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State Bar Court of California Hearing Department Los Angeles		
Counsel For The State Bar Miho Murai State Bar of California 1149 S. Hill Street Los Angeles, CA 90015-2299 213-765-1219 Bar # 235178	Case Number (s) 06-C-12759-RAH	(for Court's use)
<div style="display: flex; justify-content: space-around; font-size: 2em; font-weight: bold;"> PUBLIC MATTER FILED </div> <div style="text-align: right; margin-top: 10px;"> <p>MAR 17 2008 </p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> </div>		
Counsel For Respondent Gabriel Castellanos 2 N. Lake Avenue, Ste. 1080 Pasadena, CA 91101 626-405-8113 Bar # 227702	Submitted to: Assigned Judge	
In the Matter Of: RICHARD ALLEN ESPINOZA Bar # 74367 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING 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 28, 1977.**
- (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 **11** 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."
- (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."



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- (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):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **for the three (3) billing cycles following the effective date of the Supreme Court Order** (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

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 **81-O-18-LA**
 - (b) Date prior discipline effective **on or about 6/22/82**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **sections 6103 and 6106 of the Business and Professions Code**
 - (d) Degree of prior discipline **Private Reproval**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (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.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension

Additional aggravating circumstances:

N/A

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. **Respondent has displayed spontaneous candor and cooperation with the State Bar throughout the disciplinary investigation and proceedings, and has expressed full awareness of his ethical duties and complete willingness to fulfill them.**
- (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. **Respondent pled nolo contendere to the misdemeanor count of receiving stolen property and immediately self-reported his misdemeanor conviction to the State Bar. During the disciplinary proceeding, Respondent has expressed remorse for his 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 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

Although Respondent acknowledges the seriousness of his misconduct, his actions were influenced by his desire to protect his son.

At the time of the misconduct giving rise to his conviction, Respondent suffered and still suffers from numerous health conditions, including coronary artery disease, severe atherosclerotic disease, severe atherosclerotic heart disease, transient ischemic attacks, cerebral vascular disease at the basal artery with severe stenosis/blockages, cerebral vascular disease of the middle cerebral artery with severe stenosis/blockages, syncopal episodes, diabetes, sleep apnea syndrome, dyslipidemia, sensorineural hearing loss, diplopia, and vertigo.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two (2) years**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) 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:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **three (3) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **eighteen (18) months**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), 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:

E. Additional Conditions of Probation:

(1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

- (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 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.
- (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 probation conditions.
- (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) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions Law Office Management Conditions
 - Medical Conditions 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

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Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **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 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: **July 25, 2007.**
- (5) **Other Conditions:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW, AND DISPOSITION

IN THE MATTER OF: RICHARD ALLEN ESPINOZA

CASE NUMBER: O6-C-12759

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING

This is a proceeding pursuant to section 6101 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

On January 29, 2007, Respondent Richard Allen Espinoza ("Respondent") was convicted of violating Penal Code section 496(a), receiving stolen property, a misdemeanor involving moral turpitude, after pleading nolo contendere to the count. Respondent was placed on summary probation for a period of three (3) years with probationary conditions, including paying restitution to the victim. Two felony charges of perjury by declaration were dismissed.

On or about February 16, 2007, the State Bar received a letter from Respondent, self-reporting that he entered a no-contest plea, which resulted in a misdemeanor conviction on or about January 29, 2007.

On June 22, 2007, the Review Department of the State Bar Court ("Review Department") issued an order pursuant to Business and Professions Code section 6102 that, "respondent be suspended from the practice of law, effective July 25, 2007, pending final disposition of this proceeding." He was also ordered to comply with rule 9.20 of the California Rules of Court.

On August 31, 2007, the Review Department issued an order referring the matter to the Hearing Department for a hearing and a decision recommending the discipline to be imposed.

A Notice of Hearing on Conviction was filed by the State Bar Court on September 12, 2007. On or about October 22, 2007, Respondent's counsel, Gabriel Castellanos, on behalf of Respondent, filed a Response.

FACTS AND CONCLUSIONS OF LAW

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

FACTS

1. Respondent was admitted to the practice of law in the State of California on June 28, 1977, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

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2. From on or between September 9, 2005 through January 26, 2006, Respondent unlawfully received and held an automobile at his home, which had been stolen and obtained by extortion by his son.
3. According to Respondent, his son told him that he had obtained the car from its owner (the mother of a former girlfriend) for \$500.00. Respondent believed his son, and agreed to have the car stored at his house since the car was not street legal because of body damage to its front hood and fenders.
4. Thereafter, Respondent discovered that his son had obtained the car from its owner upon false promises that he would have the car repaired for \$500.00. Respondent also discovered that his son had obtained the owner's signature on the "pink slip" upon false promises that he would pay the registration fees and register the car in the name of the owner's daughter.
5. On January 29, 2007, Respondent pled nolo contendere to the misdemeanor count of receiving stolen property. Thereafter, Respondent was convicted of violating Penal Code section 496(a), a misdemeanor involving moral turpitude, and was placed on summary probation for a period of three (3) years with probationary conditions, including paying restitution to the victim. Two felony charges of perjury by declaration were dismissed.
6. On or about February 16, 2007, Respondent self-reported to the State Bar that he had entered a no-contest plea to receiving stolen property and was convicted of a misdemeanor. In his letter, Respondent stated that he has accepted responsibility for his actions and has chosen to resolve this matter due to his health and family turmoil.
7. According to Respondent's doctor, although Respondent is presently stable and stationary, Respondent suffers from numerous health conditions, including coronary artery disease, severe atherosclerotic disease, severe atherosclerotic heart disease, transient ischemic attacks, cerebral vascular disease at the basal artery with severe stenosis/blockages, cerebral vascular disease of the middle cerebral artery with severe stenosis/blockages, syncopal episodes, diabetes, sleep apnea syndrome, dyslipidemia, sensorineural hearing loss, diplopia, and vertigo.

