

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles DISBARMENT			PUBLIC MATTER
Counsel For The State Bar Jean Cha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1000 Bar # 228137	Case Number(s): 10-O-04403 10-O-07907 10-O-07908 11-O-11742 (INV)	For Court use only <div style="text-align: center;"> FILED JUN 27 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
In Pro Per Respondent Sara Smith Ray 6520 Platt Ave #564 West Hills, CA 91307 (818) 907-6900 Bar # 140564	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT		
In the Matter of: Sara Smith Ray Bar # 140564 A Member of the State Bar of California (Respondent)	DISBARMENT <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 6, 1989.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (13) pages, not including 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) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case S184616 Case No. 08-O-12726
 - (b) Date prior discipline effective October 15, 2010
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct rule 3-110(A) for failure to perform; Business and Professions Code sections 6068(m) for failure to communicate and 6106 for moral turpitude.
 - (d) Degree of prior discipline Two years stayed suspension, Three years probation with 45 days actual suspension.
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:

Supreme Court Order No. S184616; State Bar Court case no. 11-PM-10155, effective June 16, 2011, actual suspension for Two years and until Respondent complies with Standard 1.4(c)(ii), Rules of Procedure of the State Bar of California, Title IV., Standards for Attorney Sanctions for Professional Misconduct, with credit toward actual suspension from 2/18/10.
- (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.

(Do not write above this line.)

- (3) **Trust Violation:** Trust funds or property were involved and respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (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 has agreed to discipline without requiring a hearing and has been fully cooperative during these 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. During the time of the misconduct, Respondent was overwhelmed by extreme emotional stress which distorted Respondent's value system and thought processes and influenced her misconduct. (Read v. State Bar (1991) 53 Cal.3d 394, 424-

(Do not write above this line.)

425.) Respondent voluntarily terminated her practice in August 2010 and has not practiced law since the time of the misconduct.

- (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: Disbarment.

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.

- (3) **Other:**

Attachment language (if any):

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

IN THE MATTER OF: Sara Smith Ray, 140564
CASE NUMBERS: 10-O-04403; 10-O-07907; 10-O-07908; 11-O-11742 (INV)

Respondent SARA SMITH RAY, admits the facts set forth in the stipulation are true and that he is culpable of violations of the specified statutes and Rules of Professional Conduct.

(1) Case No. 10-O-04403 – THE DAVIDSON MATTER

FACTS

1. In April 2007, the Hartford insurance company (“Hartford”) denied Sandra Davidson’s (“Davidson”) claim against her former employer for long term disability benefits.
2. In June 2007, Davidson hired Respondent to contest Hartford’s denial.
3. In October 2007, Respondent appealed Hartford’s decision to Hartford’s internal claim appeal unit.
4. On March 7, 2008, Hartford denied Davidson’s appeal. Respondent told Davidson she would file a lawsuit against Hartford and Davidson’s former employer.
5. On March 14, 2008, Respondent led Davidson to believe that she had filed had filed a lawsuit on her behalf and told Davidson that the court would set the case for hearing within the next 4 months. In fact, Respondent knew that she had not filed a lawsuit on Davidson’s behalf.
6. In about July 2008 and November 2008, Respondent told Davidson, via e-mail, that she was still waiting for the court to set hearing dates.
7. On December 5, 2008, Davidson asked Respondent in which court she had filed Davidson’s lawsuit. That same day, Respondent told Davidson that she filed her lawsuit in the United States District Court.
8. On December 30, 2008, Respondent filed a complaint in the Central District of the United States District Court against Davidson’s former employer entitled *Davidson v. OAO Technology Solutions Long Term Disability Plan*, case no. CV08-8611 (“*Davidson v. OAO*”). Respondent never served the defendant.

9. Respondent did not tell Davidson that she filed a lawsuit on her behalf on December 30, 2008.

10. On October 8, 2009, the district court issued an Order to Show Cause ("OSC") in *Davidson v. OAO* requiring Respondent to explain why the court should not dismiss *Davidson v. OAO*, because Respondent had not served the defendants. The OSC required Respondent to respond to the OSC by November 10, 2009. Respondent received notice of the OSC.

Respondent did not respond to the OSC.

11. On November 17, 2009, the district court dismissed *Davidson v. OAO* for failure to prosecute the lawsuit. Respondent received notice of the Order. Respondent did not inform Davidson that the court had dismissed the lawsuit.

12. On February 24, 2010, Davidson terminated Respondent's employment after Davidson learned that her lawsuit had been dismissed in November 2009 due to Respondent's failure to prosecute the lawsuit.

13. On March 9, 2010, the State Bar opened an investigation, case no. 10-O-04403, pursuant to a complaint from Sandra Davidson.

14. On June 2, 2010, and on June 25, 2010, a State Bar investigator mailed letters requesting a written response to Respondent at her membership records address regarding the allegations in case no. 10-O-04403. Respondent received the letters.

