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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION			PUBLIC MATTER
<p>Counsel For The State Bar</p> <p>Margaret P. Warren 1149 So. Hill St. Los Angeles, CA 90015-2299 (213) 765-1342</p> <p>Bar # 108774</p>	<p>Case Number(s): 09-O-15240; 10-O-00302; 10-O-00936; 10-O-02484; 10-O-0326; Investigation No. 11-O-11587</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 24pt; font-weight: bold;">FILED</p> <p style="text-align: center; font-weight: bold;">JUL 12 2011</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>	
<p>In Pro Per Respondent</p> <p>David A. St. John P.O. Box 6289 Oxnard, CA 93031 Tel. (805) 889-9706</p> <p>Bar # 48746</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>		
<p>In the Matter of: David A. St. John</p> <p>Bar # 48746</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted January 7, 1971.
- (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 25 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."
- (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 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

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
 - (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.

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- (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. Please see p. , below.
- (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.
- (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.

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- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Please see pp. 21-22, below.

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 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:

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 the 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 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 5.162(A) & (E), Rules of Procedure.**

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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:
- (5) **Other Conditions:** Please see pp. 23-24, below, "Other Conditions Negotiated by the Parties."

Attachment language (if any):

In September 2009, Respondent suffered a mental breakdown, brought on in part by the collapse of his law practice. Respondent sought professional help from a psychiatrist, whom he consulted between early October and mid-November 2009. Respondent was unable to continue therapy with this psychiatrist, however, due to Respondent's financial difficulties. The psychiatrist diagnosed Respondent as suffering from Major Depression, moderate to severe; Panic Disorder; and Generalized Anxiety Disorder. In the psychiatrist's opinion, Respondent's history was consistent with depression being present for at least one year. Earlier in 2009, Respondent had been evaluated for cardiac problems, which in the psychiatrist's opinion caused Respondent's panic disorder.

In April 2011, Respondent consulted a licensed clinical social worker for treatment of his anxiety and depression. This professional has recommended that Respondent take a leave of absence from his professional life in order to begin the process of recovery from his emotional, physical and mental dysfunction.

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In the Matter of: David A. St. John	Case Number(s): 09-O-15240 et al.
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Please see pp. 22-23, below.		

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than t.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of revocation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- 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.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

(Do not write above this line.)

In the Matter of:
David A. St. John

Case Number(s):
09-O-15240 et al.

Medical Conditions

- a. Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of two (2) times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for ~~days or months or~~ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

7. On September 22, 2009, and again on March 9, 2010, a State Bar investigator mailed letters to Respondent regarding the Egana matter, requesting Respondent to respond in writing to specific allegations of misconduct being investigated by the State Bar in the Egana matter. Respondent received both letters, but did not respond to either of them in any manner.

8. Respondent never provided the State Bar with a written response to the State Bar investigator's September 22, 2009 and March 9, 2010 letters.

Legal Conclusions:

9. By failing to provide Egana at any time with an accounting for the \$2,000.00 in advance attorney fees she paid him, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

10. By not providing a written response to the allegations in the Egana matter or otherwise cooperating in the investigation of the Egana matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of section 6068(i) of the Business and Professions Code.

Case No. 10-O-00302

Facts:

11. On August 20, 2008, Jose Acevedo and Maria Acevedo (the "Acevedos") entered into a written fee agreement with Respondent, who was to represent their "interests against lenders, brokers, and related parties involved in possible fraudulent mortgage practices relating to" the Acevedos's real property located in Santa Paula, CA and Ventura, CA, "which may include initiating litigation for mortgage fraud and other related causes of action."

12. Between August 29, 2008 and November 10, 2008, the Acevedos paid Respondent a total of \$12,000.00 in advance attorney fees.

13. Respondent's office performed some legal services on behalf of the Acevedos, including filing a lawsuit in March 2009 on their behalf against their lender in the Ventura County Superior Court (which was later removed to the United States District Court (Central District)), entitled *Jose L. Acevedo et al. v. Americas Services Co., et al.*, case no. 2:09-cv-03444-FMC-E]; and filing a response to an unlawful detainer action filed against the Acevedos on September 2, 2009 in the Ventura County Superior Court, entitled *U.S. Bank National Assn., et al. v Jose L. Acevedo and Maria F. Acevedo*, case no. 56-2009-00356715-CL-UD, concerning the Acevedos's Santa Paula, CA property.

14. In September 2009, the Acevedos received a notice of foreclosure on their Ventura, CA property.

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15. On September 21, 2009, the Acevedos met with Respondent, who advised them that filing for bankruptcy would stop the foreclosure on the Ventura, CA property.

