


State Bar Court of the State Bar of California
Hearing Department: ☐ Los Angeles ☒ San Francisco
PILOT PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES

Counsel for the State Bar Cydney Batchelor, #114637 State Bar of California 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204	Case Number(s) CONFIDENTIAL PUBLIC MATTER 99-0-13577-JMR 01-0-00035 01-0-00143 FILED FEB 04 2008 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO	(for Court use) LODGED <i>CD</i> FEB 02 2004 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel for Respondent Arlo Hale Smith, #96971 66 San Fernando Way San Francisco, CA 94127 Tele: 415/681-9572	Submitted to Pilot Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW	
In the Matter of ARLO HALE SMITH Bar # 96971 A Member of the State Bar of California (Respondent)	<input type="checkbox"/> PREVIOUS STIPULATION REJECTED <div style="text-align: right;">kwiktag® 035 118 968 </div>	

Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted 1/15/81
(Date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- (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." This stipulation consists of 11 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts".
See attached.
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."
See attached
- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§ 6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component (attachment) of this stipulation under specific headings, i.e., "Facts", "Dismissals", "Conclusions of Law."

B.

- (2)

None.

C. Mitigating Circumstances [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 to 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 of 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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ No mitigating circumstances are involved.

Additional mitigating circumstances:

See attached.

Respondent enters into this stipulation as a condition of his/her participation in the Pilot Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Pilot Program Contract.

If the Respondent is not accepted into the Pilot Program or does not sign the Pilot Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Pilot Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

9/24/03
Date


Respondent's Signature


A. HALE SMITH
Print Name

Date

Respondent's Counsel Signature

NONE
Print Name

9/24/03
Date


Deputy Trial Counsel's Signature

CYDNEY BATCHELOR
Print Name

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ARLO HALE SMITH

CASE NUMBER(S): 99-O-13577, et al.

DISMISSALS.

Case No. 01-O-00143 (SBI): Pursuant to the settlement memorialized herein, the parties respectfully request the Court to dismiss case number 01-O-00143, without prejudice. As a condition of this dismissal, as set forth under "Restitution" below, Respondent hereby agrees to pay the sanctions ordered against him in favor of Richard D. Hongisto, in the amount of \$5,000.00 plus interest. Respondent understands and agrees that his failure to pay the restitution to Mr. Hongisto as set forth herein may result in case number 01-O-143 being reopened and further disciplinary action being taken against him.

FACTS AND CONCLUSIONS OF LAW.

Case No. 99-O-13577 (DeRoover)

Facts: In March 1994, Jacqueline and Paul DeRoover ("the DeRoovers") employed Respondent to represent them in pending litigation regarding their real property. Between then and November 1996, the DeRoovers paid Respondent approximately \$6,400.00 for his legal services in the matter, at the rate of \$200.00 per hour. In November 1994, Respondent represented the DeRoovers in a court trial, and prevailed. Thereafter, the opposing party appealed the decision favorable to the DeRoovers, and in May 1996, the favorable decision was affirmed.

Subsequently, the DeRoovers asked Respondent to file a complaint on their behalf for damages against the opposing party in the underlying litigation. Respondent agreed, and filed the second action in June 1997. Thereafter, however, Respondent determined that the action lacked merit, decided not to proceed, and dismissed the case in March 1998. However, he failed to communicate these significant events to his clients, or to withdraw from representing them in the litigation in a timely manner, which would have allowed them to employ other counsel. After Respondent dismissed the case, he did offer to the DeRoovers to explore other avenues of relief; however, he failed to do so.

Conclusions of law: By intentionally failing to perform the legal services for which he was employed, Respondent violated Rule of Professional Conduct 3-110(A). By willfully failing to withdraw from representing the DeRoovers in a timely and proper manner in the second litigation, Respondent violated Rule of Professional Conduct 3-700(A). By willfully failing to inform the DeRoovers of significant events in the second litigation, Respondent violated Business and Professions Code section 6068(m).

