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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Shataka Shores-Brooks Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 213-765-1091 Bar # 240392	Case Number(s): 15-O-14487	For Court use only <div style="text-align: center;"> FILED MAR 10 2017 <i>AK</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Artak Barsegyan Pansky Markle Ham LLP 1010 Sycamore Ave., Unit 308 South Pasadena, CA 91030 213-626-7300 Bar # 279064	PUBLIC MATTER	
In the Matter of: KHACHIK AKHKASHIAN Bar # 213607 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 7, 2001**.
- (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.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **two billing cycles following the effective date of the Supreme Court Order.** (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(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..

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- (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.
- (11) ☐ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (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. **See attachment to stipulation, pg. 7.**
- (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 investigations and proceedings.
- (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.

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- (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. **See attachment to stipulation, pg. 7.**
- (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. **See attachment to stipulation, pg. 7.**
- (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. **See attachment to stipulation, pg. 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

Pretrial Stipulation: See attachment to stipulation, pg. 7.

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **one-year**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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:

The above-referenced suspension is stayed.

- (2) ☒ **Probation:**

Respondent is placed on probation for a period of **one-year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and

conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

- (4) ☒ 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.

- (5) ☐ 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.
- (6) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☐ 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.
- (9) ☐ 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 within one year. **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) ☐ **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: KHACHIK AKHKASHIAN

CASE NUMBER: 15-O-14487

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. 15-O-14487

FACTS:

1. On June 4, 2015, the United States Bankruptcy Court issued an Order to Show Cause Why Fees Should Not Be Disgorged Due to Failure to Disclose Compensation to the Court ("OSC"). Respondent was ordered to appear for the hearing scheduled June 30, 2015 at 1:30 p.m. and show cause why all compensation paid in connection with the bankruptcy case should not be disgorged.
2. On June 4, 2015, the OSC was served on respondent via Notice of Electronic Filing ("NEF") and via U.S. mail. Respondent received the notice of OSC.
3. On June 30, 2015, respondent did not appear for the OSC and did not file a response to the OSC because his secretary was on maternity leave and the OSC did not get calendared. The court ordered respondent to disgorge \$4,000 in attorney's fees no later than fourteen days following the entry of the order, on or before July 16, 2015. The court further ordered respondent to pay \$2,000 in judicial sanctions and file a declaration stating that he disgorged the fees no later than fourteen days following the court's order.
4. On July 2, 2015, the court served respondent with the Order following OSC via NEF and by U.S. mail on September 23, 2015. Respondent received the Order following OSC.
5. Respondent did not disgorge the attorney's fees, pay the sanction, or file a declaration under penalty of perjury declaring that he disgorged the attorney's fees by July 16, 2015.
6. Respondent did not report the imposition of the judicial sanctions in the amount of \$2,000 to the State Bar by July 30, 2015.
7. On October 29, 2015, respondent disgorged \$4,000 in attorney's fees.
8. On November 2, 2015, respondent filed a declaration under penalty of perjury declaring he disgorged \$4,000 in attorney fees.
9. On November 3, 2015, respondent paid the \$2,000 judicial sanction.

CONCLUSIONS OF LAW:

16. By failing to appear and respond to the OSC, disgorge \$4,000 in attorney's fees by July 16, 2015, pay sanctions in the amount of \$2,000, and file a declaration under penalty of perjury declaring he disgorged the attorney fees within fourteen days of the court's order, respondent failed to comply with court orders, in willful violation of Business and Professions Code section 6103.

17. By failing to report to the State Bar a \$2,000 judicial sanction imposed on respondent by the Bankruptcy Court on June 30, 2015, respondent failed to report the imposition of a judicial sanction in willful violation of Business and Professions Code section 6068(o)(3).

MITIGATING CIRCUMSTANCES.

No Prior Record of Discipline (Std. 1.6(a)): Respondent was admitted to practice law June 7, 2001 and has remained active at all times since. Respondent had been discipline-free for 14 years of practice from admission to the start of the misconduct in July 2015. Respondent's 14 years of discipline free practice should be given significant weight. (*Hawes v. State Bar* (1990) 51 Cal. 3d 587, 596.) [attorney's practice of law for over 10 years given significant weight in mitigation.] Respondent's family and financial issues have been resolved.

Good Character (Std. 1.6(f)): Respondent has provided nine character letters. All nine individuals are willing to attest to his good character. Each have known Respondent for significant periods of time, and all of the individuals are aware of the full extent of the misconduct, and attested to their belief in respondent's good character, his ability as an attorney and his remorse concerning the misconduct. Respondent is entitled to mitigating credit for good character.