16. On September 21, 2009, the Acevedos entered into a written fee agreement with Respondent to file, and then represent them in, a Chapter 13 bankruptcy, and on that same date paid Respondent \$4,850.00 in advance attorney fees for the bankruptcy matter.

17. On October 8, 2009, Respondent's office filed a Ch. 13 petition for bankruptcy on the Acevedos' behalf; however, the Ch. 13 bankruptcy petition Respondent's office filed was filed *in propria persona*.

18. At no time did Respondent or his office file any schedules, statements and/or plans in the Acevedos' Ch. 13 bankruptcy.

19. On December 22, 2009, the bankruptcy court dismissed the Acevedos's bankruptcy petition due to the failure to file schedules, statements and/or plan.

20. Respondent provided no legal services of value to the Acevedos in the Ch. 13 bankruptcy matter.

21. Respondent did not earn any portion of the \$4,850.00 in advance attorney fees the Acevedos paid him for the Ch. 13 bankruptcy.

22. On May 13, 2010, the Acevedos mailed a letter to Respondent, via certified mail, requesting a full refund of the \$16,850.00 in advance attorney fees they had paid him. Respondent received this letter, but did not respond to it in any manner.

23. To date, Respondent has not provided an accounting to the Acevedos for the \$12,000.00 in advance fees they paid him pursuant to their August 20, 2008 retainer agreement with Respondent.

24. To date, Respondent has not refunded any portion of the \$4,850.00 in advance attorney fees the Acevedos paid him for representing them in a Cha. 13 bankruptcy.

25. On January 22, 2010, the State Bar opened an investigation, case no. 10-O-00302, pursuant to a complaint made against Respondent on behalf of Maria and Jose Acevedo (the "Acevedo matter").

26. On May 6, 2010, a State Bar investigator mailed a letter to Respondent at his address of record regarding the Acevedo matter, requesting Respondent's written response to the allegations in the Acevedo matter. Respondent received this letter, but did not respond at any time, or in any manner, to it.

27. To date, Respondent has not provided the State Bar with a written response to the State Bar investigator's May 6, 2010 letter.

Legal Conclusions:

28. By failing to provide any legal services of value to the Acevedos regarding their Ch. 13 bankruptcy matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

29. By not refunding any of the \$4,850.00 in advance attorney fees the Acevedos paid him for the Ch. 13 bankruptcy matter, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

30. By failing to provide an accounting to the Acevedos for the \$12,000.00 in advance fees they paid him pursuant to their August 20, 2008 retainer agreement with him, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

31. By not providing a written response to the allegations in the Acevedo matter or otherwise cooperating in the investigation of the Acevedo matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of section 6068(i) of the Business and Professions Code.

Case No. 10-O-00936

Facts:

32. On September 2, 2009, Respondent, on behalf of plaintiffs Jose and Sofia Garcia, filed a lawsuit entitled *Jose Garcia, Sofia Garcia v. Countrywide Home Loan, Inc.*, in United States District Court, Central District (the "Court"), case no. 2:09-cv-06402-DDP-PJW (the "civil action").

33. On September 4, 2009, the Court issued an order in the civil action (the "September 4 order") that read: "[p]ursuant to Local Rule 3-2, you are required to e-mail, within 24 hours of filing, a filed stamped copy of your complaint and other civil case initiating documents, in PDF format to the Court. To date, we have not received the PDF images of your filing. Please do so within 24 hours or this matter will be referred to the Chief Judge for further proceedings." Respondent was properly served with, and received a copy of, this order, but failed to comply with it.

34. On September 15, 2009, the Court held a hearing in the civil action on the Court's September 4 order, and filed an order (the "September 15 order") ordering the plaintiffs to e-mail PDF copies of the Complaint, Notice of Assignment, Summons, Civil Cover Sheet, Certification and Notice of Interest Parties to the court within 24 hours of the issuance of the Court's September 15 order. In this order, the Court stated that failure to comply with the Court's order would result in a hearing before the Court and imposition of sanctions pursuant to Local Rule 83-7(a). Respondent was properly served with, and received a copy of, this court order, but failed to comply with it.

35. On October 29, 2009, the Court held a hearing in the civil action regarding the September 15 order, and filed an order (the "October 29 order") ordering Respondent to appear in person before Chief Judge Audrey B. Collins on November 23, 2009 to show cause why monetary sanctions should not be imposed against plaintiffs' counsel, pursuant to Local Rule 83-7, for failure to comply with Local Rule 3-2. Respondent was properly served with, and received a copy of, this court order, but failed to comply with it.

36. On November 23, 2009, Respondent failed to appear at the hearing on the Order to Show Cause ("OSC") regarding his failure to comply with Local Rule 3-2.

