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**State Bar Court of California  
Hearing Department  
Los Angeles  
DISBARMENT**

**ORIGINAL**

<p>Counsel For The State Bar</p> <p><b>Diane J. Meyers</b> Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017-2515 (213) 765-1496</p> <p>Bar # 146643</p>	<p>Case Number(s):</p> <p>11-C-18680-DFM</p>	<p>For Court use only</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b></p> <p><b>MAR 12 2014</b> <i>RZ</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p><b>Kenneth Roger Markman</b> P.O. Box 49523 Los Angeles, CA 90049 (310) 957-2377</p> <p>Bar # 155529</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p><b>DISBARMENT</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of:</p> <p><b>KENNETH ROGER MARKMAN</b></p> <p>Bar # 155529</p> <p>A Member of the State Bar of California (Respondent)</p>		

**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 16, 1991**.
- (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 **(11)** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."



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- (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
- (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 intentional, 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.

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- (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. **See Stipulation to Attachment at p. 8.**
- (8)  **Restitution:** Respondent failed to make restitution.
- (9)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit 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.
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- (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 extraordinarily 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 subsequent rehabilitation.

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(13)  No mitigating circumstances are involved.

**Additional mitigating circumstances:**

**See Attachment to Stipulation at p. 9.**

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

IN THE MATTER OF:                   KENNETH ROGER MARKMAN  
CASE NUMBER:                        11-C-18680

**FACTS AND CONCLUSIONS OF LAW.**

Case No. 11-C-18680 (Conviction Proceedings)

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offense for which he was convicted involved moral turpitude.

**FACTS RE: PROCEDURAL BACKGROUND:**

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

2. On January 3, 2012, a felony complaint was filed in the Los Angeles County Superior Court against respondent, Jorge Zaragoza ("Zaragoza") and Jennifer Vasquez ("Vasquez") in *People v. Kenneth Roger Markman, et al.*, case number BA392291. Respondent was charged with five felony violations occurring on October 21, 2011: a violation of Penal Code section 182(a)(1) [conspiracy to commit a crime], a violation of Penal Code section 4573 [bringing drugs into a jail]; a violation of Penal Code section 4573.6 [possession of a controlled substance (heroin) in a jail]; a violation of Penal Code section 4573.6 [possession of a controlled substance (methamphetamine) in a jail]; and a violation of Penal Code section 4573.6 [possession of a controlled substance (marijuana) in a jail]. These five violations were charged as serious felonies pursuant to Penal Code section 1192.7(c)(28). Respondent was further charged with two felony violations occurring on November 18, 2011: a violation of Penal Code section 4573 [bringing drugs into a jail] and a violation of Penal Code section 4573.6 [possession of a controlled substance (cocaine) in a jail].

3. On February 11, 2013, respondent entered his no contest plea to the charges, and was thereby found guilty and convicted of one violation of Penal Code section 182(A)(1); two violations of Penal Code section 4573; and four violations of Penal Code section 4573.6. Respondent further admitted that he committed an overt act, that Vasquez and Zaragoza agreed to acquire controlled substances from their supplier; and that as to respondent's offenses committed on October 21, 2011, the offenses were committed for the benefit of, in association with, or at the direction of a criminal street gang.

4. On March 15, 2013, the court suspended the imposition of sentence and placed respondent on formal probation for a period of three years. The court ordered that respondent, among other things, serve 365 days in the county jail forthwith (with a total credit of nine days in custody or five days actual custody and four days for good/work time); pay a restitution fine; cooperate with the probation officer in a plan for drug treatment and counseling; maintain residence as approved by the probation officer, and seek and maintain training, schooling or employment as approved by the probation officer; enroll in and complete a one-year live in drug program; abstain from the use or possession of any narcotic, dangerous

or restricted drug, and associated paraphernalia, except with a valid prescription, and stay away from places where users or sellers congregate; abstain from association with drug users or sellers unless attending a drug treatment program; and submit himself and his property to search and seizure at any time of the day or night, by any probation officer or other peace officer, with or without warrant, probable cause or reasonable suspicion.

