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<b>State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>William Todd Deputy Trial Counsel 845 South Figueroa Los Angeles, CA 90017-2515 213-765-1491</b>  Bar # <b>259194</b>	<b>Case Number(s): 12-O-16282-PEM</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>   <b>AUG 11 2014</b>  <b>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</b>
<b>In Pro Per Respondent</b>  <b>Susan Hilary Tregub 17554 Weddington St Encino, CA 91316 818-679-9278</b>  Bar # <b>165362</b>	<b>Submitted to: Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of: SUSAN HILARY TREGUB</b>  Bar # <b>165362</b>  A Member of the State Bar of California (Respondent)		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **June 28, 1993**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective January 1, 2014)



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- (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: **the three billing cycles immediately following the Supreme Court order in this matter.** (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 [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. **Please see "Attachment to Stipulation," at page 8.**
- (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.

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- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **Please see "Attachment to Stipulation," at page 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.
- (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 convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

Please see "No Prior Discipline," at page 8.

Please see "Emotional/Physical Difficulties," at page 8.

Please see "Pretrial Stipulation," at page 8.

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **four 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 1.2(c)(1) 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 **four 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 **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 1.2(c)(1), 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: **Respondent must demonstrate, through expert testimony of a physician or clinical psychologist, that Respondent's medical condition will permit her practice law effectively without endangering the public, the courts, or the legal profession.**

**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 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

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- (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

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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:**



employment, without the informed written consent of the client, in willful violation of Rules of Professional Conduct, rule 3-310(E).

7. By deliberately acting against Bergstein's interests by referring a creditor to contact the bankruptcy counsel preparing an involuntary bankruptcy petition against a Bergstein entity, a petition that was ultimately filed, Respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

#### **AGGRAVATING CIRCUMSTANCES.**

**Harm (Std. 1.5(f)):** Respondent's misconduct caused significant harm to Bergstein. Specifically, as a result of the involuntary bankruptcy petitions filed against Bergstein entities with Respondent's aid, Bergstein incurred significant legal costs defending against the involuntary bankruptcy petitions.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent engaged in multiple acts of misconduct by both failing to disclose concurrent, adverse representation despite possessing conflicting information in violation of Rules of Professional Conduct rule 3-310(E) and then later actively working against Bergstein's interests in violation of Business and Professions Code section 6106. The commission of multiple acts of misconduct is an aggravating circumstance.

#### **MITIGATING CIRCUMSTANCES.**

##### **Additional Mitigating Circumstances:**

**No Prior Discipline:** Respondent had no prior record of discipline in the 16 years of practice at the time of the misconduct. Even though the misconduct here is serious, Respondent is entitled to some weight in mitigation. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49 [attorney's practice of law for more than 17 years considered to be mitigating circumstance even the misconduct at issue is serious].)

**Emotional/Physical Difficulties:** Respondent has provided evidence that she suffers from both anxiety and depression that is managed with medication. These conditions may have been exacerbated by her professional responsibilities, and Respondent's medical practitioner has opined that Respondent's judgment and ability to make high functioning decisions were compromised by Respondent's condition. However, between the general description of Respondent's diagnosis and the extreme nature of her misconduct, Respondent is receiving only limited weight in mitigation because it is not clear that Respondent's conduct is the product of her medical conditions, even though Respondent's conditions do appear to have been a contributing factor. (See *In the Matter of Respondent F* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17, 29 [Respondent must establish that the difficulty/disability was directly responsible for the misconduct].)

**Pretrial Stipulation:** Respondent has agreed to enter into a pre-trial stipulation, thereby saving the State Bar Court and the Office of the Chief Trial Counsel both the time and expense of court proceedings. (*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).)

In this matter, Respondent admits to committing two acts of professional misconduct. Standard 1.7(a) requires that where a Respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

Standard 2.7 provides that disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact, where the degree of sanction is dependent upon the extent to which the victim of the misconduct is harmed or misled and related to the practice of law.