Case No. 01-O-00035 (Cardinale):

Facts: In March 1998, Noreen Cardinale filed a lawsuit against various defendants in Contra Costa Superior Court; Respondent initially represented all defendants in the litigation.

In October 1999, Respondent filed a bankruptcy petition on behalf of defendant DeVille and improperly removed the *Cardinale* case to bankruptcy court; thereafter, he failed to file bankruptcy schedules and the case was dismissed and remanded in January 2000.

In June 2000, on the day set for jury trial in the *Cardinale* case, Respondent filed a bankruptcy petition on behalf of Daggett and again improperly removed the case to the bankruptcy court. Ms. Cardinale then dismissed Daggett from the lawsuit, and the bankruptcy court dismissed the bankruptcy case and again remanded the *Cardinale* case in July 2000.

The same day, Respondent filed a second bankruptcy petition on behalf of DeVille, and again improperly removed the *Cardinale* case to the bankruptcy court. Ms. Cardinale immediately dismissed DeVille as a defendant, and filed a motion to remand the case back to superior court. On its own motion, the bankruptcy court then set an order to show cause against Respondent for consideration of sanctions. On July 28, 2000, the bankruptcy court remanded the *Cardinale* case to state court, and ordered Respondent not to remove it again on behalf of any of the defendants without the permission of the bankruptcy court.

The state court reset the *Cardinale* state court action for trial for August 14, 2000. On that date, Respondent appeared for trial and withdrew as counsel for defendant Miller. Miller then gave the trial judge a copy of his own petition for removal to bankruptcy court and told the court he would be filing his own bankruptcy petition. The trial court set yet another trial date, for September 5, 2000. Ms. Cardinale filed a motion to remand, which the bankruptcy court granted; at the same time, the bankruptcy court retained jurisdiction to consider sanctions against Respondent and defendant Miller.

The bankruptcy court thereafter awarded sanctions in favor of Ms. Cardinale, and against Respondent and Miller, jointly and severally, in the amount of \$11,097.00, and imposed an additional sanction against Respondent, in the amount of \$5,548.50. Respondent appealed the sanctions, which were affirmed in part and remanded in part. As of the date of the execution of this stipulation, the final resolution of the sanctions orders remains on appeal before the U.S. Court of Appeals for the Ninth Circuit.

Conclusions of Law: By improperly removing the *Cardinale* state court litigation to the bankruptcy court three times (once on behalf of defendant Daggett, and twice on behalf of defendant DeVille), Respondent encouraged unjust actions in violation of Business and Professions Code section 6068(c).

NEXUS BETWEEN MISCONDUCT AND MENTAL HEALTH DISORDER.

Regarding the nexus between his severe clinical depression and the misconduct set forth herein, if called as a witness, Respondent would testify that: He began suffering from depression at the time of his mother's terminal illness from cancer in 1996. After she died, he believed that he was getting better; however, his depression only abated slightly, and then increased significantly in response to a failed relationship with a significant other in early 1999. Respondent would further testify that at the time he stipulated to his prior misconduct, in November 2001, he knew that he had been depressed when his mother was dying, but believed he had recovered. However, his depression continued to worsen, and in November 2002, Respondent sought treatment through the State Bar Lawyer Assistance Program.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was September 24, 2003.

AGGRAVATING CIRCUMSTANCES.

Facts Supporting Aggravating Circumstances.

Prior Record of Discipline: As specifically identified above, Respondent stipulated to the prior misconduct in November 2001. However, the misconduct stipulated to herein occurred prior to that time; the cases were known to the State Bar but had not been fully investigated at the time of the prior stipulation.

Multiple Acts of Misconduct: The facts and conclusions set forth above involve multiple acts of misconduct to one client, and to an opposing party, and to the bankruptcy and state courts.

