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State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar Alan B. Gordon Supervising Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 Bar #125642	Case number(s) 95-O-17498 95-O-18892 96-O-02180 @ JMR	(for Court's use) <div style="text-align: center;">PUBLIC MATTER</div> <div style="text-align: center;">FILED <i>pm</i></div> <div style="text-align: center;">MAY 18 2006</div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Patricia A. Kelly P. O. Box 176 East Woodstock, CT 06244 Bar # 140219	NOT FOR PUBLICATION	
In the Matter of Neal L. Kallan Bar # 71401 A Member of the State Bar of California (Respondent)	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL <input checked="" type="checkbox"/> PRIVATE <input type="checkbox"/> PUBLIC <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 December 22, 1976
(date)
- (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 and order consist of 14 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (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.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a) costs added to membership fee for calendar year following effective date of discipline (public reproof)
- (b) case ineligible for costs (private reproof)
- (c) costs to be paid in equal amounts for the following membership years:
_____ (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- (d) costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (e) costs 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 [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 _____

(b) Date prior discipline effective _____

(c) Rules of Professional Conduct/ State Bar Act violations: _____

(d) Degree of prior discipline _____

(Do not write above this line.)

- (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 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.
- (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.

(Do not write above this line.)

- (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:

Emotional Difficulties: As set forth in the attachment hereto, at page 10, at the time of the stipulated acts of professional misconduct Respondent suffered extreme emotional difficulties which expert testimony would establish was directly responsible for the misconduct. The difficulties were not the product of any illegal conduct by the member, such as illegal drug or substance abuse.

(Do not write above this line.)

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
- (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 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 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 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 thirty (30) 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 quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

(Do not write above this line.)

- (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 of the Ethics School and passage of the test given at the end of that session.
- No Ethics School ordered. Reason: See attachment hereto, at page 11.
- (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 required 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 ordered. Reason: See attachment hereto, at page 11
- (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: NEAL L. KALLAN

CASE NUMBER(S): 95-O-17498, ET AL.

REQUEST TO TERMINATE ABATEMENT

This matter has been in an abated status since July 15, 1997, pursuant to rule 116, Rules of Procedure of the State Bar of California. The parties now jointly request that the abatement be terminated to allow the court to entertain this stipulation and to enter the disposition requested herein.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notice of Disciplinary Charges (NDC) filed on October 29, 1996, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended NDC.

FACTS AND CONCLUSIONS OF LAW

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

Case No. 95-O-17498

Facts

1. Richard Ruppel hired Respondent in February of 1994 to represent him in a marital dissolution matter then pending in the Los Angeles County Superior Court. On April 18, 1994, Respondent formally substituted into the case in place of Ruppel, who had been representing himself in propria persona.
2. On April 25, 1994, Respondent filed a declaration in response to an order to show cause (OSC). Respondent also appeared at the hearing on the OSC, on April 26, 1994.
3. On April 26, 1994, the parties reached a verbal agreement to settle the marital dissolution case. Opposing counsel promptly drafted a written agreement in conformance with the terms

verbally agreed upon, and promptly mailed it to Respondent for his review. Respondent received the draft, but took no further action on Ruppel's behalf to finalize the dissolution.

4. Beginning in July of 1994, Ruppel left numerous messages for Respondent at Respondent's law office requesting a status update concerning the dissolution settlement agreement. Ruppel also mailed letters to Respondent at Respondent's law office on April 14 and August 24, 1995, requesting status updates. On October 9, 1995, Ruppel mailed a letter to Respondent at Respondent's law office, terminating Respondent's employment and demanding a return of documents that Ruppel had provided to Respondent in connection with the dissolution case. Respondent did not respond to any of the messages or letters, and did not return Ruppel's documents.

Conclusions of Law

5. By failing to take any action to conclude the dissolution case after April 26, 1994, Respondent recklessly and repeatedly failed to perform legal services with competence, and wilfully violated rule 3-110(A), Rules of Professional Conduct, as charged in Count One of the NDC.

6. By failing to return Ruppel's documents upon demand when the employment terminated, Respondent wilfully violated rule 3-700(D)(1), Rules of Professional Conduct, as charged in Count Two.

7. By failing to respond to Ruppel's reasonable status inquiries, Respondent wilfully violated section 6068(m), Business and Professions Code, as charged in Count Three.

