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State Bar Court of California
Hearing Department
San Francisco
REPROVAL

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Laura A. Huggins Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2537</p> <p>Bar # 294148</p>	<p>Case Number(s): 14-O-04492-DFM 16-O-10946</p>	<p>For Court use only</p> <p>FILED</p> <p>JAN 24 2017</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Robert Lee Wood Law Office of Robert L. Wood 501 Stockton Avenue, Suite 101 San Jose, CA 95126 (408) 280-5000</p> <p>Bar # 100515</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PUBLIC REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: ROBERT LEE WOOD</p> <p>Bar # 100515</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 1, 1981**.
- (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 **12** 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(h) & 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."

- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7) **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.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings. See Attachment at page 9.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Attachment at page 9.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigation and proceedings.

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- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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 subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No Prior Discipline: See Attachment at page 9.
Pre-Trial Stipulation: See Attachment at page 9.

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 Reproof:

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

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- (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 reproof. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the reproof conditions period, 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 reproof. 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 reproof 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 reproof with the probation monitor to establish a manner and schedule of compliance. During the reproof conditions period, 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 reproof.
- (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 reproof.

No MPRE recommended. Reason:

- (11) The following conditions are attached hereto and incorporated:

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Substance Abuse Conditions

Law Office Management Conditions

Medical Conditions

Financial Conditions

F. Other Conditions Negotiated by the Parties:

6. On September 19, 2014, Investigator Jacobs sent a letter to respondent notifying him that the State Bar had not received respondent's written response regarding the alleged misconduct. This letter further advised respondent that failure to respond or provide requested documentation may subject respondent to further discipline under Business and Professions Code section 6068(i).

7. On November 17, 2015, Investigator Jacobs noted in her investigative report that respondent had failed to respond to the State Bar letters that were sent on September 1, 2014, and September 19, 2014.

CONCLUSIONS OF LAW:

8. By failing to take any action to enforce a Stipulation for Entry of Judgment, failing to support a Request for Entry of Judgment with documentation of claimed costs, allowing Paul Fogarty's case to be dismissed due to respondent's failure to appear at a Dismissal Hearing, failing to file a motion to set aside the dismissal, and failing to finalize Fogarty's judgment, respondent intentionally, recklessly and repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

9. By failing to inform Paul Fogarty that his Request for Entry of Judgment was denied because respondent failed to properly complete the required cost request, that Fogarty's case was dismissed because respondent failed to appear at a Dismissal Hearing, that respondent failed to file a motion to set aside the dismissal, that respondent failed to finalize the judgment, and that respondent was placed on administrative inactive status on July 1, 2014, and was therefore unable to continue his representation of Fogarty while respondent was on inactive status, respondent failed to keep Fogarty reasonably informed of significant developments in his matter, in willful violation of Business and Professions Code section 6068(m).

Case No. 16-O-10946 (State Bar Investigation)

FACTS:

10. Based on the conduct described in paragraphs 1 - 9, respondent and the State Bar entered into an Agreement in Lieu of Discipline ("ALD") on January 26, 2015. Among its conditions, the ALD required respondent to complete Ethics School by January 26, 2016.

11. Respondent also agreed to provide the Office of Probation for the State Bar with proof of timely attendance and successful completion of Ethics School by January 26, 2016.

12. On January 26, 2015, after the ALD was executed, Probation Deputy Ivy Cheung ("Deputy Cheung") sent respondent a courtesy letter explaining the ALD's material terms and deadlines.

13. On February 10, 2016, Deputy Cheung sent respondent a letter to notify him that the Probation Office had not received proof of completion of the Ethics School requirements. This letter was sent via regular and electronic mail.

14. On February 22, 2016, Deputy Cheung verified respondent's lack of attendance and completion of the Ethics School requirements.

15. On September 2, 2016, State Bar Investigator Jay Buteyn contacted respondent to determine whether respondent possessed any documentation confirming his attendance and completion of Ethics School. On that date, respondent informed Investigator Buteyn that he had not attended Ethics School.

CONCLUSIONS OF LAW:

16. By failing to attend and successfully complete Ethics School by January 26, 2016, and failing to report such completion to the State Bar's Office of Probation, respondent failed to comply with conditions attached to respondent's Agreement in Lieu of Discipline in State Bar Case No. 14-O-04492, in willful violation of Business and Professions Code section 6068(1).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent was aware that Fogarty's case had been dismissed without prejudice but failed to file a timely motion to set aside the dismissal. Respondent also failed to promptly inform Fogarty that his case had been dismissed. After Fogarty learned about the dismissal, respondent informed Fogarty on three separate occasions that he would file a motion to set aside the dismissal but never did so. Additionally, respondent failed to complete ethics school as required by the ALD.