Significant Harm: Through Respondent's misconduct, the DeRoovers lost their cause of action without an opportunity to consult another attorney to determine if it had merit, Ms. Cardinale's state court litigation was unjustly delayed two years; and the state court and bankruptcy courts' resources were unnecessarily wasted in adjudicating three frivolous removals.

MITIGATING CIRCUMSTANCES.

Facts supporting mitigating circumstances:

Candor/Cooperation: Throughout these proceedings, Respondent has been completely candid and cooperative with the undersigned deputy trial counsel in resolving these cases.

Additional Mitigating Circumstances.

Participation in Lawyer's Assistance Program: In December 2002, Respondent voluntarily signed a pre-enrollment assessment agreement with the State Bar's Lawyer Assistance Program (LAP). Respondent was then assessed and monitored for a period of time by the LAP. At the conclusion of the LAP evaluation, on February 19, 2003, Respondent met with its Evaluation Committee, and then voluntarily entered into a long-term participation agreement with LAP on May 5, 2003. He has been fully compliant with LAP from his first communication with the program to the present time, including in signing an amendment to the participation agreement in August 2003.

RESTITUTION.

Respondent waives any objection to immediate payment by the State Bar Client Security Fund upon a claim or claims for the principal amounts of restitution set forth below.

In accordance with the timetable set forth in the in the "Pilot Program Contract" to be executed between the State Bar Court and Respondent on the captioned cases, Respondent must make restitution as follows:

Richard D. Hongisto, or the Client Security Fund if it has paid, in the principal amount of \$5000.00, plus interest at the rate of 10% per annum from November 25, 2000, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

CONDITIONAL RESTITUTION.

As set forth above, the issue of whether Respondent owes sanctions to Ms. Cardinale, and in what amount, is still on appeal. Respondent hereby agrees that if any such sanctions are finally determined to be due and owing, then this stipulation, and the pilot program contract that he will enter into with the State Bar Court, may be amended to include that payee and amount.

Respondent further agrees that, in the event it is finally determined that he owes sanctions to Ms. Cardinale, then upon amendment of this stipulation and the pilot program contract, he will waive any objection to immediate payment by the State Bar Client Security Fund upon a claim or claims for the principal amounts of restitution set forth therein.

EXCLUSION OF STATE BAR ETHICS SCHOOL.

Respondent attended ethics school, and passed the test, on February 21, 2002; therefore, it is not recommended that he be required to attend and pass the test again as part of these proceedings.

EXCLUSION OF MULTI-STATE PROFESSIONAL RESPONSIBILITY EXAM.

Respondent passed the MPRE on May 11, 2002, as part of State Bar case number SO95024 (97-O-10805); therefore, it is not recommended that he be required to take and pass it again as part of these proceedings.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

Participation in State Bar Lawyer's Assistance Program. As noted above, on May 3, 2003, Respondent voluntarily entered into a participation agreement with the LAP ("the participation agreement"), which includes conditions regarding monitoring and treatment for five (5) years. Respondent shall comply with the terms of the participation agreement, as the participation agreement may be modified by Respondent and the LAP from time to

time, and shall furnish satisfactory evidence of such compliance to the Probation Department. Respondent shall include in each quarterly report required herein satisfactory evidence of all such compliance made by him during that reporting period.

Participation in Fee Arbitration upon DeRoovers' request: Respondent hereby agrees to write to the DeRoovers, within ninety days from the date he signs this stipulation, and therein to offer to initiate and participate in fee arbitration upon their request regarding their outstanding fee dispute with him. Respondent further agrees to initiate and participate in fee arbitration upon the DeRoovers' request, and to abide by the decision of the fee arbitrator if any there be. Respondent understands and agrees that his failure to write the letter, or to initiate or participate in fee arbitration upon the DeRoovers' request, or to abide by the decision of the fee arbitrator if any there be, may constitute a violation of this stipulation.