15. Respondent failed to respond to the investigator's letters.

CONCLUSIONS OF LAW

16. By not serving the defendant in Davidson's lawsuit, by not responding to the OSC, or otherwise taking any action to prosecute Davidson's lawsuit after filing it, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, Rule 3-110(A).

17. By leading Davidson to believe that Respondent had filed her lawsuit before it was filed and by leading Davidson to believe that her lawsuit was ongoing when it had been

dismissed, Respondent misrepresented material facts to her client, an act involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code section 6106.

18. By not providing a written response to the allegations in case no. 10-O-04403 or otherwise cooperating in the investigation of the matter, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions Code section 6068(i).

(2) Case No. 10-O-07907 – THE NOURIBEKIAN MATTER

FACTS

19. In December 2008, Jasmen Nouribekian (“Nouribekian”) employed Respondent to represent her in a personal injury matter involving an assault at Nouribekian’s place of employment.

20. In December 2008, Nouribekian delivered two boxes of documents to Respondent that contained evidence related to the assault and of the relationship between the assailant and Nouribekian’s employer. Nouribekian expected Respondent to file a lawsuit against her employer on her behalf.

21. Respondent did not file a lawsuit on Nouribekian’s behalf or take any other action that was of any benefit to Nouribekian.

22. On May 19, 2010, Nouribekian sent an email to Respondent asking for a copy of the lawsuit that Respondent had filed on Nouribekian’s behalf. That same day Respondent replied to Nouribekian’s request. She led Nouribekian to believe that she had filed a lawsuit on her behalf and stated that it would be no problem to send a copy of the lawsuit to Nouribekian.

23. Respondent knew she had not filed a lawsuit on Nouribekian’s behalf.

24. On June 2, 2010, Nouribekian terminated Respondent’s employment.

25. On July 12, 2010, the State Bar opened an investigation, case no. 10-O-07907, pursuant to a complaint from Jasmen Nouribekian.

26. On September 22, 2010, and on October 13, 2010, a State Bar investigator mailed letters requesting a written response to Respondent at her membership records address regarding the allegations in case no. 10-O-07907. Respondent received the letters. Respondent failed to respond to the investigator's letters.

CONCLUSIONS OF LAW

27. By failing to file a lawsuit on Nouribekian's behalf, or to take any action that was of any benefit to Nouribekian, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, Rule 3-110(A).

28. By leading Nouribekian to believe that Respondent had filed a lawsuit on her behalf when she had not, Respondent committed an act involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code section 6106.

29. By not providing a written response to the allegations in case no. 10-O-07907 or otherwise cooperating in the investigation of the matter, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions Code section 6068(i).

(3) Case No. 10-O-07908 – THE VOS MATTER

FACTS

30. In November 2008, Virgil Vos ("Vos") employed Respondent to represent him in a civil matter against his employer, Honeywell International ("Honeywell").

31. On November 25, 2008, Respondent filed a complaint in the United States District court on behalf of Vos in case no. 08-CV-7797, Virgil Vos v. Honeywell International ("Vos v. Honeywell"). Thereafter, Respondent did not serve a copy of the complaint on the defendants.

32. On March 17, 2009, the district court issued an Order to Show Cause ("OSC") in Vos v. Honeywell requiring Respondent to explain why the court should not dismiss Vos v. Honeywell. The order required Respondent to respond to the OSC by March 27, 2009.

33. Respondent received the OSC. Respondent did not file any responses to the OSC.

34. On March 30, 2009, the district court dismissed Vos v. Honeywell for failure to prosecute the lawsuit. Respondent received notice of the dismissal.

35. Respondent did not inform Vos that the district court dismissed his lawsuit.

36. On July 13, 2010, the State Bar opened an investigation, case no. 10-O-07908, pursuant to a complaint from Virgil Vos.

37. On October 26, and on November 16, 2010, a State Bar investigator mailed letters requesting a written response to Respondent at her membership records address regarding the allegations in case no. 10-O-07907. Respondent received the letters.

38. Respondent failed to respond to the investigator's letters.

CONCLUSIONS OF LAW

39. By failing to serve Honeywell and allowing Vos's case to be dismissed for failure to prosecute, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct rule 3-110(A).

40. By not providing a written response to the allegations in case no. 10-O-07908 or otherwise cooperating in the investigation of the matter, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions Code section 6068(i).

(4) Case No. 11-O-11742 – THE POLLY MATTER

FACTS

41. In 2004, Polly Smith ("Poly") retained Respondent to represent her in a claim against her former employer for retirement benefits.

42. On December 21, 2006, Respondent filed a complaint in the United States District court on behalf of Polly entitled Polly Smith v. Unum Life Insurance Company of America et al., case no. 06-CV-02881 ("Smith v. Unum").