5. On September 6, 2013, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offenses for which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

#### FACTS AND CIRCUMSTANCES SURROUNDING RESPONDENT'S CONVICTION:

6. On October 21, 2011, at approximately 10:00 a.m., respondent arrived at the Los Angeles County Superior Court, Criminal Courts Building Foltz Courthouse in Department S112 on the 11th floor. Respondent asked to speak with his client, Zaragoza, an active and admitted member of a criminal street gang. Zaragoza had a pending court date on October 21, 2011 in the same department. Respondent was directed to a nearby attorney-client interview room.

7. Prior to October 21, 2011, the Los Angeles County Sheriff's Department had received information that various narcotics were being smuggled into the North County Correctional Facility where Zaragoza was housed and that Zaragoza was receiving narcotics during visits with respondent at the Foltz Courthouse on a consistent basis. A gang investigator confirmed that Zaragoza had a pending court date on October 21, 2011 in Department S112 and planned to confront respondent before he met with Zaragoza.

8. When respondent walked into the attorney-client interview room, he was met by a Sheriff's investigator, deputies, and a narcotics-detecting dog. Respondent was informed that the Sheriff's Department had received information that respondent was going to be transporting narcotics into the jail lockup that day and that respondent was going to give the narcotics to Zaragoza. Respondent acknowledged that he had a "package" but indicated that he was unaware of the contents.

9. Respondent removed a package from his left-front interior suit jacket pocket and handed it to the investigator. The investigator placed the package on the floor and the dog immediately "alerted" on it. The investigator asked respondent what type of drugs were hidden inside the package. Respondent replied that he did not know and that he thought it contained cigarettes and a lighter. Gillis told respondent that the dog does not "alert" on cigarettes. Respondent then changed his story and stated that the object may contain cocaine or methamphetamine.

10. The dog also "alerted" to respondent's right front pants pocket and briefcase. The investigator asked respondent if he had any additional contraband on him and respondent replied that he did not. Respondent also stated that he did not have any more contraband in his briefcase and welcomed a search of everything. Gillis described Respondent as very cooperative.

11. The investigator asked respondent how much he was paid to transport the narcotics into the jail and respondent replied that this was the third time he had brought "packages" into the jail for Zaragoza, although respondent never really knew what was in the "packages." The investigator asked respondent how much he had been paid to transport the drugs and respondent replied, "She gave me a hundred bucks today, the hundred you got right there." Respondent was referring to five twenty dollar

bills that the investigator retrieved from respondent's right front pants pocket. The investigator asked respondent who he was referring to as "she." Respondent replied that Zaragoza's girlfriend, "Jenny" (Vasquez), paid him the money to bring the drugs to Zaragoza. The investigator asked respondent how he was able to get the "package" through security checkpoints within the courthouse. Respondent replied that he originally had the "package" in his right front pants pocket, but he got "scared because the bulge was too big," and further stated, "so I moved it into my jacket pocket."

12. Respondent told the investigator that he would help him with other cases if he would just let him go. Respondent repeatedly asked the investigator to help him out of the situation, but the investigator told him he would not because of the circumstances. Respondent told the investigator that he was now in fear for his safety and the safety of his daughter because he lost "their" drugs. When the investigator asked who he was referring to, respondent replied, "the gangsters, you know who I am talking about."

13. Upon inspection of the "package," it contained twenty-six small balloons containing methamphetamine and tar heroin, a chunk of marijuana and three hypodermic syringes.

14. On November 18, 2011, a Sheriff's office was working with the weapon screening area at the Antelope Valley Superior Court when he saw respondent walk into the lobby of the court house through the front door. Respondent walked up to the weapon screening area and placed his belonging in a plastic tray. It is mandatory that all persons entering the court house shall empty their pockets and put their belongings in a tray prior to running it through the weapon screening area. The officer was looking at the x-ray screen when he saw two glass pipes in respondent's wallet. Based upon the officer's experience on the x-ray machine, he believed that the pipes were used to ingest narcotics.

15. The officer looked at respondent and said, "you have something in your wallet." Respondent realized that the officer saw the pipes. Respondent grabbed his wallet and property from the plastic tray and began to walk towards the exit of the courthouse. The officer saw respondent attempting to leave the building and yelled to respondent, "you need to stop!" Respondent refused to comply with the officer's orders and continued towards the exits of the building at a fast pace. The officer placed himself in front of respondent. Respondent still tried to leave. The officer was able to detain respondent by grabbing respondent's right arm in a firm grip. The officer was able to grab respondent's left arm in a firm grip. Respondent did not resist the officer's action in any way. At this time, a Sheriff's deputy saw what was happening between the officer and respondent and came to assist the officer. The deputy detained respondent pending a narcotic investigation.

