State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION				
Counsel For The State Bar Christine Souhrada Office of the Chief Trial Counsel 180 Howard Street, 7th fl. San Francisco, CA 94105 (415) 538-2183 Bar # 228256 Counsel For Respondent Samuel C. Bellicini	Case Number(s): 10-O-01663 [10-N-07163; 11-O- 13911]	For Court use only PUBLIC MATTER FILED John AUG 0 4 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO		
FISHKIN & SLATTER, LLP 1111 Civic Drive, Suite 215 Walnut Creek, CA 94596 (925) 944-5600	Submitted to: Settlemer	nt Judge		
Bar # 152191	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING			
In the Matter of: CYNTHIA L. COX	ACTUAL SUSPENSION			
Bar # 1 68112	PREVIOUS STIPULATION REJECTED			
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 14, 1993.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, not including the order.

(Effective January 1, 2011)





Actual Suspension

- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs". Costs are 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) X State Bar Court case # of prior case (S172347) 09-PM-18806
 - (b) 🛛 Date prior discipline effective May 12, 2010
 - (c) Rules of Professional Conduct/ State Bar Act violations: Bus. and Prof. Code, section 6093(b)
 - (d) Degree of prior discipline two years actual suspension
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

Case number: (\$172347) 06-O-14846, etc. Effective: July 16, 2009 Violations: Respondent stipulated to violations of Rules of Professional Conduct, rule 3-110(A); and Business & Professions Code, sections 6068(i) [4 counts], 6068(o)(3) and 6103 Degree of discipline: two-year suspension (stayed), 4 years probation

- (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.

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(Do not write above this line.) (4) Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice. (5) Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. (6) Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings. (7) Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) I 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. Respondent was forthcoming with the State Bar at VSCs about her misconduct, and about the brutal assault she suffered and her resulting Post Traumatic Stress Disorder and depression (see attachment). Respondent willingly provided to the State Bar an evaluation by her phychologist explaining in detail the extreme physical and psychological harm she suffered as a result of the brutal attack.
- (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. see attached
- (9) Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

- (10) Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) No mitigating circumstances are involved.

Additional mitigating circumstances:

D. Discipline:

(1) X Stayed Suspension:

- (a) Respondent must be suspended from the practice of law for a period of one year.
 - i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
 - ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
 - iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.

(2) X Probation:

Respondent must be placed on probation for a period of two years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) 🛛 Actual Suspension:

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of six months consecutive to respondent's current suspension.
 - i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
 - ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
 - iii. 🔲 and until Respondent does the following:

E. Additional Conditions of Probation:

(Effective January 1, 2011)

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, Including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - No
 - No Ethics School recommended. Reason:
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions
 Law Office Management Conditions
 Medical Conditions
 Financial Conditions

F. Other Conditions Negotiated by the Parties:

(Effective January 1, 2011)

(1) In Multistate Professional Responsibility Examination: Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

No MPRE recommended. Reason: Respondent passed the MPRE on or about April 5, 2011.

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) Conditional Rule 9.20, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) Credit for Interim Suspension [conviction referral cases only]: Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions**:

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Medical Conditions

- a. Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of one times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for days or months or years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

c. I Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

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Attachment to Stipulation Re Facts, Conclusions of Law and Disposition in the Matter of Cynthia L. Cox Case nos. 10-0-01663, 10-N-07136, and 11-O-13911

I. FACTS AND CONCLUSIONS OF LAW

Case No. 10-N-07163

Facts:

- 1. On April 12, 2010, the California Supreme Court filed a disciplinary order in State Bar Court case number 09-PM-18806 (Supreme Court Case Number SI72347). The disciplinary order required respondent to comply with California Rule of Court 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the order. The order also suspended respondent from the practice of law.
- 2. The order became effective thirty days after it was filed (California Rules of Court, rule 9.18(b)), and at all times subsequent has remained in full force and effect.
- 3. Notice of the rule 9.20 order was properly served upon respondent in the manner prescribed by California Rule of Court 9.18(b) at the address respondent maintained with the State Bar in accordance with Business and Professions Code section 6002.1 subdivision (a).
- 4. The deadlines for complying with rule 9.20(a) and rule 9.20(c) expired on or about June 11, 2010, and June 21, 2010, respectively.
- 5. Respondent received notice of the Supreme Court order as follows:
 - a. On April 12, 2010, the Supreme Court mailed a copy of the order (which respondent received shortly thereafter);
 - b. On May 7, 2010, the State Bar's Office of Probation mailed respondent a letter (which respondent received shortly thereafter), reminding respondent of her duty to comply with rule 9.20;
 - c. On July 23, 2010, the Office of Probation mailed respondent a letter (which respondent received shortly thereafter), reminding her that she had not complied with rule 9.20 and that the deadline had passed; and,
 - d. On July 29, 2010, respondent telephoned the Office of Probation and promised to file her rule 9.20 compliance declaration that same day.
- 6. Respondent failed to file any compliance declaration until August 3, 2010. However, the compliance declaration respondent filed on August 3, 2010, was defective because it failed to state whether respondent had complied with California Rule of Court 9.20(a)(4), requiring specified notice to opposing counsel, parties, courts, agencies and tribunals.

- 7. On August 4, 2010, the Office of Probation sent respondent a letter (which respondent received shortly thereafter) advising that her compliance declaration had been rejected because it was defective.
- 8. On August 27,2010, respondent filed a 9.20 compliance declaration that was accepted and filed.

