter enclosed numerous attachments including a quarterly report instructions form which instructed that "[t]he report with any attachments should be mailed on the last day of the month of each calendar quarter (i.e., March 31st, June 30th, September 30th and December 31st). PLEASE DO NOT SIGN AND/OR SEND BEFORE THE LAST DAY OF THE MONTH OF EACH CALENDAR QUARTER." The quarterly report instructions form also included a chart setting forth the dates for each report period with the corresponding date each report was due and stated that the report was to contain an original signature. Information about Ethics School and a form Quarterly Report prepared for Respondent was included with the letter. Respondent received the letter.

4. On July 17, 2007, Respondent left a telephonic voice mail message with the Office of Probation stating that he had tried calling last week, but had not left a message. That same day, the Office of Probation returned the telephone call and conducted the initial meeting with Respondent.

5. On November 5, 2007, Respondent telephoned the Office of Probation and stated that he had taken the MPRE on November 3, 2007, and that he wanted to check in. Respondent was informed that he had not sent in his quarterly report due October 10, 2007; he stated he would send it in as soon as possible. He confirmed that he had the 2007 Ethics School schedule, and was informed that the 2008 schedule was not out yet.

6. On May 13, 2008, the Office of Probation telephoned Respondent and asked that he submit his quarterly report due April 2008. He was reminded that his next quarterly report would be due July 10, 2008. He asked when the next session of Ethics School would take place, and was informed that it was June 19, 2008 and that his deadline was June 13, 2008. Respondent was told that if he took the June 19, 2008 Ethics School, he might not be referred, but if he did not submit his quarterly reports, the lateness of his Ethics School would be raised. Respondent was informed that he could file a motion for an extension of time.

7. Respondent's Quarterly Report due April 10, 2008 was received on May 19, 2008 and was not filed because it was defective in that it did not have a box checked for which quarter it covered. That same day, on May 19, 2008, the Office of Probation left a voice mail message for Respondent asking that he return the call regarding his quarterly report.

8. On July 22, 2008, the Office of Probation telephoned Respondent. He had not resubmitted his quarterly report due April 2008. Although his July 2008 quarterly report was filed, the Office of Probation would no longer accept the same form he had been crossing out and marking over for three quarters because the form was getting too confusing.

9. On July 22, 2008, Respondent telephoned the Office of Probation stating that he had received the message and asking that a blank quarterly report form be e-mailed to him, which was done the same day.

10. On August 7, 2008, the Office of Probation mailed a letter to Respondent reminding him of his noncompliance with his quarterly reporting condition. The letter noted that the Office of Probation did not intend to send any further reminder letters regarding compliance due dates or lack of receipt of

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compliance documentation, and that his non-compliance could be referred which might lead to the imposition of additional discipline.

11. On August 15, 2008, Respondent's quarterly report due April 10, 2008 was received. It was not filed because it was defective in that Respondent did not date his signature. (See, California Code of Civil Procedure section 2015.5.)

12. On August 15, 2008, the Office of Probation telephoned Respondent and stated that his April 2008 quarterly report form had still not been received. He stated that he had not received the quarterly report form e-mailed on July 22, 2008. The Office of Probation's Probation Deputy pulled up from her computer the e-mail previously sent to him, and resent it on August 15, 2008 to the same e-mail address. Respondent was reminded that his next quarterly report was due October 10, 2008. Respondent sent a return e-mail confirming receipt.

Legal Conclusion: By failing to (1) timely contact the Office of Probation and conduct his meeting with his Probation Deputy; (2) timely file his Quarterly Reports due October 10, 2007; January 10, April 10, 2008; and January 10, April 10, and June 13, 2009; and (3) timely attend and ever provide satisfactory proof of attendance at State Bar Ethics School and passage of the test given at the end of that session, Respondent willfully violated Business and Professions Code, section 6068(k).

PENDING PROCEDURES.

The disclosure date referred to, on page one, paragraph A.(7) was August 18, 2009.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Probation has informed respondent that as of August 18, 2009, the estimated prosecution costs in this matter are approximately \$1,564. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.6, subsection (a), states that culpability of a member of a violation of Business and Professions Code, section 6068(k), shall result in disbarment or suspension depending upon 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.

