

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ALTERNATIVE DISCIPLINE PROGRAM		
Counsel For The State Bar Charles A. Murray, DTC Office of the Chief Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2299 Bar # 146069	Case Number(s): 10-C-07037 10-C-07038 10-C-07163 11-C-12399 11-C-11555	For Court use only <div style="text-align: center;"> FILED SEP 26 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Michael G. Gerner 425 S. Beverly Drive, Suite 210 Beverly Hills, CA 90212 Bar # 65906	Submitted to: Assigned Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW ALTERNATIVE DISCIPLINE PROGRAM <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: COREY MARTIN KAGAN Bar # 228318 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 2, 2003.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 5.386(D)(2) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 11 pages, excluding the order.



(Do not write above this line.)

- (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) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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. Both multiple acts & a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

(Do not write above this line.)

- THIS PAGE INTENTIONALLY LEFT BLANK -

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) ☐ **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:

Respondent has no prior record of discipline over almost six years of practice.

(Do Not Write Above This Line)

ATTACHMENT TO
ADP STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **COREY MARTIN KAGAN** MEMBER#: **228318**

CASE NUMBER(s): **10-C-07037; 10-C-07038; 10-C-07163; 11-C-11555; 11-C-12399**

WAIVER OF FINALITY OF CONVICTION (rule 607):

Pursuant to the Rules of Procedure of the State Bar of California, rule 3.44(B), the parties stipulate that the Court may decide the issues as to the discipline to be imposed even if the criminal convictions discussed herein are not final.

Respondent waives finality of his conviction and consents to the State Bar Court's acceptance of this Stipulation as to facts, conclusions of law and discipline in all respects as if the conviction was final, including the entry of findings consistent with this Stipulation, imposition of discipline, or entry of a recommendation as to the degree of the discipline to be imposed.

Respondent waives any right to challenge on the basis of a lack of finality of his conviction the State Bar Court's recommendation of discipline, if any, and the actual imposition of discipline, if any, by the State Bar Court or the California Supreme Court.

Respondent further waives any right he may have to seek review or reconsideration on the basis of any relief he may receive as a result of any appeal of, or petition regarding, the criminal conviction underlying any recommendation of and/or actual imposition of discipline by the State Bar Court or the California Supreme Court.

STIPULATION AS TO 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, or has otherwise committed acts of misconduct warranting discipline, as follows:

///
///
///
///
///
///

10-C-07038

Stipulated Facts and Circumstances for Case No. 10-C-07038

1. On November 17, 2009, police officers were conducting a check of a Burbank motel with a reputation of being frequented by narcotic users and sellers. A DMV check of a car parked on the street near the motel revealed the vehicle was registered to a Respondent. A records check revealed an outstanding misdemeanor warrant for possession of narcotics.

2. Upon inquiry, the desk attendant of the motel advised the officers that Respondent was registered and specified the room. The officers proceeded to that room and contacted Respondent and a female in the room who stated that Respondent was a heavy heroin addict and used frequently. She stated that Respondent had heroin and hypodermic needles in a dresser drawer in the room. She opened the drawer for the officers to reveal a bag containing several pieces of a brown substance later determined to be .2 gram of a mixture of heroin, cocaine and methamphetamine; a bag containing 4.62 grams of heroin, and a loaded hypodermic syringe containing approximately .6 milliliters of a liquid mixture of heroin and cocaine. The officers recovered drug paraphernalia and the suspected drugs from the room. Respondent was arrested and released on the scene due to multiple open sores on his legs and arms from his heavy drug use.

3. On May 11, 2010, the Los Angeles County District Attorney's office filed a one count Felony Complaint For Arrest Warrant in Los Angeles County Superior Court case number GA079943, charging Respondent with violating Health and Safety Code section 11350(a) (possession of a controlled substance - heroin).

4. On September 15, 2010, Respondent entered a plea of nolo contendere to the felony charge and the court found him guilty of felony drug possession as charged.

5. At the sentencing hearing held on October 19, 2010, Respondent was formally admitted into the sentenced offender's drug treatment program at the south wing of the Wayside Detention center, men's treatment POD. However, on November 4, 2010, it was determined that Respondent was medically disqualified for POD treatment.

6. On January 20, 2011, Respondent was sentenced on this matter to five (5) years formal probation; 352 days in LA county jail (less credit for 352 days); payment of various fees and fines assessed; alcohol/drug conditions appropriate to his convictions; and he was released to a residential treatment program.

Conclusions of Law for Case No. 10-C-07038

7. The facts and circumstances surrounding Respondent's felony conviction on one count involving Health and Safety Code section 11350(a) (possession of a controlled substance - heroin), do not involve moral turpitude but do involve other misconduct warranting discipline pursuant to Business and Professions Code sections 6101 and 6102.