Conclusions of Law:

9. By not filing her 9.20 compliance declaration until August 27, 2010, respondent willfully disobeyed or violated an order of the court requiring her to do or forbear an act connected with or in the course of Respondent's profession which she ought in good faith to do or forbear, in violation of Business and Professions Code, section 6103.

Case No. 11-O-13911

Facts:

- 10. Respondent represented Kevin and Brigette Lopez in a Chapter 13 bankruptcy case. In June 2009, the bankruptcy court confirmed the Lopez's Chapter 13 plan, and thus respondent's work was essentially completed.
- In January 2010, the State Bar Court placed respondent on inactive status. Respondent has not been eligible to practice law in California ever since. On May 17, 2010, the United States District Court suspended respondent from practice and, ever since, respondent has not been eligible to practice law in federal court.
- 12. As of February 2011, respondent was working in the law office of another attorney, identified in this stipulation as MVG. The Lopezes sought respondent's advice concerning their matter. Respondent explained that she was suspended, but could provide provide financial advice. The Lopezes thereupon employed respondent.
- 13. On February 18, 2011, respondent sent a letter on behalf of the Lopezes, specifically, a letter to Mary Lopez's school advising that the Lopezes were prohibited by Federal law from entering into credit transactions with the school. This letter was on MVG's letterhead and signed by respondent under the legend "LAW OFFICE OF MVG." The letter did not provide a title for respondent, leaving the reader to believe that respondent was both performing legal services and acting the capacity of an attorney.

CONCLUSION OF LAW (11-O-13911)

14. By sending the February 18, 2011 letter, respondent practiced law in a jurisdiction (bankruptcy law) where to do so would be involation of the regulations of the profession in that jurisdiction.

II. SUPPORTING AUTHORITY

In Matter of Friedman (1993) 2 Cal. State Bar Ct. Rptr. 527, the State Bar Court recommended a 30-day suspension, in light of compelling mitigating circumstances that the court found warranted deviation from Standard 1.7. Similarly, in this case, the brutal assault respondent suffered and the resulting Post Traumatic Stress Disorder ("PTSD") and depression is a significant mitigating factor (as discussed below), but does not completely explain her failure to timely file her Rule 9.20 affidavit. Therefore, a 60-day actual suspension is appropriate. See also In the Matter of Trousil (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229 (Two year suspension, stayed, 30 days actual suspension, for UPL).

III. MITIGATION

In April 2009, respondent was brutally assaulted. Her assailant was arrested, prosecuted, and incarcerated. Over the course of the next two years, respondent required multiple surgeries to repair the extensive physical damage, including facial reconstruction surgeries for the multiple broken bones in her face.

Respondent also developed PTSD and depression, as a direct proximate result of the assault and her recovery from the assault. Respondent's symptoms were characterized by anxiety, inaction, avoidant behavior, and a sense of being overwhelmed or "shut down."

During this period, respondent ignored her mail and avoided many obligations. Further contributing to the enormous strain on respondent was the fact that respondent was the sole means of support for herself and her daughter.

Respondent has received and continues to receive treatment for her depression and PTSD through individual therapy.

IV. PENDING PROCEEDINGS

The disclosure date referred to in paragraph A(7) of this stipulation, was August 1, 2011.

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

The parties waive any variance between the Amended Notice of Disciplinary Charges filed on June 4, 2011 and the facts and/or conclusions of law in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

VI. DISMISSALS

The parties respectfully request that the Court dismiss count two (Business and Professions Code, section 6106) with prejudice in the interest of justice.

VII. ESTIMATE OF COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of August 1, 2011, the estimated prosecution costs in this matter are approximately \$3,534.00 plus the costs associated with Respondent's deposition and other incurred costs. Respondent acknowledges that this figure is an estimate only. 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.

(Do not write above this line.)	
In the Matter of	Case number(s):
CYNTHIA L. COX,	10-0-01663; 10-N-07136; 11-O-13911
Member no. 168112	

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

<u> 12/1/</u>		CYNTHIA L. COX
Date	Respondent's Signature	Print Name
Class		Samuel C. Bellicini
Date	Respondent's Counsel Signature	Print Name
<u>8/3/11</u> Date	Deputy Trial Counsel's Signature	<u>Christine Souhrada</u> Print Name

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

In the Matter of: CYNTHIA L. COX Member No. 188112 Case Number(s): 10-O-01663: 10-N-07136: 11-O-13911

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

1. On page 1 under heading "Case Number(s)" delete the incorrect case number "10-N-07163." In its place insert "10-N-07136."

2. On page 4, D (3)(a) under Actual Suspension delete all the words following the word "months," so that the sentence/paragraph reads exactly as follows: Respondent must be actually suspended from the practice of law in the State of California for a period of six months.

3. On page 6, F(2) – Insert an "X" in the box "Rule 9.20, California Rules of Court."

4. On page 9, paragraph 14 – After the last word (i.e., "jurisdiction") of the sentence, insert "in violation of Rules of Professional Conduct, rule 1-300(B)."

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.)

st 4,2011

Judge of the State Bar Court

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 August 4, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

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

SAMUEL C. BELLICINI FISHKIN & SLATTER, LLP 1111 CIVIC DR STE 215 WALNUT CREEK, CA 94596

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

CHRISTINE A. SOUHRADA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 4, 2011.

Bernadette C.O. Molina Case Administrator State Bar Court