37. On November 23, 2009, the Court filed an order in the civil action (the "November 23 order"), ordering Respondent to comply with Local Rule 3-2 and pay sanctions of \$500.00 to the court clerk's office within ten days. The Court ordered a further hearing on the OSC to be held on December 14, 2009. In its November 23, 2009 order, the Court warned Respondent that compliance with Local Rule 3-2 must be met, otherwise future sanctions in an amount sufficient to notify the State Bar would be imposed. Respondent was properly served with, and received a copy of, this court order, but failed to comply with it.

38. On December 14, 2009, Respondent failed to appear at the hearing on the OSC in the civil action.

39. On December 14, 2009, the Court in the civil action filed an order (the "December 14 order"), ordering Respondent to pay an additional \$1,000.00 in sanctions for failing to comply with Local Rule 3-2 and for failing to pay the \$500.00 sanction pursuant to the Court's November 24 order. The Court ordered Respondent to pay the full \$1,500.00 in sanctions by December 21, 2009. The Court also set a hearing to take place on January 10, 2010 to show cause why the Court should not hold Respondent in contempt of court. Respondent was properly served with, and received a copy of, this court order, but failed to comply with it.

40. Respondent failed to comply with the December 14 order by failing to comply with Local Rule 3-2 and paying the \$1,500.00 in sanctions by December 21, 2009 or at any time thereafter.

41. On January 11, 2010, Respondent failed to appear at the court-ordered hearing on the OSC in the civil action.

42. On January 11, 2010, the Court in the civil action filed an order (the "January 11 order") holding Respondent in contempt for non-compliance with the Court's orders. Respondent was properly served with, and received a copy of, this court order.

43. On July 30, 2010, the Court in the civil matter ordered the plaintiffs to show cause in writing no later than August 16, 2010 why the civil action should not be dismissed for lack of prosecution (the

“July 30 OSC”). Respondent was properly served with, and received a copy of, this court order, but failed to comply with it.

44. Respondent never filed a response to the July 30 OSC.

45. On August 17, 2010, the Court dismissed the civil action, without prejudice, for lack of prosecution and failure to comply with the Court’s orders.

46. The judicial sanctions imposed against Respondent by the Court in its December 14 order in the civil action were for conduct other than failure to make discovery.

47. Respondent did not appeal the imposition of sanctions against him.

48. Respondent failed to report to the State Bar the sanctions imposed against him on December 14, 2009 within 30 days of acquiring knowledge of the sanctions, or at any time thereafter.

49. On February 3, 2010, the State Bar opened an investigation, case no. 10-O-00936, pursuant to a complaint made against Respondent by the United States District Court, Central District (the “sanctions matter”).

50. On March 17, 2010, a State Bar investigator mailed a letter to Respondent regarding the sanctions matter. Respondent received this letter, requesting Respondent to respond in writing to specific allegations of misconduct being investigated by the State Bar in the sanctions matter. Respondent received this letter, but did not respond at any time, or in any manner, to it.

51. To date, Respondent has not provided the State Bar with a written response to the State Bar investigator’s March 17, 2010 letter or otherwise cooperated in the investigation of the sanctions matter.

Legal Conclusions:

52. By failing to comply with the court’s orders issued on September 4, 2009, September 15, 2009, October 29, 2009, November 23, 2009 and December 14, 2009, Respondent willfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of Respondent’s profession which he ought in good faith to do or forbear, in willful violation of section 6103 of the Business and Professions Code.

53. By failing to report to the State Bar the sanctions imposed against him on December 14, 2009 in the civil action, Respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of any judicial sanctions against Respondent, in willful violation of section 6068(o)(3) of the Business and Professions Code.

54. By not providing a written response to the allegations in the sanction matter or otherwise cooperating in the investigation of the sanction matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of section 6068(i) of the Business and Professions Code.

Facts:

55. In July 2007, criminal charges were filed against Adam Kirby (“Adam”) in *People v. Adam Logan Kirby*, Santa Barbara County Superior Court, Case No. 1240298, charging Kirby with assaulting a police officer (the “criminal matter”).

56. On July 23, 2007, Adam entered into a written fee agreement with Respondent, which stated, in pertinent part: “The Criminal Defense Case is the sole focus and subject of this Agreement and of Attorney’s representation.”

57. In July 2007, Adam paid Respondent \$3,000.000 in advance attorney fees by credit card.

58. On September 10, 2007, Respondent sent a letter to Adam’s father, John Kirby (“John”), stating, in pertinent part:

This will confirm our further attorney’s fees agreement in the matter of *People v. Adam Kirby* pending in the County of Santa Barbara.