Case No. 10-C-07163

Stipulated Facts and Circumstances for Case No. 10-C-07163

8. On January 30, 2010, a police officer was dispatched to the Santa Monica Medical Center at the request of security and nursing staff. They believed that Respondent was under the influence of a narcotic which could hinder his medications, and that he also could be in the possession of drugs. Respondent had been admitted to the hospital for treatment of numerous abscesses on both arms from constantly injecting himself with drugs. The officer confirmed that Respondent possessed various drugs and drug paraphernalia, including .5 gram of crystal meth; 2 gram of cocaine; 2.3 gram of heroin; 5.3 gram of cocaine; 1 gram of rock cocaine; a syringe; a glass crack cocaine pipe and a spoon with drug residue and burn marks on the bottom. The officer also recovered several syringes, and a digital scale. Respondent admitted the drugs and paraphernalia were his. The officer wrote a crime report and forwarded it to the District Attorney to issue an arrest warrant.

9. On July 23, 2010, the Los Angeles County District Attorney's office filed a six count Complaint For Arrest Warrant in Los Angeles County Superior Court case number SA074912, charging Respondent with violating Health and Safety Code sections 11350(a) three counts and 11377(a), one count, both (possession of a controlled substance) felonies; along with section 11364(a) (possession of smoking device), one count, and Business and Professions Code section 4140 (unauthorized possession of hypodermic needle or syringe), one count, misdemeanors.

10. On September 14, 2010, Respondent pled nolo contendere to felony counts 1 and 3, Health and Safety Code section 11350(a)(possession of a controlled substance: cocaine base and heroin) The court found him guilty and convicted him on those counts.

11. On January 20, 2011, Respondent was sentenced on this to five (5) years formal probation; 352 days in LA county jail (less credit for 352 days); payment of various fees and fines assessed; alcohol/drug conditions appropriate to his convictions; and he was released to a residential treatment program.

Conclusions of Law for Case No. 10-C-07163

12. The facts and circumstances surrounding Respondent's felony conviction on two counts involving Health and Safety Code section 11350(a) (possession of a controlled substance), do not involve moral turpitude, but do involve other misconduct warranting discipline pursuant to Business and Professions Code sections 6101 and 6102.

Case No. 11-C-12399

Stipulated Facts and Circumstances for Case No. 11-C-12399

13. On April 26, 2010, a Burbank police officer observed Respondent stopped in his vehicle in traffic and impeding other traffic. Respondent was stopped despite a green light and appeared to be texting. The officer honked his horn twice and gestured twice for Respondent to proceed before he finally moved. The officer initiated a traffic stop. Respondent did not have paper work for the vehicle and advised the officer that there may be warrants out on him. Upon Respondent's exiting the vehicle the officer observed several open sores and major scars on Respondent's arms and legs, consistent with frequent drug use. A vehicle search resulted in the discovery of 9.13 grams of heroin; a syringe loaded with heroin; and drug paraphernalia. Respondent was arrested and released to a medical facility due to his numerous infected sores.

14. On February 8, 2011, the Los Angeles County District Attorney's office filed a one count Felony Complaint For Arrest Warrant in Los Angeles County Superior Court case number GA082413, charging Respondent with violating Health and Safety Code section 11350(a) (possession of a controlled substance - heroin).

15. On March 18, 2011, Respondent pled nolo contendere to the felony charge and was found guilty and convicted of possession of heroin, as charged.

16. On May 5, 2011, Respondent was sentenced to five (5) years formal probation; service of 352 days in LA county jail (credit for 352 days served); fees and fines were assessed; and alcohol/drug conditions, including participation in a residential drug program, were imposed.

Conclusions of Law for Case No. 11-C-12399

17. The facts and circumstances surrounding Respondent's felony conviction on one count involving Health and Safety Code section 11350(a) (possession of a controlled substance - heroin), do not involve moral turpitude, but do involve other misconduct warranting discipline pursuant to Business and Professions Code sections 6101 and 6102.

Case No. 10-C-07037

Stipulated Facts and Circumstances for Case No. 10-C-07037

18. On July 5, 2010, in North Hollywood, California, a police officer conducted a traffic stop of a vehicle due to a missing front license plate. The female driver was cited for driving on a suspended license. The driver [the same female in the motel room described in the first case of this stipulation, State Bar Case No. 10-C-07038] called her fiancé [Respondent] to pick the vehicle instead of having it towed. Shortly thereafter, Respondent arrived on the scene. The officer ran Respondent's license and discovered an outstanding felony warrant for drug possession against him. A search revealed Respondent in possession of 1.53 grams of heroin and .88 grams of cocaine. The officers arrested Respondent for drug possession.

