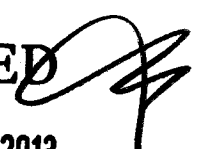


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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Lee Ann Kern Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 (213) 765-1272 Bar # 156623	Case Number(s): 12-O-18032	For Court use only <div style="text-align: center;"> FILED  NOV 14 2013 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent William Frank Vogel 14540 Victory Boulevard, Suite 206 Van Nuys, California 91411 (818) 481-2897 Bar # 119421	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: WILLIAM FRANK VOGEL Bar # 119421 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 December 10, 1985.
- (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 10 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):
- ☐ 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 effective date of the Supreme Court's 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 [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 12-O-12809
 - (b) ☒ Date prior discipline effective July 6, 2013
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Respondent violated Business and Professions Code section 6103 and 6068(o)(3).
 - (d) ☒ Degree of prior discipline 30 days actual suspension, one year stayed suspension, and two years' probation.
 - (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.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Attachment to Stipulation, at p. 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.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (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.

- (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. 8.

D. Discipline:

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of two 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:
- (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 60 days.
- 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:** Ethics School and Multistate Professional Responsibility Credit: In connection with his prior discipline, Respondent was ordered to attend State Bar Ethics School and pass the test given at the end of the session, as well as take and pass the MPRE. If, in connection with his prior discipline, Respondent attends and passes State Bar Ethics School and takes and passes the MPRE within one year prior to the date of the discipline imposed from this stipulation, Respondent will have satisfied the requirement that he attend and pass Ethics School and take and pass the MPRE within the period of his suspension. (See In the Matter of Trousil (Review Dept.1991) 1 Cal. State Bar Ct. Rptr. 229, 244.)

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:
CASE NUMBER:

WILLIAM FRANK VOGEL
12-O-18032

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-18032 (Complainant: Oscar Garcia Flores)

FACTS:

1. In October 2011, Oscar Garcia Flores ("Flores") was involved in an automobile accident in which he was cited. In late October 2011, Flores went to Valley Legal Services seeking representation for the traffic matter and met with the office administrator, Arthur Splopuk ("Splopuk"). Splopuk informed Flores that Respondent would represent Flores for a fee of \$500. Flores paid Splopuk \$500 and Respondent undertook representation of Flores.

2. Flores's arraignment and plea was scheduled for January 11, 2012. On January 11, 2012, Respondent appeared in court on Flores's behalf. Flores was not at the hearing and was not required to be present. The court continued the arraignment and plea to January 20, 2012. Respondent received oral notice of the continued hearing. Respondent did not inform Flores of the continued hearing date.

3. In mid-January 2012, Respondent informed Splopuk that Flores's hearing was continued to January 20, 2012. In mid-January 2012, Flores called Splopuk and asked him what had occurred at the January 11, 2012 hearing. Splopuk informed Flores that his legal matter had been resolved.

4. On January 20, 2012, Respondent did not appear at the hearing on behalf of Flores and a bench warrant was issued for Flores' arrest. In July 2012, Flores was arrested at his place of employment for failing to appear at the January 20, 2012 hearing. Flores was released on bail on the same day as his arrest. In September 2012, Flores resolved the traffic matter on his own.

CONCLUSIONS OF LAW:

5. By failing to appear at Flores's arraignment and plea hearing on January 20, 2012, or otherwise represent Flores in his traffic case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, willful violation of rule 3-110(A), Rules of Professional Conduct.

6. By failing to inform Flores of his January 20, 2012 court date which resulted in Flores's failure to appear and subsequent arrest, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.2(b)(i)): In Case No. 12-O-12809, Respondent stipulated to 30-days actual suspension, one year stayed suspension, and two years' probation for violating Business and Professions Code sections 6103 (failing to obey court orders) and 6068(o)(3) (failing to report in writing to the State Bar the imposition of non-discovery sanctions in excess of \$1,000). The discipline was effective July 6, 2013.

Harm (Std. 1.2(b)(iv)): Respondent's failure to attend the January 20, 2012 hearing and his failure to inform Flores of the hearing so that Flores could attend, resulted in Flores's arrest.

MITIGATING CIRCUMSTANCES.

Prefiling Stipulation: Respondent stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings as efficiently as possible. (*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 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 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.) 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 1.6(a) requires that where a Respondent acknowledges two or more acts of misconduct and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards. Standards 2.4(b) and 2.6 are the standards that govern the misconduct in this matter. The most severe sanction prescribed by the applicable standards is Standard 2.6, which applies to Respondent's violation of Business and Professions Code section 6068(m). That standard provides that culpability of a member of a violation of that Business and Professions Code section 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.