ORDER

Finding this stipulation to be fair to the parties, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

☐ The stipulation as to facts and conclusions of law is APPROVED.

☒ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.

See attached Modifications.

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; 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Pilot Program or does not sign the Pilot Program Contract. (See rules 135(b) and 802(b), Rules of Procedure.)

The effective date of the disposition is the effective date of the Supreme Court order herein, normally 30 days after the file date of the Supreme Court Order. (See rule 953(a), California Rules of Court.)

Date

2/2/04

John M. Lake
Judge of the State Bar Court

In the Matter of Arlo Hale Smith
Case No. 99-O-13577-JMR

**COURT'S MODIFICATIONS AS TO THE STIPULATED FACTS, CONCLUSIONS OF
LAW AND DISPOSITION**

1. On Page 5, under "Dismissals," delete the requirement that Respondent pay interest on the \$5,000 restitution obligation to Richard D. Hongisto.
2. On Page 9, under "Restitution," delete the requirement that Respondent pay 10% interest per annum from November 25, 2000, on the \$5,000 restitution obligation to Richard D. Hongisto.
3. On Page 9, delete the provision excluding the requirement that Respondent take the State Bar's Ethics School. The court recommends that Respondent take and pass the Ethics School.
4. On Page 10, under "Participation in Fee Arbitration upon DeRoovers' request," delete all references that Respondent shall abide by the decision of the fee arbitrator. Respondent does not give up any rights he has pursuant to fee arbitration under this stipulation, including the right to seek review of a decision. However, Respondent shall comply with any final fee award.

Dated: February 2, 2004


JOANN M. REMKE
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. 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 February 2, 2004, I deposited a true copy of the following document(s):

**DECISION RE ALTERNATIVE RECOMMENDATIONS
FOR DEGREE OF DISCIPLINE**

STIPULATION RE FACTS, CONCLUSIONS OF LAW

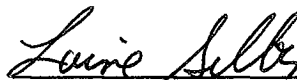
**CONTRACT AND WAIVER FOR PARTICIPATION IN
THE STATE BAR COURT'S PILOT PROGRAM
FOR RESPONDENTS WITH SUBSTANCE ABUSE
OR MENTAL HEALTH ISSUES**

[X] by personal delivery addressed as follows:

**ARLO HALE SMITH
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO CA 94105**

**CYDNEY BATCHELOR
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California,
on **February 2, 2004**.



Laine Silber
Case Administrator
State Bar Court

CONFIDENTIAL

FILED *J*

FEB 04 2008

LODGED

JUN 02 2005 *LS*

STATE BAR COURT
CLERK'S OFFICE
SAN FRANCISCO

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

1 THE STATE BAR OF CALIFORNIA
2 OFFICE OF THE CHIEF TRIAL COUNSEL
3 SCOTT J. DREXEL, No. 65670
4 CHIEF TRIAL COUNSEL
5 LAWRENCE J. DAL CERRO, No. 104342
6 ASSISTANT CHIEF TRIAL COUNSEL
7 CYDNEY BATCHELOR, No. 114637
8 DEPUTY TRIAL COUNSEL
9 180 Howard Street
10 San Francisco, California 94105
11 Telephone: (415) 538-2000

12 THE STATE BAR COURT
13 HEARING DEPARTMENT - SAN FRANCISCO
14

15 In the Matter of) Case No. 99-O-13577-JMR
16)
17 ARLO HALE SMITH, JR.) STIPULATION TO MODIFY
18 No. 96971) RESTITUTION CONDITION
19)
20 Date: May 31, 2005
21 Time: 1:30 p.m.
22 A Member of the State Bar) Dept: One
23

24 IT IS HEREBY STIPULATED by and between the State Bar of California,
25 through deputy trial counsel Cydney Batchelor, and respondent Arlo Hale Smith, Jr., as
26 follows:
27

28 **A. JURISDICTION**

Respondent was admitted to the practice of law in the State of California on
January 15, 1981, and was, at all times mentioned herein, a member of the State Bar of
California.

