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State Bar Court of California Hearing Department Los Angeles REPROVAL			ORIGINAL
Counsel For The State Bar William Todd Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017-2515 213-765-1491 Bar # 259194	Case Number(s): 14-O-00541-DFM	For Court use only PUBLIC MATTER FILED OCT 08 2014 STATE BAR COURT CLERK'S OFFICE LOS ANGELES	
In Pro Per Respondent Angelica C. Simmons P.O. Box 549 Laguna Beach, California 92652 949-309-3236 Bar # 225500	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: ANGELICA CATHERINE SIMMONS Bar # 225500 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 5, 2003**.
- (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):
- ☒ Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
 - ☐ Case ineligible for costs (private reproof).
 - ☐ 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 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.
- (9) The parties understand that:
- (a) ☐ A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) ☐ A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) ☒ A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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 or a separate attachment entitled "Prior Discipline."

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- (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 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.
- (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. **Please see "Attachment to Stipulation," at page 7.**
- (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. **Please see "Attachment to Stipulation," at page 7.**
- (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. **Please see "Attachment to Stipulation," at page 7.**
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Please see "No Prior Discipline," at page 7.

Please see "Pre-filing Stipulation," at page 8.

D. Discipline:

- (1) ☐ **Private reproof (check applicable conditions, if any, below)**
- (a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) ☐ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) ☒ **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproval:

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of **one year**.
- (2) ☒ During the condition period attached to the reproof, 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

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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 condition period attached to the reprobation. 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 the reprobation during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (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) ☒ 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 of the effective date of the reprobation.

☐ No MPRE recommended. Reason: .

- (11) ☐ 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:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ANGELICA CATHERINE SIMMONS

CASE NUMBER: 14-O-00541

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 14-O-00541 (Complainant: Lydia Chou)

FACTS:

1. In August 2011, Lydia Chou employed Respondent to complete the documents necessary to establish a living trust on Chou's behalf in return for a \$3,000 fee. Chou paid Respondent \$1,500 in August 2011 as an initial payment, with the remaining \$1,500 due upon completion of the requested trust documents. In the weeks following their agreement, the parties agreed to delay completion of the trust while Chou resolved some pending financial matters.

2. In July 2013, Chou advised Respondent that Chou was ready to proceed with having her trust documents prepared, and the two met in person in early August 2013 to discuss Chou's planned trust. Chou then sent e-mails to Respondent on August 19, 2013, August 24, 2013 and September 3, 2013 with questions about the trust documents. Respondent received the e-mails, but did not respond to any of them.

3. On September 12, 2013, Chou sent Respondent a fourth e-mail, to which Respondent replied with a promise to deliver a draft of the trust documents by the following week. Respondent failed to deliver a draft of the trust documents by the following week, so Chou sent four more e-mails to Respondent on September 26, 2013, October 1, 2013, October 12, 2013 and October 20, 2013. The last two e-mails, sent on October 12, 2013 and October 20, 2013, were requests from Chou that Respondent refund all fees and return Chou's file if Respondent could not complete the trust documents. Respondent received all three e-mails, but did not respond to any of them.

4. On October 22, 2013, Respondent apologized to Chou and claimed an illness prevented Respondent from completing the trust documents. On October 25, 2013, Respondent sent another e-mail to Chou, in which Respondent claimed all of Chou's trust documents were completed, except for a cover letter. Respondent also offered several explanations for her failure to complete the trust documents, but did not produce the trust documents.

5. On November 5, 2013, Chou again requested a refund of the advanced fees she paid and return of her file materials in a letter sent from Chou to Respondent by certified U.S. Mail. Respondent received the request, but she did not refund Chou's advanced fees, did not return Chou's file materials, and did not otherwise respond to Chou's request.

6. Due to Respondent's failure to refund Chou's fees or return Chou's client file, Chou was prevented from retaining new counsel to complete the documents necessary to establish a living trust.

7. On June 18, 2014, Respondent refunded to Chou the \$1,500 Chou originally paid, and returned Chou's file materials.

CONCLUSIONS OF LAW:

8. By failing to prepare and deliver trust documents to Chou as the parties agreed, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

9. By failing to respond promptly to multiple reasonable e-mail status inquiries made by Respondent's client, Lydia Chou, that Respondent received between August 2013 and November 2013, in a matter in which Respondent had agreed to provide legal services, Respondent willfully violated Business and Professions Code, section 6068(m).

10. By failing to release promptly, after termination of Respondent's employment on November 5, 2013, to Respondent's client, Lydia Chou, all of the client's papers and property following the client's request for her file materials on November 5, 2013, Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1).