19. On July 8, 2010, the Los Angeles County District Attorney's office filed a two count Felony Complaint in Los Angeles County Superior Court case number LA065493, charging Respondent with violating Health and Safety Code section 11350(a) (possession of a controlled substance - heroin & cocaine).

20. On September 16, 2010, Respondent pled guilty to count 1, Health and Safety Code section 11350(a) (possession of a controlled substance - heroin) and was convicted that felony.

21. On January 20, 2011, Respondent was sentenced on this to five (5) years formal probation; 352 days in LA county jail (less credit for 352 days); payment of various fees and fines assessed; alcohol/drug conditions appropriate to his convictions; and he was released to a residential treatment program.

Conclusions of Law for Case No. 10-C-07037

22. The facts and circumstances surrounding Respondent's felony conviction on one count involving Health and Safety Code section 11350(a) (possession of a controlled substance - heroin), do not involve moral turpitude, but do involve other misconduct warranting discipline pursuant to Business and Professions Code sections 6101 and 6102.

Case No. 11-C-11555

Stipulated Facts and Circumstances for Case No. 11-C-11555

23. On August 27, 2010, a California Highway Patrol officer initiated a stop after observing a vehicle license with expired registration near Covina, California. The driver [Respondent] was unable to produce a driver's license or proof of insurance but gave his name, date of birth and driver's license number. The officer ran that information and discovered an outstanding felony warrant for drug possession against Respondent. Search of Respondent and

his vehicle resulted in the discovery of 1.9 grams of methamphetamine; 2.6 grams of heroin; a pair of brass knuckles; syringes, 2 digital scales; unused small plastic bags; a large metal spoon with brown residue; and latex rubber bands.

24. On August 30, 2010, the Los Angeles County District Attorney's office filed a six count Felony Complaint For Arrest Warrant in Los Angeles County Superior Court case number KA091748, charging Respondent with violating Health and Safety Code sections 11351 (possession for sale of a controlled substance – heroin & methamphetamine), 11352(a) (sale/transportation/offer to sell controlled substance), 11377(a) (possession of a controlled substance), 11379(a) (sale/transportation/offer to sell controlled substance), Penal Code section 12020(a)(1) (possession of a deadly weapon), all felonies, along with violating Business and Professions Code section 4140 (unauthorized possession of hypodermic needle or syringe), a misdemeanor.

25. On October 1, 2010, Respondent pled nolo contendere and was convicted on two counts for violating Health and Safety Code section 11377(a) (possession of a controlled substance – methamphetamine) and Penal Code section 12020(a)(1) (possession of a deadly weapon – brass knuckles), both felonies.

26. On January 20, 2011, Respondent was sentenced on this to five (5) years formal probation; 352 days in LA county jail (less credit for 352 days); payment of various fees and fines assessed; alcohol/drug conditions appropriate to his convictions; and he was released to a residential treatment program.

Conclusions of Law for Case No. 11-C-11555

27. The facts and circumstances surrounding Respondent's felony conviction on two counts involving Health and Safety Code section 11377(a) (possession of a controlled substance) and Penal Code section 12020(a)(1) (possession of a deadly weapon) do not involve moral turpitude, but do involve other misconduct warranting discipline pursuant to Business and Professions Code sections 6101 and 6102.

(Do not write above this line.)

In the Matter of: COREY MARTIN KAGAN	Case number(s): 10-C-07037; 10-C-07038; 10-C-07163; 11-C-12399; 11-C-11555
---	--



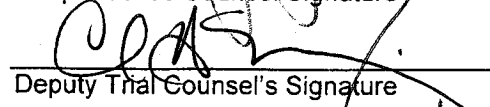
SIGNATURE OF THE PARTIES

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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

8-8-11 Date	 Respondent's Signature	COREY M. KAGAN Print Name
8-10-11 Date	 Respondent's Counsel Signature	MICHAEL G. GERNER Print Name
8-11-2011 Date	 Deputy Trial Counsel's Signature	CHARLES A. MURRAY Print Name

(Do not write above this line.)

