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State Bar Court of California **Hearing Department** Los Angeles STAYED SUSPENSION Counsel For The State Bar For Court use only Case Number(s): 12-0-13141 Diane J. Meyers FILED **Deputy Trial Counsel** 1149 S. Hill Street FEB 19 2013 Los Angeles, CA 90015 (213) 765-1496 STATE BAR COURT **CLERK'S OFFICE** Bar # 146643 LOS ANGELES **Counsel For Respondent PUBLIC MATTER** Ellen A. Pansky Pansky Markle Ham LLP 1010 Sycamore Avenue, Unit 308 South Pasadena, CA 91030 Submitted to: Assigned Judge (213) 626-7300 STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING Bar # 77688 In the Matter of: STAYED SUSPENSION; NO ACTUAL SUSPENSION Russell Adam Greenman ☐ PREVIOUS STIPULATION REJECTED Bar # 244064 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:

- Respondent is a member of the State Bar of California, admitted September 26, 2006. (1)
- The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or (2) disposition are rejected or changed by the Supreme Court.
- All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by (3) 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.

Stayed 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). □ Costs are added to membership fee for calendar year following effective date of discipline. □ 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 falls 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. □ Costs are entirely waived. □ Costs are entirely waived. 10 □ State Bar Court case # of prior case □ Described above, or as may be modified by the State Bar Activity of the state of the prior of the state of the prior discipline of the prior discipline of the prior discipline (e) □ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline. (2) □ Dishonesty: Respondent's misconduct was surrounded by or followed by bad falth, 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	(DO II	Of White	abov	e this line.)				
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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)	\boxtimes	Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment to Stipulation at p. 9.		
(8)		No aggravating circumstances are involved.		
Addi	tiona	al aggravating circumstances		
		ating Circumstances [see standard 1.2(e)]. Facts supporting mitigating stances 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. See Attachment to Stipulation at p. 9.		
(3)		Candor/Cooperation: Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.		
(4)		Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.		
(5)		Restitution: Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.		
(6)		Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.		
(7)		Good Faith: Respondent acted in good faith.		
(8)		Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.		
(9)		Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.		
(10)		Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.		
(11)		Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.		

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(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					
	See Attachment to Stipulation at p. 9.				

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D. I	Disc	iplin	e:				
(1)	\boxtimes	Stayed Suspension:					
	(a)	(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 as present fitness to practice and present learning and ability in the law pursuant to standa 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: .			
	The above-referenced suspension is stayed.			renced suspension is stayed.			
(2) Probation:			:				
Respondent is placed on probation for a period of two years, which will commence upon the effective the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)							
E. A	\ddi	tiona	ıl Co	nditions of Probation:			
(1)	\boxtimes	☑ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.					
(2)		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.					
(3)	\boxtimes	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.					
(4)	\boxtimes	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					

(5)

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.

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

Respondent must be assigned a probation monitor. Respondent must promptly review the terms and

submitted on the next quarter date, and cover the extended period.

cooperate fully with the probation monitor.

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(6)		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.				
(7)	×	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 State Bar Ethics School, and passage of the test given at the end of that session.				
			No Ethics School recommended. Reason	n:	•	
(8)		mus	pondent must comply with all conditions of t so declare under penalty of perjury in con robation.	probati unctio	on imposed in the underlying criminal matter and n with any quarterly report to be filed with the Office	
(9)		The	following conditions are attached hereto an	d inco	rporated:	
			Substance Abuse Conditions		Law Office Management Conditions	
			Medical Conditions		Financial Conditions	
F. C)the	r Co	nditions Negotiated by the Parties	3 :		
(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 within one year. Fallure 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.				
(2)		Other Conditions:				

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

Russell Adam Greenman

CASE NUMBER(S):

12-0-13141

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 12-O-13141 (Complainants: Sondra Ames and Allyson Ames)

FACTS:

- 1. By February 1, 2010, Respondent was required to report his compliance with Minimum Continuing Legal Education ("MCLE") requirements for the period of February 1, 2007 to January 31, 2010 to Membership Services of the State Bar ("Member Services"). Although Respondent had completed the required number of MCLE hours by January 31, 2010, Respondent failed to report his MCLE compliance when his membership fees were paid.
- 2. On March 31, 2010, Respondent terminated his employment with the law firm of Glaser Weil, LLP ("Glaser Weil"), located at 10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067 (the "Constellation address"). In June 2010, Respondent began working on a contract basis for the law firm of Raines Feldman, LLP ("Raines Feldman"), located at 9720 Wilshire Blvd., 5th Floor, Beverly Hills, CA 92012 (the "Wilshire address"), and continues to work there to date. Respondent continued to maintain the Constellation address as his membership records address for State Bar purposes although Respondent did not maintain an office at the Constellation address after March 31, 2010.
- 3. On June 25, 2010, Member Services mailed a letter to Respondent at the Constellation address. In the letter, Member Services notified Respondent that he was not in compliance with MCLE rules and that if Respondent failed to report his compliance with MCLE requirements by August 31, 2010, Respondent would be enrolled as an inactive member and not eligible to practice law until adequate proof of his compliance with MCLE requirements was received by Member Services. The June 25, 2010 letter was not returned to Member Services as undeliverable and the letter was not forwarded to Respondent by Glaser Weil. Consequently, Respondent did not receive the letter.
- 4. On July 22, 2010, Member Services sent a courtesy e-mail to Respondent's e-mail address on record with Member Services regarding his failure to report his compliance with MCLE requirements. The e-mail address was Respondent's former e-mail address at Glaser Weil. Respondent had not notified Member Services of any change of his e-mail address for State Bar purposes. Consequently, Respondent did not receive the e-mail.
- 5. On August 13, 2010, Member Services mailed a letter to Respondent at the Constellation address. In the letter, Member Services notified Respondent that he was not in compliance with MCLE rules and that if Respondent failed to report his compliance with MCLE requirements by August 31,

- 2010, Respondent would be enrolled as an inactive member and would not be eligible to practice law until adequate proof of his compliance with MCLE requirements was received by Member Services. The August 13, 2010 letter was not returned to Member Services as undeliverable and the letter was not forwarded to Respondent by Glaser Weil. Consequently, Respondent did not receive the letter.
- 6. On August 24, 2010, Member Services left a voice mail message for Respondent at his telephone number on record with Member Services regarding his failure to report his compliance with MCLE requirements. The telephone number was Respondent's former telephone number at Glaser Weil. Respondent had not notified Member Services of any change of his telephone number for State Bar purposes. Consequently, Respondent did not receive the message.
- 7. Effective September 1, 2010, Respondent was administratively enrolled as an inactive member and therefore not eligible to practice law.
- 8. On September 15, 2010, Member Services mailed a letter to Respondent at the Constellation address. In the letter, Member Services notified Respondent that he had been enrolled as not eligible to practice law effective September 1, 2010, and that he was not eligible to practice law as of that date and would not be eligible to practice law until he was reinstated to active status. The September 15, 2010 letter was not returned to Member Services as undeliverable and the letter was not forwarded to Respondent by Glaser Weil. Consequently, Respondent did not receive the letter.
- 9. In October 2010, Raines Feldman began representing Wonderland Partners LLC ("Wonderland") as its corporate counsel. Wonderland's members consisted of Fred Goldring ("Goldring"), Peter Adderton ("Adderton"), Allyson Ames ("Allyson") and Sondra Ames ("Sondra").
- 10. Between October and December 2010, while Respondent was not entitled to practice law, Respondent held himself out as an attorney, prepared an operating agreement for Wonderland, and provided legal advice to Allyson and Sondra. Particularly, on December 1 and 2, 2010, Respondent sent e-mail to the parties to the operating agreement, Goldring, Adderton, Allyson and Sondra (collectively "the parties") and attached drafts of the operating agreement to the e-mail. In the December 1, 2010 e-mail, Respondent explained the effect of the operating agreement to the parties and recommended that the parties seek the advice of independent counsel regarding the operating agreement.
- 11. Prior to late December 2010, Respondent did not have actual notice that he was not entitled to practice law, as he was unaware of Member Services' attempts to contact him. Before Respondent left his employment at Glaser Weil, Respondent believed that Glaser Weil had submitted his MCLE compliance card to Member Services. Respondent acknowledges that he had not confirmed this with Glaser Weil before he left his employment. In late December 2010, Respondent was informed of his not entitled status by a colleague. Respondent thereafter promptly contacted Member Services and took the necessary steps to return to active status. Effective January 5, 2011, Respondent changed his e-mail address for State Bar purposes with Member Services. Effective January 6, 2011, Respondent changed his membership records address to the Wilshire address and changed his telephone number for State Bar purposes with Member Services.
- 12. Respondent remained not entitled to practice law until January 13, 2011, when Respondent was returned to active status after submitting proof of his compliance with MCLE requirements to Member Services.

CONCLUSIONS OF LAW:

- 13. By not changing his membership records address to the Wilshire address until January 6, 2011 and by not providing a current telephone number to Member Services, Respondent failed to comply with the requirements of section 6002.1 of the Business and Professions Code, in wilful violation of Business and Professions Code section 6068(j).
- 14. By holding himself out as an attorney, preparing the operating agreement, and providing legal advice to Allyson and Sondra between October and December 2010, when Respondent was not entitled to practice law, Respondent held himself out as entitled to practice law and engaged in the unauthorized practice of law, and thereby violated Business and Professions Code sections 6125 and 6126 ("sections 6125 and 6126"). By violating sections 6125 and 6126, Respondent failed to support the laws of this state, in wilful violation of Business and Professions Code section 6068(a).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Multiple/Pattern of Misconduct:

Respondent committed multiple acts of misconduct by failing to update his membership records and engaging in the unauthorized practice of law on at least two occasions.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

No Harm:

Pursuant to his employment with the law firm of Raines Feldman as a contract attorney, Respondent's work was supervised by an active member of the State Bar at all times relevant to this stipulation. As such, no harm resulted to the public from Respondent's unauthorized practice of law.