Lack of Cooperation (Std. 1.5(l)): During the State Bar investigation, respondent did not timely respond to the State Bar's request for a response and supporting documents. Also during the investigation, respondent further failed to cooperate with the victim's request for the return of his client file, which respondent provided to the client after being contacted by the State Bar investigator.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Although respondent's misconduct is serious, respondent's many years in practice with no prior discipline is entitled to significant weight in mitigation. At the time of the misconduct in case number 14-O-04492, respondent had practiced law for approximately 30 years with no prior discipline. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 [attorney's many years in practice with no prior discipline considered mitigating even when misconduct at issue was serious]; *Friedman v. State Bar* (1990) 50 Cal.3d 235, 242 [20 years in the practice of law without discipline is afforded significant weight in mitigation].)

Pre-Trial Stipulation: Respondent stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings prior to trial, thereby saving State Bar time and resources. (*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].) By entering into this stipulation, respondent has accepted responsibility for his misconduct.

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 three 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 2.7(c), which applies to respondent’s violations of Business and Professions Code section 6068(m) [failure to update client of significant developments] and Rules of Professional Conduct, rule 3-110(A) [failure to perform with competence]. Standard 2.7(c) states that suspension or reproof is the presumed sanction for performance, communication, or withdrawal violations, which are limited in scope or time. The degree of sanction depends on the extent of the misconduct and the degree of harm to the client. (Std. 2.7(c).)

Analyzed under the standards, respondent’s misconduct was limited to one client matter and was aggravated by his lack of cooperation and multiple acts of wrongdoing. There was some harm to the client because respondent’s misconduct delayed the client’s collection of the outstanding debt. In mitigation, at the time of his misconduct, respondent had practiced law for approximately 30 years without discipline. These circumstances, coupled with respondent’s subsequent failure to attend Ethics School in violation of his ALD, support a level of discipline in the mid-range of sanctions set forth in standard 2.7(c).

Public reproof is a mid-range sanction under standard 2.7(c) and is consistent with case law. In *In the Matter of Riordan*, (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, the respondent was appointed by the Supreme Court to file an appellate brief and habeas corpus petition on behalf of a defendant who had been sentenced to death. Over a period of nine years, and despite receiving eight extensions to the filing deadline, the respondent failed to file an appellate brief and habeas corpus petition in violation of a Supreme Court order. During an order to show cause hearing, the Supreme Court found the respondent guilty of contempt and ordered him to pay a fine of \$1,000. The respondent did not report this sanction to the State Bar. The State Bar filed a three-count Notice of Disciplinary Charges alleging that the respondent failed to perform competently, failed to obey court orders, and failed to report judicial

sanctions. Prior to his misconduct, the respondent practiced law for 17 years without discipline. At trial, the hearing judge found respondent culpable on all counts, and the Supreme Court later imposed a six-month stayed suspension and placed the respondent on probation for a period of one year.

Similar to *Riordan*, respondent failed to perform in a single client matter with multiple acts of wrongdoing weighing in aggravation. Unlike *Riordan*, the scope of respondent's misconduct was narrower and, in further mitigation, respondent had practiced law for nearly 30 years without discipline. Because respondent's misconduct was not as egregious as the misconduct in *Riordan*, a public reproof in the present matter will satisfy the primary purposes of attorney discipline.

In summary, the standards and case law support a level of discipline consistent with a public reproof.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of October 25, 2016, the discipline costs in this matter are \$3,669. 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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

Respondent may not receive MCLE credit for completion of State Bar Ethics School and the Multistate Professional Responsibility Examination. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: ROBERT LEE WOOD	Case number(s): 14-O-04492-DFM [16-O-10946]
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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>12-30-16</u> Date	<u><i>Robert Lee Wood</i></u> Respondent's Signature	<u>Robert Lee Wood</u> Print Name
<u>1/9/17 (LH)</u> Date	<u><i>Laura A. Huggins</i> (LH)</u> Respondent's Counsel Signature	<u>N/A</u> Print Name
<u>1/9/17</u> Date	<u><i>Laura A. Huggins</i></u> Deputy Trial Counsel's Signature	<u>Laura Huggins</u> Print Name

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In the Matter of: ROBERT LEE WOOD	Case Number(s): 14-O-04492-DFM 16-O-10946
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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.

Date Jan 23, 2017 Pat McElroy
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 January 24, 2017, 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:

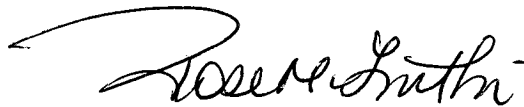
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ROBERT LEE WOOD
LAW OFFICE OF ROBERT L. WOOD
501 STOCKTON AVE STE 101
SAN JOSE, CA 95126

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

LAURA HUGGINS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 24, 2017.



Rose M. Luthi
Case Administrator
State Bar Court