43. On August 27, 2007, the district court issues an Order to Show Cause re dismissal in Smith v. Unum regarding dismissal for failing to file joint status reports. The OSC order

required Respondent to respond to the OSC by September 14, 2007. Respondent did not file a response to the OSC even though she received notice.

44. On September 27, 2007, the district court entered an Order of Dismissal for failure to comply with the August 27, 2007 order. Respondent received notice of the dismissal.

45. Respondent did not inform Polly that the district court dismissed her lawsuit.

CONCLUSION OF LAW

46. By failing to file a joint status report and allowing Polly's case to be dismissed, Respondent recklessly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct rule 3-110(A).

DISMISSALS.

The parties respectfully request the Court dismiss one alleged violation from the NDC in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
10-O-04409	Three	Section 6068(m), Business and Professions Code
10-O-07907	Seven	Rule 3-700(D)(1), Rules of Professional Conduct
10-O-07908	Ten	Section 6068(m), Business and Professions Code

SUPPORTING AUTHORITY

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; Std. 1.3.)

Standard 2.4(a) of the Standards for Attorney Sanctions for Professional Misconduct, Rules Proc. Of State Bar, Title IV, provides for disbarment for failure to perform or communicate rising to the level of abandonment. Standard 2.3 provides that a violation of moral turpitude shall result in actual suspension or disbarment. Standard 2.6 provides for suspension or disbarment for a violation of section 6068(i) of the Business and Professions Code. Standard 1.7(b) provides for disbarment.

The standards are guidelines (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628) and are afforded great weight (*In re Silverton* (2005) 36 Cal.4th 81, 91-92) but they are not applied in a talismanic fashion (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994). The determination of discipline involves an analysis of the standards on balance with any mitigation and aggravation. (Std. 1.6(b); *Segal v. State Bar* (1988) 44 Cal.3d 1077, 1089; *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-11.)

Because Respondent has a prior record of discipline, the discipline in the present proceeding is greater than that imposed in the prior proceeding. (Std. 1.7(b).) Although, the aggravating force of the first prior discipline is slightly reduced because the underlying misconduct occurred contemporaneously and during the same time period as the misconduct in the present matters (*In the Matter of Hagen* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153, 171; *In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136; *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619), more recent misconduct occurred in 2010 in relation to the second prior discipline.

PENDING PROCEEDINGS.

The disclosure date referred to on page one, paragraph A.(3), was June 2, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.



Respondent acknowledges that he was informed that as of June 2, 2011, the estimated prosecution costs in this matter are approximately \$6,591.00. Respondent acknowledges that this figure is an estimate only and that it might not include State Bar Court costs (see Bus. & Prof. Code section 6068.10(c)) or taxable costs (see C.C.P. section 1033.5(a)), which will be included in any final cost assessment. Respondent further acknowledges that if this stipulation is rejected or if relief from the stipulation is granted, the costs may increase due to further proceedings. Note that if Respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision(c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 5.130 (old rule 286)). Payment of costs is enforceable as provided in Business and Professions Code section 6140.7 and as a money judgment.

(Do not write above this line.)

In the Matter of: Sara Smith Ray	Case number(s): 10-O-04403; 10-O-07907; 10-O-07908; 11-O-11742 (INV)
-------------------------------------	-------------------------------------------------------------------------

SIGNATURE OF THE PARTIES

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

<u>6/5/11</u> Date	 Respondent's Signature	<u>Sara S. Ray</u> Print Name
<u>6/13/11</u> Date	 Deputy Trial Counsel's Signature	<u>Jean Cha</u> Print Name

(Do not write above this line.)

In the Matter of: Sara Smith Ray	Case Number(s): 10-O-04403; 10-O-07907; 10-O-07908; 11-O-11742 (INV)
-------------------------------------	----------------------------------------------------------------------------

DISBARMENT ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

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

06-27-11
Date


Judge of the State Bar Court

RICHARD A. PLATEI

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 June 27, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT in a sealed envelope for collection and mailing on that date as follows:

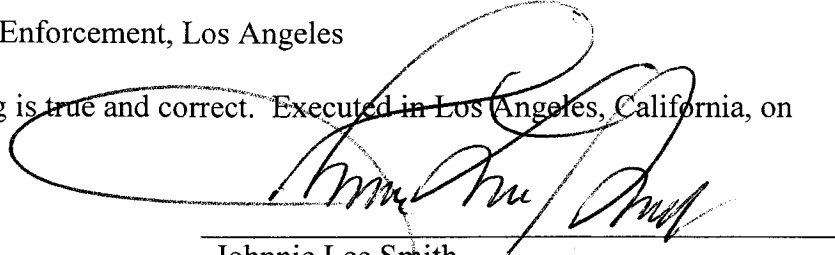
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SARA S. RAY
SARA SMITH RAY
6520 PLATT AVE #564
WEST HILLS, CA 91307

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

Jean Hee Cha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 27, 2011.



Johnnie Lee Smith
Case Administrator
State Bar Court