In the Matter of: COREY MARTIN KAGAN	Case Number(s): 10-C-07037; 10-C-07038; 10-C-07163; 11-C-12399; 11-C-11555
---	--

ALTERNATIVE DISCIPLINE PROGRAM 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 stipulation as to facts and conclusions of law is APPROVED.
- ☐ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- ☐ 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

9/26/11
Date



Judge of the State Bar Court

DONALD F. MILES

FILED

SEP 26 2011

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

**CONTRACT AND WAIVER FOR PARTICIPATION
IN THE STATE BAR COURT'S
ALTERNATIVE DISCIPLINE PROGRAM**

This Contract and Waiver for Participation in the State Bar Court's Alternative Discipline Program (hereinafter "Contract" or "ADP Contract") is entered into by Respondent **Corey Martin Kagan** (hereinafter "Respondent") on the date set forth at the end of this Contract.

By executing this Contract, Respondent specifically states and agrees as follows:

1. Respondent acknowledges that the following attorney disciplinary proceedings and/or disciplinary investigation matters are currently pending against Respondent:

Case No. 10-C-07037; 10-C-07038; 10-C-07163; 11-C-12399; 11-C-11555 (Cons.)

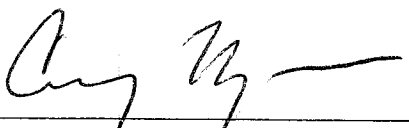
2. Respondent desires to enter into and participate in the State Bar Court's Alternative Discipline Program (hereinafter "ADP") and agrees to comply with all of the terms of this Contract and with such other requirements as may be imposed by the ADP Judge.
3. Respondent has entered into a Stipulation as to Facts and Conclusions of Law (hereinafter "Stipulation"), which fully resolves the disciplinary proceeding identified in paragraph 1 above. Respondent understands and agrees that the Stipulation will be binding upon Respondent if Respondent is accepted into the ADP and will be filed with the State Bar Court and made public upon Respondent's acceptance into the ADP.
4. Based upon the facts, conclusions of law and mitigating and aggravating circumstances as set forth in the Stipulation, the ADP Judge has provided Respondent, in writing, with alternative disciplinary recommendations. Respondent acknowledges and agrees that the lower level of disposition or discipline will be imposed if the ADP Judge subsequently finds, in a written order, that Respondent has successfully completed the ADP. Alternatively, Respondent acknowledges and agrees that the higher level of discipline will be imposed or, as appropriate, will be recommended to the California Supreme Court if the ADP Judge subsequently finds, in a written order, that Respondent has been terminated from the ADP.
5. Respondent understands that eligibility for participation in the ADP is contingent upon Respondent's acceptance and participation in the Lawyer Assistance Program (hereinafter "LAP"). Respondent agrees to comply with all terms and conditions set forth by the LAP. Respondent understands that, if Respondent's participation in the LAP is terminated without successfully completing the LAP, Respondent's participation in the ADP will be terminated and discipline will be imposed or recommended as set forth in paragraph 4 above.

6. Respondent agrees to sign a waiver authorizing the LAP to release information to the ADP regarding Respondent's participation in the LAP and the progress of Respondent's treatment. Any information released by the LAP shall not be utilized by the Office of the Chief Trial Counsel for any disciplinary prosecution but may be considered by the ADP Judge in setting and/or modifying the terms of Respondent's participation in the ADP. The information released by the LAP may also be utilized in determining whether Respondent has successfully completed the ADP or, alternatively, whether Respondent should be terminated from further participation in the ADP.
7. Respondent agrees to provide the ADP Judge with copies of the LAP Participation Agreement/Plan and with such periodic evaluation report(s) from treatment professional(s) that are prepared in the course of Respondent's participation in the LAP.
8. Respondent agrees that the State Bar Court may provide to the Office of Probation and to the Client Security Fund (hereinafter "CSF") such information as the Court deems necessary or appropriate to enable the Office of Probation to effectively monitor Respondent's compliance with ADP conditions or to enable the CSF to process any application for reimbursement by the CSF.
9. Respondent stipulates and agrees that, whether or not a formal disciplinary proceeding against Respondent has been filed in the State Bar Court, the Court has jurisdiction to consider Respondent's request to participate in the ADP and to make all necessary or appropriate orders relating to the underlying disciplinary matter, the processing of Respondent's ADP application and the imposition of any conditions upon Respondent's practice.
10. Respondent understands that, during Respondent's participation in the ADP, Respondent may be ordered by the ADP Judge to perform various acts and/or to comply with specified conditions for the purpose of permitting the ADP Judge to oversee and monitor Respondent's compliance with the ADP and assess the degree to which Respondent's continued practice of law, if any, may pose a threat of harm to the public or to Respondent's clients. These acts or conditions may include, but are not limited to, the following: (a) submitting periodic written reports to the Office of Probation or to the ADP Judge; (b) developing a law office management plan; (c) attending State Bar Ethics School; (d) taking Mandatory Continuing Legal Education courses; and (e) responding to inquiries from the ADP Judge and/or the Office of Probation. Respondent agrees to comply with the ADP Judge's orders and acknowledges that failure to do so may constitute grounds for terminating Respondent's continued participation in the ADP.
11. Respondent acknowledges and agrees that the length of Respondent's participation in the ADP is discretionary with the State Bar Court. The basic term of participation in the ADP is thirty-six (36) months. Respondent may earn incentives which could result in Respondent's successful completion of the ADP within a period of not less than eighteen (18) months. Alternatively, Respondent acknowledges and agrees that the ADP Judge may, in the exercise of the ADP Judge's discretion, extend the period of Respondent's participation in the ADP beyond thirty-six (36) months in order to provide Respondent with additional time to successfully complete Respondent's ADP requirements. Respondent acknowledges and agrees that Respondent may not successfully complete the