Pre-trial Stipulation: Respondent is entitled to mitigation for entering into a stipulation of facts and conclusions of law prior to trial, thereby preserving State Bar Court time and resources and acknowledging and accepting responsibility for his misconduct. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating credit was given for entering into a stipulation as to facts and culpability].)

Severe Financial Difficulties: In February 2015, respondent's wife filed for divorce. Respondent separated from his wife and moved out of the family home and into his parents' residence. In March 2015, respondent suffered a staph infection and was hospitalized for one week. Respondent was unable to work during his hospitalization and incurred additional medical expenses. Respondent's divorce became highly contested and costly and directly affected respondent financially. The divorce caused respondent severe stress, which caused respondent to take on less legal work. Respondent's reduced workload further impacted respondent financially and reduced his income, which caused his delayed compliance with the court's order to disgorge compensation and pay court ordered sanctions. Respondent's financial issues have been resolved. (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511 [financial difficulties can be considered in mitigation].)

Family Difficulties: At the time of the misconduct, respondent suffered family difficulties as a result of his separation from his wife, pending divorce, and child custody dispute regarding his five children. During this time period, respondent moved out of the family home and into his parents' residence. Respondent's family difficulties have been resolved. (*In re Naney* (1990) 51 Cal.3d 186, 190 [marital difficulties can be considered in mitigation].)

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.)

If a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed. (Standard 1.7(a).)

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).)

Standard 2.12 states:

Disbarment or actual suspension is the presumed sanction for disobedience or violation of a court order related to the member’s practice of law, the attorney’s oath, or the duties required of an attorney under Business and Professions Code section 6068(a)(b)(d)(e) (f) or (h).

Standard 2.12 prescribe the most severe sanction.

Here, respondent has willfully violated Business and Professions Code section 6103 by disobeying the court’s June 30, 2015, order to disgorge fees and pay sanctions. Having full knowledge of the court’s order, respondent had an affirmative duty to comply with the court’s order or seek appropriate relief from the court to delay or stay his compliance. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 47 [attorney had an affirmative duty to comply with the court’s orders and he could not simply disregard them and sit back and await contempt proceedings before complying with or explaining why he cannot obey a court order].)

Respondent is entitled to significant weight in mitigation for his 14 years of discipline free practice, good character, family difficulties, financial difficulties, and for entering into a pretrial stipulation. There are no aggravating factors. Although the misconduct is serious, in light of respondent's mitigation, actual suspension is not warranted.

Case law supports this result. In *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, the attorney received a stayed suspension regarding his misconduct in handling a criminal appeal. The attorney was found culpable of failing to competently perform legal services, failing to obey court orders concerning the filing deadline for an appellate brief and failing to report a judicial sanction. Aggravating factors included committing multiple acts of misconduct and harm to the administration of justice. The attorney received mitigation for 17 years of discipline free practice and cooperation with the State Bar for entering into a stipulation of facts, in addition to diminished mitigation for character references.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
15-O-14487	One	Business and Professions Code section 6106
15-O-14487	Two	Business and Professions Code section 6068(d)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of March 1, 2017, the prosecution 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. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of:
KHACHIK AKHKASHIAN

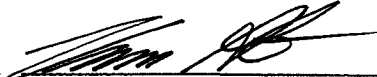
Case number(s):
15-O-14487

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.

3-6-2017

Date



Respondent's Signature

Khachik Akhkashian

Print Name

3-6-17

Date



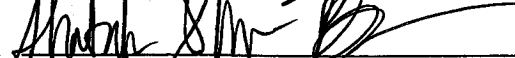
Respondent's Counsel Signature

Artak Barsegyan

Print Name

3-7-17

Date



Deputy Trial Counsel's Signature

Shataka Shores-Brooks

Print Name

(Do not write above this line.)

In the Matter of: KHACHIK AKHKASHIAN	Case Number(s): 15-O-14487
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STAYED 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.

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.)**

3/9/17
Date


DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on March 10, 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:

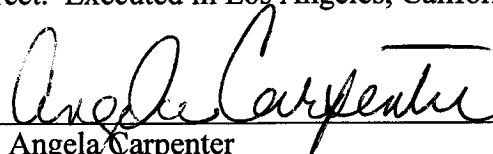
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARTAK BARSEGYAN
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
SOUTH PASADENA, CA 91030

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

Shataka A. Shores-Brooks, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 10, 2017.



Angela Carpenter
Case Administrator
State Bar Court