An attorney who violated his probation by failing to timely complete restitution and by failing to timely attend Ethics School, received two years' probation with a condition that he was to be actually

(Stipulation for approved by SBC Executive Committee 10/16/2000. Rev. 12/1/2005; 12/13/2006.)
(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Probation Violation

Probation Violation

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suspended for the first 30 days. *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567. Neither bad purpose nor intentional evil is required to establish willful violations of disciplinary probation. *Id.* at 572. An attorney's cooperation in stipulating to facts warrants some mitigative consideration. *Id.* More serious sanctions are assigned to probation violations closely related to reasons for imposition of previous discipline or to rehabilitation. *Id.* at 573-574.

In this matter, Respondent's underlying disciplinary violation was in relation to failing to perform in two matters and for a misrepresentation to a client about the status of his case. The probation conditions violated were related to his original misconduct, important for his rehabilitation, and were intended to assist the State Bar in monitoring Respondent's rehabilitation. However, in light of Respondent's circumstances (set forth below), it is agreed that the degree of discipline set forth in this stipulation is appropriate in relation to standard 2.6 based upon Respondent's eventual completion of his conditions, his stipulation to his violations, and his agreement to reinstate his probation.

OTHER CIRCUMSTANCES CONSIDERED IN RESOLVING THIS MATTER

Respondent has been a member of the Kern County Bar Association for 12 years, and has served as the head of the Speaker's Bureau for about 3 years. As such, he made presentations at schools and at other community events and coordinated presentations by other speakers. Also for about 3 years, he helped organize MCLE events with local courts. He has also presented legal seminars for MCLE credit as well as informational seminars for the general public through Greater Bakersfield Legal Assistance and other community organizations on a variety of topics. For at least the past 15 years, Respondent has provided an average of 100 – 200 hours assistance per year on a pro bono basis to the poor in Kern County.

Respondent has provided pro bono services to youth soccer and baseball organizations for about the last 20 years. He has helped coach, officiate, organize sports events, taught classes and clinics to other adults, and served on a local board as a coach coordinator. For about 5 years, he served on the board of local performing arts organizations and assisted in organizing and promoting the performances.

WAIVER OF ANY VARIANCES

The parties stipulate to waive any variance in the language, allegations, and conclusions of law between this stipulation and the Notice of Motion and Motion to Revoke Probation filed on June 9, 2009. Respondent acknowledges that this stipulation contains language, allegations, and a conclusion of law which may differ from the language, allegations, and conclusion of law contained in the Notice of Motion and Motion to Revoke Probation filed on June 9, 2009. The parties further stipulate to waive the right to have any amendment to the Notice of Motion and Motion to Revoke Probation.

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In the Matter of
Frederick Carlos Kumpel

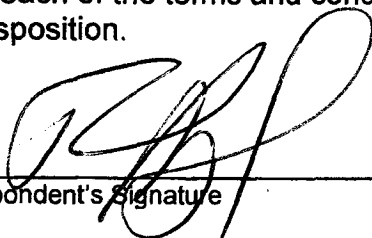
Case number(s):
09-PM-12955

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.

8/28/09

Date



Respondent's Signature

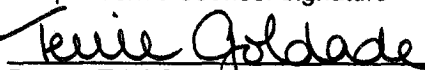
Frederick Carlos Kumpel
Print Name

Date

9.1.09

Date

Respondent's Counsel Signature



Deputy Trial Counsel's Signature

Print Name

Terrie Goldade
Print Name

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In the Matter Of Frederick Carlos Kumpel	Case Number(s): 09-PM-12955
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ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

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.)**

Date

9-15-09

Judge of the State Bar Court

RICHARD A. HONN

(Stipulation form approved by SBC

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/1/2005; 12/13/2006.)

Executive Committee Order 10/16/00. Revised 12/1/2005.)

Probation Violation Order

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 September 17, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PROBATION VIOLATION – “PM” PROCEEDING

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:

**FREDERICK CARLOS KUMPEL
6116 CASTLETON ST
BAKERSFIELD, CA 93313**

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

TERRIE GOLDADE, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 17, 2009.



Tammy Cleaver
Case Administrator
State Bar Court