16. Upon a search of respondent, two bindles of rock cocaine and two glass cocaine pipes were found inside his wallet. Respondent acknowledged that the bindles contained rock cocaine and that he had an addiction for several years.

#### CONCLUSION OF LAW:

17. The facts and circumstances surrounding the above-described violations involved moral turpitude.

#### AGGRAVATING CIRCUMSTANCES.

##### **Multiple Acts of Misconduct (Std. 1.5(b)):**

Respondent's misconduct involves a criminal conviction of seven felony violations.

## MITIGATING CIRCUMSTANCES.

### **Additional Mitigating Circumstances:**

**No prior discipline:** Respondent was admitted to the State Bar on December 16, 1991 and has no prior record of discipline. (Standard 1.6(a); *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [over 10 years without prior discipline entitled to significant weight in mitigation].)

**Pretrial Stipulation:** Respondent has entered into a stipulation as to facts and culpability prior to the pretrial conference, although a trial had been set in this matter. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

## AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Standard 2.11 provides that disbarment is appropriate for a final conviction of a felony in which the facts and circumstances surrounding the offense involve moral turpitude, unless the most compelling mitigating circumstances clearly predominate, in which case the actual suspension of at least two years is appropriate.

Respondent’s conviction involved moral turpitude as on two occasions, he attempted to conceal prohibited controlled substances and paraphernalia from courthouse/jail personnel and law enforcement. On one occasion, respondent intended to pass the prohibited controlled substances to an inmate, and

abused his position as his attorney in order to do so, and this misconduct could have compromised the safety of jail personnel and other inmates. Respondent's lack of prior discipline over many years of practice, and willingness to stipulate to facts and culpability after he has already been convicted, does not establish compelling mitigation sufficient to support discipline less than disbarment. Disbarment is necessary to protect the public, the courts and the legal profession, to maintain the highest professional standards, and to preserve public confidence in the legal profession. "[D]isbarments, and not suspensions, have been the rule rather than the exception in cases of serious crimes involving moral turpitude. . . ." (*In re Crooks* (1990) 51 Cal.3d 1090, 1101.)

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

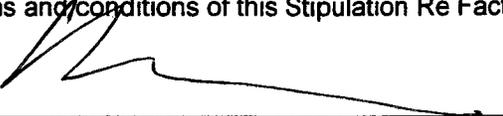
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 27, 2014, the prosecution costs in this matter are \$5,182. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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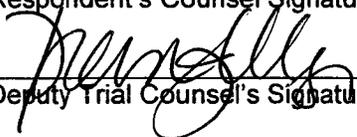
In the Matter of:  KENNETH ROGER MARKMAN	Case number(s):  11-C-18680-DFM
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**SIGNATURE OF THE PARTIES**

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.

3/5/14            Kenneth R. Markman  
Date      Respondent's Signature      Print Name

3/5/14      \_\_\_\_\_      Print Name  
Date      Respondent's Counsel Signature      Print Name

3/5/14            Diane J. Meyers  
Date      Deputy Trial Counsel's Signature      Print Name

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In the Matter of:  KENNETH ROGER MARKMAN	Case Number(s):  11-C-18680-DFM
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### DISBARMENT ORDER

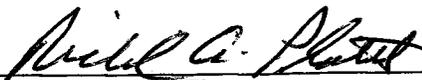
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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 Kenneth Roger Markman 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.

03-12-2014  
Date

  
RICHARD A. PLATEL  
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 Los Angeles, on March 12, 2014, 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:

KENNETH R. MARKMAN  
KENNETH R. MARKMAN  
PO BOX 49523  
LOS ANGELES, CA 90049

KENNETH ROGER MARKMAN  
11356 ALBATA ST  
LOS ANGELES, CA 90049

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

DIANE MEYERS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 12, 2014.



Rose M. Luthi  
Case Administrator  
State Bar Court