ADP without a one-year substance-free certificate from the LAP or, in the case of mental health issues, without a recommendation from a licensed psychiatrist, clinical psychologist or other approved mental health professional indicating that Respondent has maintained at least one year of continuous mental health stability.

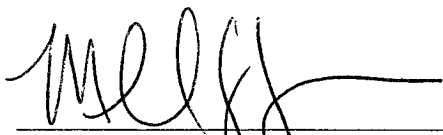
12. Respondent understands and agrees that incentives may be granted by the ADP Judge when Respondent successfully complies with the terms and conditions of the ADP. Such incentives include, but are not limited to, the following: (a) a reduction in the 36-month participation period for successful completion of the ADP; (b) a reduction in the frequency of court appearances in the State Bar Court; (c) participation in status conferences by telephone rather than in person; (d) receipt of credit for any period of inactive enrollment towards the period of actual suspension, if any, to be imposed in the disposition of the underlying disciplinary proceeding.
13. Respondent understands and agrees that sanctions may be imposed based upon Respondent's failure to comply with the terms and conditions of the ADP. Such sanctions include, but are not limited to, the following: (a) Respondent's involuntary enrollment as an inactive member of the State Bar; (b) increased frequency of status conferences and/or personal appearances in the State Bar Court; (c) loss of credits for inactive enrollment towards the period of actual suspension imposed in the disposition of the underlying disciplinary proceeding; or (d) termination from the ADP.
14. Respondent acknowledges and agrees that Respondent's participation in the ADP may be terminated by the Court for non-compliance with the LAP or ADP requirements, including but not limited to, the following: (a) positive urinalysis tests on multiple occasions; (b) missed treatment or group meetings; (c) additional misconduct which occurred after Respondent was accepted into the ADP if proven by clear and convincing evidence; (d) termination from the LAP; or (e) failure to comply with the terms of this Contract.
15. Respondent agrees to appear in the State Bar Court for any scheduled hearings, regardless of Respondent's compliance with the LAP treatment program. Respondent further acknowledges and agrees that the ADP Judge may require Respondent to appear before the State Bar Court in an expeditious manner. Respondent agrees to be available to the Court if such an expedited conference is required by the ADP Judge.
16. Respondent agrees to keep the LAP, its treatment provider(s), the ADP Judge, the Office of Probation and the Membership Records Office of the State Bar advised of Respondent's current address and telephone number at all times during Respondent's participation in the LAP and in the ADP. Respondent agrees to provide the above-referenced individuals and entities with any changes in Respondent's current address and telephone number within ten (10) calendar days of the change.
17. Respondent acknowledges that this ADP proceeding is governed by rules 5.380-5.389 of the Rules of Procedure of the State Bar ("Rules of Procedure").
18. Other Conditions: None.

By executing this Contract in the designated space below, Respondent represents that Respondent has read and understands rules 5.380-5.389 of the Rules of Procedure of the State Bar, as well as the Contract and the terms of Respondent's participation in the ADP.



Respondent Corey M. KAGAN
9-26-11

Date



Attorney for Respondent
Michael G. GIVENS
9-26-11

Date

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 Los Angeles, on September 26, 2011, I deposited a true copy of the following document(s):

CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S
ALTERNATIVE DISCIPLINE PROGRAM

in a sealed envelope for collection and mailing on that date as follows:

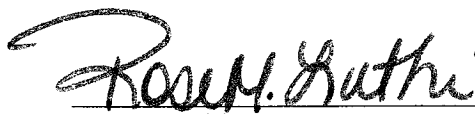
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL GALEN GERNER, ESQ.
MICHAEL G GERNER, A PROF LAW CORP
425 S BEVERLY DR STE 210
BEVERLY HILLS, CA 90212

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

CHARLES MURRAY, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 26, 2011.



Rose Luthi
Case Administrator
State Bar Court