Here, Respondent engaged in concurrent representation of Bergstein and SCI without disclosing this concurrent representation to Bergstein, despite possessing confidential information arising from her representation of Bergstein and his entities. As a consequence of her deliberate failure to inform Bergstein of her concurrent employment, Respondent did not secure Bergstein’s informed written consent to Respondent’s representation of an adverse interest, which is a *per se* violation of Rules of Professional Conduct rule 3-310(E). Respondent then actively aided SCI in its legal actions against Bergstein entities, without Bergstein’s consent or knowledge, and even referred one of Bergstein’s creditors to join an involuntary petition ultimately filed against Bergstein entities. These actions demonstrate an intentional breach of Respondent’s fiduciary duty to Bergstein and his entities so extreme as to warrant a finding of moral turpitude in violation of Business and Professions Code section 6106. (See *Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 472–473 (moral turpitude typically occurs whenever an attorney intentionally breaches a fiduciary duty to a client).)

Respondent's misconduct is aggravated by multiple acts of misconduct and the significant harm her actions caused Bergstein, harm which included the significant legal expenses he incurred as a result of Respondent's actions. However, Respondent's misconduct is mitigated by her 16 years in practice without prior misconduct and her medical diagnoses of depression and anxiety, both of which were aggravated by Respondent's professional responsibilities. While it is true that Respondent specifically acted counter to Bergstein's interests, it is also true that there is mitigation sufficient to justify level of discipline below disbarment. Therefore, after considering all factors, the appropriate level of discipline will include four years' suspension, stayed, with four years' probation on condition of two years' actual suspension and a Standard 1.2 (c)(1) provision that will require medical testimony to confirm Respondent's readiness to return to active practice in addition to the Standard 1.2(c)(1) requirement for actual suspensions of two years or more. This level of discipline is sufficient to protect the public, the courts, and the legal profession.

This level of discipline is also consistent with prior cases. In *Beery v. State Bar* (1987) 43 Cal.3d 802, the attorney was held culpable for solicitation of investment funds from client without disclosing attorney's relationship with object of investment, representation of adverse interests and an act of moral turpitude. Though the attorney lacked a prior disciplinary record in 16 years of practice at the time of the misconduct, he also failed to demonstrate an appreciation of the seriousness of his misconduct, and the court ordered five years' suspension, stayed, with probation for five years on the condition of two years' actual suspension and \$35,000 restitution. Like *Beery*, Respondent represented adverse interests without disclosing the adverse interest to both clients and engaged in an act of moral turpitude. Respondent's aggravation is similar to that in *Beery*, and though the mitigation is more compelling in Respondent's matter, two years' actual suspension remains warranted.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 30, 2014, the prosecution costs in this matter are \$7,088. 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 not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

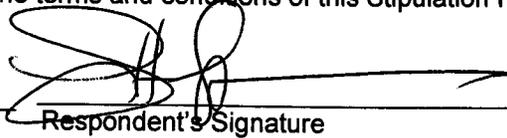
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In the Matter of: SUSAN HILARY TREGUB	Case number(s): 12-O-16282-PEM
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**SIGNATURE OF THE PARTIES**

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.

July 30, 2014  
Date

  
Respondent's Signature

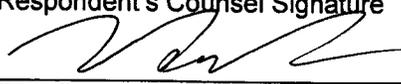
Susan Hilary Tregub  
Print Name

Date

Respondent's Counsel Signature

Print Name

July 30, 2014  
Date

  
Deputy Trial Counsel's Signature

William Todd  
Print Name

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In the Matter of: SUSAN HILARY TREGUB	Case Number(s): 12-O-16282-PEM
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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.

*PAGE 4 - SECTION D (3) (a) (iii) IS DELETED.*

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.)**

08-08-2014  
Date

  
RICHARD A. PLATEL  
Judge of the State Bar Court

RICHARD A. PLATEL

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on August 11, 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 San Francisco, California, addressed as follows:

SUSAN H. TREGUB  
17554 WEDDINGTON ST  
ENCINO, CA 91316

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

WILLIAM TODD, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 11, 2014.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court