11. By failing to refund promptly, upon Respondent's termination of employment dated November 5, 2013, any part of the \$1,500 fee to Respondent's client, Lydia Chou, Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed multiple acts of misconduct in this matter by failing to perform on her client's behalf, failing to communicate, failing to return her client's file materials promptly and failing to promptly refund unearned fees.

MITIGATING CIRCUMSTANCES.

No prior discipline: Respondent has no prior record of discipline in the 10 years of practice preceding her 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 difficulties (Std 1.6(d)): Respondent's therapist has explained that Respondent suffered significant emotional challenges concurrent to the misconduct, difficulties which played a significant role in Respondent's misconduct. Respondent's therapist has explained that Respondent's emotional difficulties have either resolved or are being effectively managed through ongoing care.

Good character (Std 1.6(f)): Respondent has offered several character witnesses, each of whom demonstrates an understanding of the misconduct Respondent committed alongside an ongoing belief in Respondent's good character. As further evidence of good character Respondent has also offered evidence of several years of involvement in multiple community service organizations, service which

began before any of the misconduct in this matter. (See *Porter v. State Bar* (1990) 52 Cal.3d 518, 529 [Civic service can warrant recognition as a mitigating circumstance].)

Pre-filing stipulation: By entering into a pre-filing, dispositive stipulation, Respondent has spared State Bar Court time and resources. (See *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 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.) 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 four 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.”

The most severe sanction applicable to Respondent’s misconduct is found in Standard 2.15, which applies to Respondent’s violation(s) of 3-700(D)(1) and 3-700(D)(2). Standard 2.15 provides that suspension not to exceed three years or reproof is appropriate for a violation of a provision of the Business and Professions Code or the Rules of Professional Conduct not otherwise specified in the Standards.

Here, Respondent failed to perform the agreed upon task, failed to return fees to Chou or return Chou’s file despite not performing as agreed, and failed to communicate with Chou in any meaningful way between November 2013 and May 2014. Though Respondent ultimately delivered the trust documents and refunded Chou’s funds, these actions did not occur until after Respondent was notified that charges would be filed. However, in light of the misconduct here being limited to a single client matter with

mitigation that includes 10 years of discipline-free practice, good character including community service, and emotional difficulties, discipline at the low end of the standard is warranted. Therefore, a public reproof with conditions for one year is sufficient to further the purposes of attorney 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.

Case law is consistent with this recommendation. In *Layton v. State Bar* (1990) 50 Cal.3d 889, the Supreme Court ordered 30 days actual suspension for an attorney who repeatedly failed in the administration of an estate, eventually resulting in the attorney's removal as executor. The absence of prior misconduct in 30 years of practice, the absence of gain from misconduct and both emotional and physical strain were all considered mitigating, while the harm caused by denying beneficiaries access to the estate, tax penalties incurred and interest lost were all considered aggravating factors.

Like *Layton*, Respondent committed misconduct in a single client matter, though Respondent's misconduct occurred over a shorter period of time. This Respondent has demonstrated significant mitigation, more so than was established in *Layton*, and unlike the attorney in *Layton* this Respondent is willing to stipulate to her misconduct. Therefore, since the misconduct and related aggravation and mitigation is less severe than in *Layton*, the recommended discipline here is less severe than in *Layton*, though it does remain consistent with both the applicable standard and the purposes of attorney discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 25, 2014, the prosecution costs in this matter are \$3,497. 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

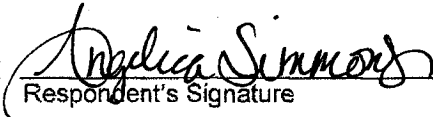
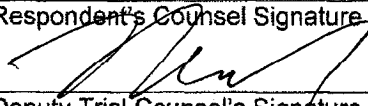
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: ANGELICA C. SIMMONS	Case number(s): 14-O-00541
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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.

<u>September 25, 2014</u> Date	<u></u> Respondent's Signature	<u>Angelica C. Simmons</u> Print Name
<u>September 29, 2014</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>William Todd</u> Print Name

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In the Matter of:
ANGELICA CATHERINE SIMMONS

Case Number(s):
14-O-00541

REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☐ All court dates in the Hearing Department 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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

October 8, 2014
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 October 8, 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:

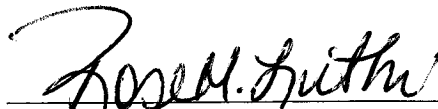
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ANGELICA C. SIMMONS
TRUST LAW GROUP
PO BOX 549
LAGUNA BEACH, CA 92652

- ☒ 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 Los Angeles, California, on October 8, 2014.



Rose M. Luthi
Case Administrator
State Bar Court