B. RESTITUTION MODIFICATION

In their stipulation lodged with this Court on February 2, 2004, the parties
stipulated to the following restitution condition:

1 **CONDITIONAL RESTITUTION.**

2 [T]he issue of whether Respondent owes sanctions to Ms. Cardinale, and in what
3 amount, is still on appeal. Respondent hereby agrees that if any such sanctions are
4 finally determined to be due and owing, then this stipulation, and the pilot program
 contract that he will enter into with the State Bar Court, may be amended to
 include that payee and amount.

5 Respondent further agrees that, in the event it is finally determined that he owes
6 sanctions to Ms. Cardinale, then upon amendment of this stipulation and the pilot
7 program contract, he will waive any objection to immediate payment by the State
 Bar Client Security Fund upon a claim or claims for the principal amounts of
 restitution set forth therein.

8 After the stipulation was lodged with the Court, the sanctions order was finally
9 resolved by the United States Bankruptcy Court for the Northern District of California, in
10 the amended judgment filed on October 8, 2004 ("the final sanctions judgment"). A copy
11 of the final sanctions judgment is attached hereto as Exhibit 1.

12 In accordance with the final sanctions order, the parties wish to delete the
13 "Conditional Restitution" section set forth above, and to add the following two
14 "Restitution Conditions":

15 Noreen Cardinale, or the Client Security Fund if it has paid, in the principal
16 amount of \$19,929.45, plus interest at the rate of 4.19% per annum from April 2,
17 2001, until paid in full and furnish satisfactory evidence of restitution to the State
 Bar Court; and

18 Clerk, US Bankruptcy Court, Northern District of California, in the principal
19 amount of \$23,597.00, plus interest at the rate of 4.19% per annum from April 2,
20 2001, until paid in full and furnish satisfactory evidence of restitution to the State
 Bar Court.

21 **C. CONCLUSION**

22 For all the foregoing reasons, the parties respectfully request the Court to issue its
23 order modifying the Cardinale restitution term of the Stipulation Re: Facts and

24 //

25 //

26 //

1 Conclusions of Law and the Contract for the State Bar Court's Alternative Discipline
2 Program, both of which were lodged on February 2, 2004, as set forth above.

3 Respectfully submitted,

4 **RESPONDENT**

5
6 Dated: 5/31/05

7 
8 ARLO HALE SMITH, JR.

9 **THE STATE BAR OF CALIFORNIA**
10 **OFFICE OF THE CHIEF TRIAL COUNSEL**

11 Dated: 5/31/05

12 By: 

13 CYDNEY PATCHELOR
14 Deputy Trial Counsel
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Signed and Filed: October 08, 2004

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

Case No. 00-31727-BDM
Chapter 13

LES DeVILLE,

Debtor.

NOREEN CARDINALE,

A.P. No. 00-3142-DM

Plaintiff,

v.

AMENDED JUDGMENT AWARDING
SANCTIONS AGAINST
ARLO H. SMITH, JR. AND
DANIEL R. MILLER, JR.

ROBERT FITZ-STEPHENS,
individually and dba FIRST
FINANCIAL and FIRST FINANCIAL
MORTGAGE, STEPHEN DAGGETT,
DANIEL MILLER, JR.,
individually and dba MILLER
FINANCIAL and MILLER AUTOSPORT,
LES DeVILLE, and DOES 1-100,
inclusive,

Defendants.

In re

Case No. 00-43878-RN
Chapter 13

STEVEN J. DAGGETT,

Debtor.

EXHIBIT

tabbles

1

1 NOREEN CARDINALE,

A.P. No. 00-3182-DM
(Formerly A.P. No. 00-4305)

2 Plaintiff,

3 v.

