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State Bar Court of California Hearing Department Los Angeles PUBLIC MATTER ACTUAL SUSPENSION		
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-04497	For Court use only <div style="text-align: center;"> FILED MAY 17 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Steve Larkin 9534 Swinton Ave North Hills, CA 91343 (818) 277-0464 Bar # 112934	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: STEVE LARKIN Bar # 112934 A Member of the State Bar of California (Respondent)	ACTUAL SUSPENSION <input 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 March 28, 1984.
- (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 11 pages, not including the order.



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- (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: 2013 & 2014. (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) 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. Respondent did not properly handle funds that he was ordered to deposit into a blocked account and therefore deprived his clients of a benefit.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

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- (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:

N/A

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. Respondent has 27 years of discipline-free practice history.
- (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 been candid and cooperative. (Std. 1.2(e)(v); *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079; *Pineda v. State Bar* (1989) 49 Cal.3d 753, 760.)
- (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. Respondent is remorseful and contrite. As soon as his health permitted, he appeared before the Superior Court to formally apologize on March 24, 2011, cooperated with the Mendozas to restore the funds to a blocked account, and borrowed those funds from family members despite the fact that his cancer prognosis is grim. (Std. 1.2(e)(vii); *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179.)
- (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 suffering from severe debilitating health issues that distracted Respondent from his responsibilities in responsibly depositing the Mendoza funds into a blocked account in accordance with a court order.

- (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. Respondent has provided character references from a cross-section of members in the legal and general community. These witnesses attest to his character, integrity and honesty even with the knowledge of the misconduct and belief that the conduct will not recur. (Std. 1.2(e)(vi).)
- (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) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of TWO YEARS.
- 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) **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 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:

E. Additional Conditions of Probation:

- (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 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) **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:
- (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:** CLIENT TRUST ACCOUNTING SCHOOL.

Within one (1) year of the effective date of the discipline herein, Respondent must supply the Office of Probation satisfactory proof of attendance of a session of the State Bar of California Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session. Respondent will not receive MCLE credit for attending that session.

Attachment language (if any):

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

IN THE MATTER OF: STEVE LARKIN, 112934
CASE NUMBER: 10-O-04497

Respondent STEVE LARKIN, 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.

FACTS

1. At all times mentioned herein, Respondent represented minors Raymond and Alena Mendoza (the “minors”), by and through their guardians ad litem, Carlos and Jessica Mendoza, in a medical malpractice action entitled, *Salena Mendoza, et al. v. Jae H. Kim, et al.*, Los Angeles County Superior Court case number VC040596. Attorney Donald Ellison (“Ellison”) was the attorney for the conservator of the estate and person of plaintiff Salena Mendoza.
2. In 2005, Respondent settled the action for \$50,000.
3. On June 8, 2009, Respondent filed a petition to approve the disposition of the \$50,000 on behalf of the minors (the “petition”). When the petition was filed, Alena Mendoza was nine years old and Raymond Mendoza was six years old.
4. On June 25, 2009, the court approved the petition. The court ordered that \$36,720 be deposited into a blocked account in the name of and for the benefit of the minors; and that no withdrawal of principal or interest could be made without a written court order, until the minors attained the age of 18 years. The court further approved \$12,500 in attorney fees and \$780 in costs. Ellison was entitled to half of the attorney fees, or \$6,250.
5. Respondent received two \$25,000 drafts, one payable to “Raymond Mendoza by and through his guardians ad litem, Jessica and Carlos Mendoza, Steve Larkin, Esq. and Donald Ellison, Esq.” and one payable to “Alena Mendoza by and through her guardians ad litem, Jessica and Carlos Mendoza, Steve Larkin, Esq. and Donald Ellison, Esq.,” but never deposited the drafts into a blocked account. Instead, on July 31, 2009, Respondent deposited the two drafts

into his client trust account at Bank of America, account number xxxxxx1927 (the "CTA").¹ Prior to the deposit, the balance in the CTA was negative \$20.42. Respondent made no other deposits into the CTA between July 31 and December 31, 2009.

6. Between August 3, 2009 and November 30, 2010, Respondent or someone on behalf of Respondent made withdrawals from the CTA for his own use and purpose and not for the benefit of the minors, bringing the balance in the CTA to one cent on November 30, 2010.

7. On October 28, 2009, Ellison mailed a letter to Respondent. In the letter, Ellison requested payment of his share of the attorney fees of \$6,250 from the \$50,000 settlement and the status of the deposit of the \$36,720 into a blocked account. Respondent did not timely comply with Ellison's requests.