Case No. 95-O-18892

Facts

8. On October 28, 1994, Anita Duffaut hired Respondent to represent her in a marital dissolution matter. Between October 28, 1994, and June 29, 1995, Duffaut paid Respondent approximately \$1,682 for a combination of advanced fees and costs.

9. On November 3, 1994, Respondent filed a petition for dissolution on Duffaut's behalf in the Los Angeles County Superior Court. Respondent took no further action thereafter to bring the dissolution case to a conclusion.

10. Between July 1995 and August 1995, Duffaut left several messages for Respondent at Respondent's law office requesting a status update concerning the dissolution settlement agreement. On October 4, 1995, Duffaut mailed a letter to Respondent at Respondent's law office, requesting copies of all documents in her file. On October 24, 1995, Duffaut mailed another letter to Respondent at Respondent's law office, again requesting copies of all documents in her file, and also asking Respondent to provide the court's docket number for her case, and requesting an accounting of the charges made by respondent against advanced fees.

Respondent did not respond to either of Duffaut's letters, and did not provide Duffaut with any documents, or a docket number, or an accounting of fees.

11. On October 10, 1996, an investigator for the State Bar of California mailed a letter to Respondent at Respondent's law office concerning a complaint received from Duffaut, and requesting Respondent's written explanation of his conduct not later than April 23, 1996. Respondent telephoned the investigator on May 8, 1996, and promised that he would provide his written response to the allegations by May 10, 1996. Respondent did not otherwise respond to the investigator's letter.

Conclusions of Law

12. By failing to take any action to bring Duffaut's dissolution case to a conclusion after November 3, 1994, Respondent recklessly and repeatedly failed to perform legal services with competence, and wilfully violated rule 3-110(A), Rules of Professional Conduct, as charged in Count Four of the NDC.

13. By failing to respond to Duffaut's reasonable status inquiries, including her requests for copies of documents in her file and her request for the court's docket number and for an accounting of charges made against advanced fees, Respondent wilfully violated section 6068(m), Business and Professions Code, as charged in Count Seven.

14. By failing to provide any substantive response to allegations of professional misconduct as requested by the State Bar, Respondent failed to cooperate in a disciplinary proceeding and wilfully violated section 6068(i), Business and Professions Code, as charged in Count Eight.

Case No. 96-O-02180

Facts

15. On April 3, 1995, Zenaida Hauf hired Respondent to represent her in a marital dissolution matter. On April 7, 1995, Respondent filed a petition for dissolution on Duffaut's behalf in the Los Angeles County Superior Court. Respondent took no further action thereafter to bring the dissolution case to a conclusion.

16. Between August 9 and October 18, 1995, Hauf left no fewer than five messages for Respondent at Respondent's law office requesting a status update concerning the dissolution case. Respondent did not respond until late October, at which time he met with Hauf and discussed the case with her. Thereafter, between December 29, 1995, and February 22, 1996, Hauf left no fewer than ten messages for Respondent at Respondent's law office requesting a further status update. And on February 8, 1996, Hauf mailed a letter to Respondent at Respondent's law office, asking for a status update. Respondent did not respond to Hauf's letter or to any of the messages that Hauf left on or after December 29, 1995.

17. On May 2, 1996, an investigator for the State Bar of California mailed a letter to Respondent at Respondent's law office concerning a complaint received from Hauf, and requesting Respondent's written explanation of his conduct not later than May 16, 1996. Respondent telephoned the investigator on May 8, 1996, and promised that he would provide his written response to the allegations by May 10, 1996. Respondent did not otherwise respond to the investigator's letter.

Conclusions of Law

18. By failing to take any action to bring Hauf's dissolution case to a conclusion after April 7, 1995, Respondent recklessly and repeatedly failed to perform legal services with competence, and wilfully violated rule 3-110(A), Rules of Professional Conduct, as charged in Count Nine of the NDC.

19. By failing to respond to Hauf's reasonable status inquiries on and after December 29, 1995, Respondent wilfully violated section 6068(m), Business and Professions Code, as charged in Count Ten.

20. By failing to provide any substantive response to allegations of professional misconduct as requested by the State Bar, Respondent failed to cooperate in a disciplinary proceeding and wilfully violated section 6068(i), Business and Professions Code, as charged in Count Eleven.

PENDING PROCEEDINGS

The disclosure date referred to on page one, paragraph A(7), was April 18, 2006.