Notwithstanding, Business and Professions Code section 6068(m) was enacted effective January 1, 1987, one year after the adoption of standard 2.6. Prior to the enactment of Business and Professions Code section 6068(m), a violation of the attorney's duty to communicate fell under Standard 2.4 which applies to offenses involving willful failure to communicate and perform services. Under the circumstances, it is appropriate to deviate from standard 2.6 and apply standard 2.4(b). Standard 2.4(b) provides for a sanction in the range of reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Respondent's misconduct is limited to one client matter. Respondent's failure to perform and communicate harmed the client because it resulted in the client's arrest. In addition, Respondent has a prior record of discipline. Standard 1.7 (a) mandates that discipline in the instant matter be greater than the 30-days actual suspension Respondent received in his prior discipline because Respondent's prior discipline was serious and not remote in time. In the prior, Respondent was culpable of violating multiple court orders and failing to report to the State Bar the imposition of \$4,500 in sanctions. The misconduct in the prior occurred between November 2011 and April 2012. Here, Respondent failed to perform and failed to communicate with a client in January 2012. Since the prior and current misconduct occurred during the same time period, the weight of the prior record of discipline is diminished as an aggravating factor. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602.) The sole mitigating factor in the current matter is Respondent's cooperation in entering into the instant stipulation. In his prior disciplinary matter, Respondent had compelling mitigation of 27 years in practice with no prior discipline.

It is appropriate to analyze the level of discipline in the instant matter based on the totality of the prior and current misconduct and what discipline would have been appropriate had all misconduct been considered together. (*Id.*, at p. 619.) All misconduct considered, including the standards and the mitigating and aggravating circumstances, actual suspension is warranted. Although the actual suspension must be greater than the 30 days Respondent received in his prior discipline, a short period of suspension is still appropriate since the harm in the current matter did not compromise the client's case.

A sanction of 60 days actual suspension is adequate to deter future misconduct and protect the public. In addition, it is within the range of discipline supported by case law where, as here, there is no deceit to the client and no prior discipline of a similar nature. (*Layton v. State Bar* (1991) 50 Cal.3d 889 (30 day actual suspension for abandonment of a single trust/estate matter with no prior discipline in 30 years); (*King vs. State Bar* (1990) 52 Cal.3d 307 [90 days actual suspension and four years' stayed suspension imposed when an attorney, in two matters, failed to perform legal services in a competent manner, failed to return client files, and violated his oath and duties].)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 11, 2013, the prosecution costs in this matter are \$3,858. 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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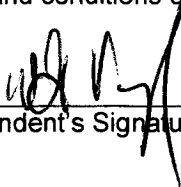
In the Matter of:
William Frank Vogel

Case number(s):
12-O-18032

SIGNATURE OF THE PARTIES

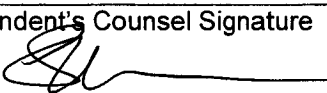
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

10-27-13
Date


Respondent's Signature

William Frank Vogel
Print Name

10/24/13
Date


Respondent's Counsel Signature
Deputy Trial Counsel's Signature

Print Name
Lee Ann Kern
Print Name

(Do not write above this line.)

In the Matter of: William Frank Vogel	Case Number(s): 12-O-18032
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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.

On page 4 of the Stipulation, at paragraph D.(1)(b), an "X" is inserted in the box.

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.)**

Nov. 13, 2013
Date


GEORGE E. SCOTT, JUDGE PRO TEM
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 November 14, 2013, 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:

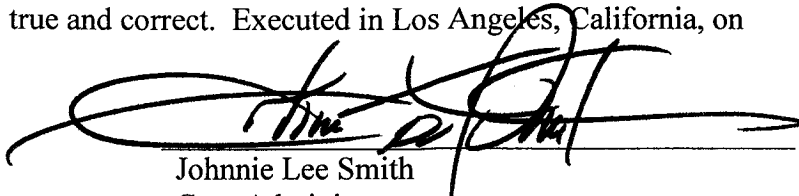
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

WILLIAM FRANK VOGEL
LAW OFFICE OF WILLIAM F VOGEL
14540 VICTORY BLVD STE 206
VAN NUYS, CA 91411

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

Lee A. Kern, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 14, 2013.


Johnnie Lee Smith
Case Administrator
State Bar Court