CONCLUSIONS OF LAW

Having pled nolo contendere to violating Penal Code section 496(a), receiving stolen property, a misdemeanor involving moral turpitude, Respondent has been convicted of misconduct involving moral turpitude and warranting discipline. Respondent acknowledges that by the conduct described above, he failed to support the laws of California in willful violation of Business and Professions Code § 6068(a).

PENDING PROCEEDINGS

The disclosure date referred to on page one, paragraph A(7), was March 10, 2008.

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AUTHORITIES SUPPORTING DISCIPLINE

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct, the primary purposes of disciplinary proceedings and imposing sanctions for professional misconduct are “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.”

Here, the requested discipline complies with Standard 1.3.

Standard 3.2 provides that:

Final conviction of a member of a crime which involves moral turpitude, either inherently or in the facts and circumstances surrounding the crime’s commission shall result in disbarment. Only if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline imposed shall not be less than a two-year actual suspension, prospective to any interim suspension imposed, irrespective of mitigating circumstances.

By definition, every criminal conviction involves a violation of Business and Professions Code section 6068(a). Pursuant to Standard 2.6, the culpability of a member of a violation of Business and Professions Code section 6068 (including section 6068(a)) “shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.”

The Supreme Court gives the Standards “great weight,” and will reject a recommendation consistent with the Standards only where the Court entertains “grave doubts” as to its propriety. *In re Naney* (1990) 51 Cal. 3d 186, 190; *see also In re Silvertown* (2005) 3 Cal. 4th 81, 91, 92. Further, although the Standards are not mandatory, it is well established that the Standards may be deviated from only when there is a compelling, well-defined reason to do so. *See Aronin v. State Bar* (1990) 52 Cal. 3d 276, 291; *see also Bates v. State Bar* (1990) 52 Cal. 3d 1056, 1060, fn. 2.

The State Bar recognizes that the Standards should not be applied in a talismanic fashion. *Gary v. State Bar* (1988) 44 Cal. 3d 820, 828. However, Respondent bears the burden to demonstrate that the State Bar should deviate from the Standards, which has been done in this particular case.

The stipulated discipline of two years stayed suspension and three years probation with conditions, including an eighteen-month (18) period of actual suspension is slightly less than what the Standards dictate (a two-year actual suspension with the most compelling mitigating circumstances). However, given the particular facts of this case, the compelling mitigating circumstances involved, and the additional safeguard of Respondent’s compliance with standard 1.4(c)(ii), a slight deviation from the standards is appropriate and the stipulated discipline would adequately protect the public, the courts, and the legal profession from further misconduct from this Respondent.

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MITIGATING CIRCUMSTANCES

Respondent has displayed spontaneous candor and cooperation with the State Bar throughout the disciplinary investigation and proceedings, and has expressed full awareness of his ethical duties and complete willingness to fulfill them.

At the time of the misconduct giving rise to his conviction, Respondent suffered and still suffers from numerous health conditions, including coronary artery disease, severe atherosclerotic disease, severe atherosclerotic heart disease, transient ischemic attacks, cerebral vascular disease at the basal artery with severe stenosis/blockages, cerebral vascular disease of the middle cerebral artery with severe stenosis/blockages, syncopal episodes, diabetes, sleep apnea syndrome, dyslipidemia, sensorineural hearing loss, diplopia, and vertigo.

COSTS OF DISCIPLINARY PROCEEDINGS

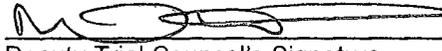
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that, as of March 10, 2008, the costs in this matter are \$1,636.00. Costs to be paid in equal amounts prior to February 1 for the following two (2) billing cycles following the effective date of the Supreme Court Order. Respondent further acknowledges that should this stipulation be rejected or should relief from this stipulation be granted, the costs in this matter may increase due to the costs of further proceedings.

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In the Matter of RICHARD ALLEN ESPINOZA	Case number(s): 06-C-12759
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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 Fact, Conclusions of Law and Disposition.

<u>3-12-08</u> Date	 Respondent's Signature	<u>RICHARD ALLEN ESPINOZA</u> Print Name
<u>3/12/08</u> Date	 Respondent's Counsel Signature	<u>GABRIEL CASTELLANOS</u> Print Name
<u>3/13/08</u> Date	 Deputy Trial Counsel's Signature	<u>MIHO MURAI</u> Print Name

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In the Matter Of RICHARD ALLEN ESPINOZA	Case Number(s): 06-C-12759
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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 135(b), 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.)**

3-14-08
Date


Judge of the State Bar Court

RICHARD A. HONN

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 Los Angeles, on March 17, 2008, 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:

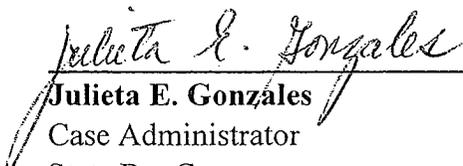
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**GABRIEL CASTELLANOS ESQ
LAW OFFICES OF GABRIEL CASTELLANOS
2 N LAKE AVE STE 1080
PASADENA, CA 91101 - 1858**

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

Miho Murai, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **March 17, 2008**.



Julieta E. Gonzales

Case Administrator
State Bar Court