8. Respondent misappropriated \$36,720 belonging to the minors by not depositing \$36,720 into a blocked account in the name of the minors. Respondent misappropriated \$6,250 belonging to Ellison by not paying Ellison his share of the attorney fees promptly.

9. On March 24, 2011, Respondent deposited the \$36,720 settlement funds into a blocked account in the name of and for the benefit of the minors and made formal apologies to the parties, attorney Ellison and the court. Respondent also paid attorney Ellison \$6,250 that same morning.

10. On April 7, 2011, Respondent paid \$1,030.17 in interest for the benefit of the minors and \$876.71 in interest to attorney Ellison.

11. On April 30, 2010, the State Bar of California ("State Bar") opened an investigation identified as case number 10-O-04497, regarding Respondent's handling of the settlement funds.

12. On September 15, 2010, a State Bar investigator mailed a letter to Respondent regarding its investigation at his membership records address of 9534 Swinton Avenue, North Hills, CA 91343 (the "membership records address").

¹ The full account number is omitted for privacy purposes.

13. On September 24, 2010, the investigator's letter was returned to the State Bar marked, "Return to Sender Not Deliverable As Addressed Unable to Forward."

14. On April 7, 2011, Respondent updated his membership records address.

CONCLUSIONS OF LAW

15. By misappropriating \$36,720 belonging to the minors and \$6,250 belonging to Ellison, Respondent committed an act involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code section 6106.

16. By not depositing \$36,720 into a blocked account in the name of and for the benefit of the minors, Respondent disobeyed an order of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to do, in wilful violation of Business and Professions Code, section 6103.

17. By not timely changing his membership records address, Respondent failed to maintain a current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes in wilful violation of Business and Professions Code, section 6068(j).

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-04497	Two	Rule 4-100(A), Rules of Professional Conduct

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.)

The Standards for Attorney Sanctions for Professional Misconduct, Rules Proc. Of State Bar, Title IV, provides for disbarment where that the various violations present in this single client matters falls within the range of suspension to disbarment, and the most severe sanction is prescribed. (Standards 1.6(a) & 2.2(a), 2.3, 2.6.)

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 Silvertan* (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.)

Respondent has 27 years in practice with no prior record of discipline. Respondent deposited the funds into his CTA with the intention of transferring them to blocked accounts once he determined which bank to utilize. Before he was able to do so however, he became gravely ill and was diagnosed with cancer in 2009. Also, in 2009, Respondent unreasonably believed that the funds in his CTA were in danger of being tapped into by his ex-wife and therefore, removed the funds for safekeeping while he was hospitalized for serious life-threatening health issues into an alternative account. During his treatments, surgery, and care by his sister who is an R.N., Respondent relocated to another state. While he was seriously debilitated for health reasons, his family members tried to assist in his financial affairs. Since Respondent's health became somewhat stabilized in March 2011, although his prognosis is grim, Respondent learned for the first time that some of the funds were spent to alleviate a portion of his outstanding medical obligations in 2010. He has since been able to replenish the funds to make complete restitution with interest to all those harmed by the misconduct. Respondent's health condition directly caused the circumstances that led to the misconduct and the subsequent delay in depositing the Mendoza funds into blocked accounts on behalf of his clients.

Here, disbarment is not required to achieve the purposes of attorney discipline. In light of compelling mitigation and many years in practice with no prior history of discipline, one-year actual suspension is appropriate.

PENDING PROCEEDINGS.

The disclosure date referred to on page two, paragraph A.(7), was April 7, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that he was informed that as of April 7, 2011, the estimated prosecution costs in this matter are approximately \$3,269.00. 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:
STEVE LARKIN


Case number(s):
10-O-04497

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.

4-27-11

Date



Respondent's Signature

Steve Larkin

Print Name

Date

Respondent's Counsel Signature

Print Name

4-28-11

Date



Deputy Trial Counsel's Signature

Jean Cha

Print Name

(Do not write above this line.)

In the Matter of: STEVE LARKIN	Case Number(s): 10-O-04497
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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.
- 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.)**

5/13/11

Date



Judge of the State Bar Court

DONALD F. MILES

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 May 17, 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:

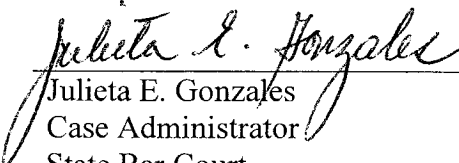
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

STEVE LARKIN ESQ
9534 SWINTON AVE
NORTH HILLS, CA 91343

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

Jean H. Cha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 17, 2011.



Julieta E. Gonzales
Case Administrator
State Bar Court