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>
95-O-18892	Five	Rule 3-500, Rules of Professional Conduct
95-O-18892	Six	Rule 4-100(B)(3), Rules of Professional Conduct

MITIGATING CIRCUMSTANCES

No Prior Record of Discipline

Respondent had practiced law without discipline for over 17 years before engaging in the first incident of misconduct at issue in this proceeding.

Emotional Difficulties

At the time of the misconduct herein, Respondent suffered from severe depression and chronic, disabling anxiety, which condition significantly interfered with his ability to cope with the stress of an active law practice and directly contributed to the misconduct. Since May 4, 1997, Respondent has been enrolled on inactive status as a State Bar member pursuant to Business and Professions Code section 6007(b) as a result of his condition. In a contested proceeding in April of 1998, an administrative law judge for the Social Security Administration found Respondent to be severely impaired by anxiety and depression. As a result of that determination, Respondent was granted Social Security disability insurance benefits, which benefits he continues to receive.

Respondent's condition has not improved since the commission of the misconduct, and he will remain on inactive status pursuant to section 6007(b) until he successfully petitions for a return to active status, or until the State Bar stipulates that he is no longer impaired and is able to practice law competently and without endangering clients or the public and the State Bar Court approves the stipulation. (See Rules 440 and 442, Rules of Procedure of the State Bar of California.) The parties do not presently contemplate that Respondent will ever seek to return to the active practice of law.

STATE BAR ETHICS SCHOOL EXCLUSION

It is not recommended that Respondent be required to attend State Bar Ethics School because his unresolved severe anxiety would make such attendance unendurable to him, and because it is not contemplated that Respondent will return to the active practice of law. In light of these considerations, neither the protection of the public nor the interests of Respondent would be served by requiring attendance at Ethics School. (See *In the Matter of Respondent Z* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85.)

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION

It is not recommended that Respondent be required to take the Multistate Professional Responsibility Examination because his unresolved severe anxiety would make preparation for and participation in such examination unendurable to him, and because it is not contemplated that Respondent will return to the active practice of law. In light of these considerations, neither the protection of the public nor the interests of Respondent would be served by requiring Respondent's passage of the MPRE. (See *In the Matter of Respondent G* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181.)

AUTHORITIES SUPPORTING DISCIPLINE

Culpability of a member for wilfully failing to perform services in individual matters not demonstrating a pattern of misconduct, or for wilfully failing to communicate with a client, shall result in reproof or suspension, depending upon the extent of the misconduct and the degree of harm to the client. (Std. 2.4(b), Stds. for Atty Sanctions for Prof. Misconduct.)

Mitigating circumstances are defined as events or factors that caused or underlay professional misconduct and that demonstrate that the public, courts, and legal profession would be adequately protected by a more lenient degree of sanction than set forth in the Standards for Attorney Sanctions. (Std. 1.2(e), Stds. for Atty Sanctions for Prof. Misconduct.)

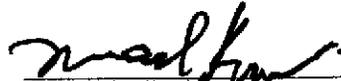
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In the Matter of NEAL L. KALLAN	Case number(s): 95-O-17498 95-O-18892 96-O-02180 - JMR
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SIGNATURE OF THE PARTIES

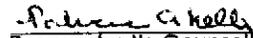
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law and Disposition.

May 10, 2006
Date


Respondent's signature

NEAL L. KALLAN
Print name

May 5, 2006
Date


Respondent's Counsel's signature

PATRICIA A. KELLY
Print name

May 11, 2006
Date


Deputy Trial Counsel's signature

ALAN B. GORDON
Print name

(Do not write above this line.)

In the Matter of NEAL L. KALLAN	Case number(s): 95-O-17498 95-O-18892 96-O-02180-JMR
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 Hearing dates are vacated.

This matter was abated in July 1997. The abatement order of July 1997 is terminated to allow parties to enter into this stipulation.

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 135(b), 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 reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date

May 16, 2006

PAT McELROY

Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on May 18, 2006, 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:

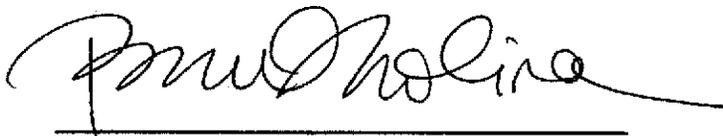
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**PATRICIA A. KELLY
P O BOX 176
EAST WOODSTOCK, CT 06244**

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

ALAN B. GORDON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 18, 2006.



Bernadette C. O. Molina
Case Administrator
State Bar Court