Additional Mitigating Circumstances:

Respondent was admitted to the State Bar on September 26, 2006 and has no prior record of discipline. However, Respondent had been in practice for less than four years before the misconduct occurred so his lack of prior discipline should not be given much weight in mitigation. (Standard 1.2(e)(i); Smith v. State Bar (1985) 38 Cal.3d 525, 540 [lack of prior record for six years is not persuasive as a mitigating factor].) Respondent has stipulated to misconduct at an early stage of the proceedings. Respondent thereby demonstrated his recognition of wrongdoing and cooperation with the State Bar and saved the State Bar's resources. (Standard 1.2(e)(v); In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the

preservation of public confidence in the legal profession." (In re Morse (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (In re Silverton (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.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (Blair v. State Bar (1989) 49 Cal.3d 762, 776, fn. 5.)

Standard 2.6 provides that culpability of a member of a violation of sections 6068(a), 6068(j), 6125 and 6126 of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Here, the gravity of Respondent's misconduct is low. Respondent's failure to maintain a current address and telephone number for State Bar purposes and his failure to timely report his MCLE compliance showed a disregard for the duties he owed to the State Bar. However, his failure to update his contact information and his resulting unauthorized practice of law did not cause significant harm as Respondent's work was supervised by an active member of the State Bar while he was not entitled to practice law. Respondent did not knowingly or intentionally engage in the unauthorized practice of law. Respondent had completed the required number of MCLE hours by January 31, 2010 and his eligibility to practice law would not have been impacted had he simply confirmed that his MCLE compliance card had been submitted to Member Services. Respondent reported his MCLE compliance shortly after learning that he was not entitled to practice law.

The net effect of the mitigating factors present, including the lack of harm caused by Respondent's misconduct and Respondent's recognition of wrongdoing and cooperation with the State Bar outweigh the aggravating factor of Respondent's multiple acts of misconduct, and therefore a period of actual suspension is unwarranted. Instead, a level of discipline at the low end of the range prescribed by standard 2.6 is consistent with the purposes of attorney discipline. A stayed suspension of one year will serve to remind Respondent of the primary purposes of disciplinary proceedings including protection of the public, the court and the legal profession, maintenance of high professional standards by attorneys, and the preservation of public confidence in the legal profession.

This disposition is consistent with cases involving the unauthorized practice of law where the attorneys had actual knowledge of their disqualification from the practice of law. (Farnham v. State Bar (1976) 17 Cal.3d 605 [six months actual suspension]; In the Matter of Mason (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639 [90 day actual suspension]; In the Matter of Trousil (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229 [30 day actual suspension].)

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was January 9, 2013.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 7, 2013, the prosecution costs in this matter are \$2,865. 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.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may <u>not</u> receive MCLE credit for completion of State Bar Ethics School and/or any other educational courses to be ordered as a condition of the stayed suspension. (Rules Proc. of State Bar, rule 3201.)

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.

1/15/13	Som	Russell A. Greenman
Date	Bespendent's Signature	Print Name
1/17/13	Clen Standly	Ellen A. Pansky
Date	Respondent's Counsel Signature	Print Name
1/25/13	NUMMA	Diane J. Meyers
Date	Deputy Trial Counsel's Signature	Print Name
	/)	

(Do not write al	pove this line.)				
In the Matte Russell A	er of: dam Greenman	Case Number(s): 12-O-13141			
	STAYED	SUSPENSION ORDER			
Finding the s requested di	stipulation to be fair to the parties and t smissal of counts/charges, if any, is Gl	hat it adequately protects the public, IT IS ORDERED that the RANTED without prejudice, and:			
X	are APPROVED and the DISCIPLINE RECOMMENDED to the				
	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.				
	•				
	•				
within 15 day stipulation. (s after service of this order, is granted See rule 5.58(E) & (F), Rules of Proced	ed unless: 1) a motion to withdraw or modify the stipulation, filed; or 2) this court modifies or further modifies the approved dure.) The effective date of this disposition is the effective date days after file date. (See rule 9.18(a), California Rules of			
2/19	13	Smaldt. In			
Date ¹	•	DONALD F. MILES 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 February 19, 2013, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION, NO ACTUAL SUSPENSION

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:

ELLEN ANNE PANSKY PANSKY MARKLE HAM LLP 1010 SYCAMORE AVE UNIT 308 SOUTH PASADENA, CA 91030

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

DIANE J. MEYERS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 19, 2013.

Tammy Cleaver
Case Administrator
State Bar Court