4 ROBERT FITZ-STEPHENS et al.,

5 Defendants.
6 _____)

7 In re

Case No. 00-32297
(Formerly Case No. 00-45087)¹

8 DANIEL MILLER,

9 Debtor.
10 _____)

11 For the reasons set forth in Miller v. Cardinale (In re
12 DeVille), 361 F.3d 539 (2004) (affirming 280 B.R. 483 (9th Cir.
13 BAP 2002)), this court's Order After Mandate From Ninth Circuit
14 filed on July 2, 2004, and the accompanying Memorandum Decision
15 Concerning Response of Arlo H. Smith, Jr. to Order After Mandate
16 From Ninth Circuit, and based on the files and records in these
17 cases and adversary proceedings, and good cause appearing, it is
18 hereby

19 ORDERED, ADJUDGED AND DECREED that Noreen Cardinale have and
20 recover from Arlo H. Smith, Jr., Esq. and Daniel R. Miller, Jr.,
21 jointly and severally, the sum of \$19,929.45 as a compensatory
22 award, with post-judgment interest thereon at the rate provided by
23 law (4.19%) from the date of entry of the original Judgment
24 Awarding Sanctions Against Arlo H. Smith, Jr., Esq. and Daniel R.
25 Miller, Jr., on April 2, 2001, until paid; and it is hereby
26 further

27 _____
28 ¹ The above-captioned cases and adversary proceedings were
procedurally consolidated on the issue of sanctions.

1 ORDERED, ADJUDGED AND DECREED that Arlo H. Smith, Jr., Esq.
2 and Daniel R. Miller, Jr. shall be liable, jointly and severally,
3 for an additional deterrent sanction of \$5,548.50, payable to the
4 Clerk, U.S. Bankruptcy Court, with post-judgment interest thereon
5 at the rate provided by law (4.19%) from April 2, 2001, until
6 paid; and it is hereby further

7 ORDERED, ADJUDGED AND DECREED that Arlo H. Smith, Jr., Esq.
8 individually shall be liable for an additional deterrent sanction
9 of \$18,048.50, payable to the Clerk, U.S. Bankruptcy Court, with
10 post-judgment interest thereon at the rate provided by law (4.19%)
11 from April 2, 2001, until paid; and it is hereby further

12 ORDERED, ADJUDGED AND DECREED that as to the portions of this
13 judgment payable to the Clerk, U.S. Bankruptcy Court, she or her
14 designee is hereby authorized to record abstracts of this
15 judgment, or refer collection to the United States Attorney, or
16 take such other actions as may be necessary or desirable for
17 collection; and it is hereby further

18 ORDERED, ADJUDGED AND DECREED that in furtherance and not in
19 limitation of the Clerk's enforcement of this judgment, counsel
20 for plaintiff Noreen Cardinale shall forward to the Clerk a copy
21 of any abstract of judgment or other document that she records,
22 within two weeks after recording, regarding the assets of Arlo H.
23 Smith, Jr., Esq. or Daniel R. Miller, Jr.

24 **END OF JUDGMENT**
25
26
27
28

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 April 29, 2008, I deposited a true copy of the following document(s):

DECISION AN ORDER SEALING DOCUMENTS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

STIPULATION TO MODIFY RESTITUTION CONDITION

in a sealed envelope for collection and mailing on that date as follows:

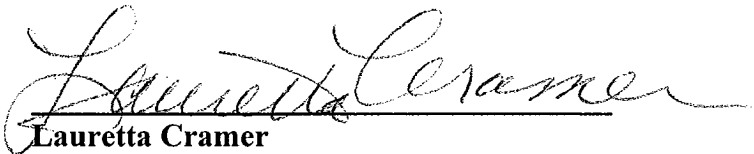
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**ARLO HALE SMITH
66 SAN FERNANDO WAY
SAN FRANCISCO, CA 94127**

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

MARK HARTMAN , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 29, 2008.


Laurretta Cramer
Case Administrator
State Bar Court