Attorney’s fees will accrue at the hourly rate of \$325 per my written agreement [of July 23, 2007] with Adam Kirby. You will provide me with an advance of \$20,000. . . .

59. On September 21, 2007, John paid Respondent \$20,000.00 in advance attorney fees.

60. In November 2007, Adam entered into a plea agreement in his criminal matter.

61. In October 2009, Adam and John employed attorney Diego E. Ortiz (“Ortiz”).

62. On October 5, 2009, Ortiz sent a letter to Respondent, via certified mail, on behalf of Adam and John, requesting that Respondent release all records pertaining to Adam and John Kirby requesting an accounting of all fees paid to Respondent by Adam and John (the “October 5 letter”). Respondent received this letter, but did not respond to it at any time or in any manner.

63. On October 22, 2009, Ortiz faxed a letter to Respondent, requesting Adam’s client file and an accounting (the “October 22 letter”). Respondent received this letter, but did not respond to it at any time or in any manner.

64. To date, Respondent has not released or made Adam’s file available either to Ortiz, Adam or John.

65. To date, Respondent has not provided an accounting for the \$23,000.00 in attorney fees paid to him by Adam and John, either to Ortiz, Adam or John.

66. On March 11, 2010, the State Bar opened an investigation, case no. 10-O-02484, pursuant to a complaint against Respondent regarding Adam Kirby (the “Kirby matter”).

67. On August 11, 2010, and again on September 30, 2010, a State Bar investigator mailed letters to Respondent requesting Respondent to respond in writing to specific allegations of misconduct

being investigated by the State Bar in the Kirby matter. Respondent received these letters, but did not respond, at any time or in any manner, to them.

68. To date, Respondent has not provided the State Bar with a written response or otherwise cooperated in the investigation in the Kirby matter.

Legal Conclusions:

69. By failing to release the client file despite requests from Adam Kirby and by attorney Ortiz on Adam's behalf, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, in willful violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

70. By failing to account for the \$23,000.00 in attorney fees the Kirbys paid him, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

71. By not providing a written response to the allegations in the Kirby matter or otherwise cooperating in the investigation of the Kirby matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of section 6068(i) of the Business and Professions Code.

Case No. 10-O-03261

Facts:

72. On June 16, 2008, Rodrigo and Tagumpay Callo ("Callos") employed Respondent to represent them in certain legal matters.

73. Between June 16, 2008 and June 1, 2009, the Callos paid Respondent a total of \$5,750.00 in advance attorney's fees.

74. From February 2009 through the end of July 2009, Respondent's office performed legal services on behalf of the Callos in connection with a residential loan modification matter, repeatedly sending the Callos' lender authorizations signed by the Callos and various documents pertinent to the Callos' desire for a "loan workout solution." The Callos knew and authorized Respondent's then-partner to act as the primary attorney on their residential loan modification matter.

75. On June 29, 2009, the Callos' lender wrote to Respondent's office, acknowledging the "request for a loan workout solution, including a loan modification," and requesting further documents from the Callos to be submitted by July 13, 2009.

76. On June 30, 2009, the Callos' lender mailed a Notice of Default and Intent to Accelerate on the Callos' residential property loan, stating that as of that date, the Callos would be required to pay over \$39,000.00 to bring their loan on that property current.

77. Respondent's office obtained the additional information requested by the lender's letter of June 29, 2009 and submitted it to the lender on July 13, 2009.

78. In August 2009, the Callos terminated Respondent's services and requested a full refund of the \$5,750.00 in fees they had paid him. Respondent did not respond at any time, or in any manner, to the Callos' request, and did not provide an accounting to the Callos for the attorney fees they had paid him.

79. In August 2009, the Callos retained another attorney and filed a complaint for damages against Respondent and his then-partner, alleging, inter alia, that Respondent and his office performed no legal services of value to the Callos and committed legal malpractice. Respondent's former partner settled the lawsuit for \$1,000. Respondent's default was entered in the lawsuit.

80. On April 5, 2010, the State Bar opened an investigation, case no. 10-O-03261, pursuant to a complaint against Respondent regarding Rodrigo Callo (the "Callo matter").

81. On May 6, 2010, and again on September 30, 2010, a State Bar investigator mailed letters to Respondent regarding the Callo matter, requesting Respondent to respond in writing by to specific allegations of misconduct being investigated by the State Bar in the Callo matter.

82. Respondent received both letters, but did not respond, at any time or in any manner, to either of them.

83. To date, Respondent has not provided the State Bar with a written response to the investigator's letters or otherwise cooperated in the investigation in the Callo matter.

Legal Conclusions:

84. By failing to provide the Callos at any time with an accounting for the \$5,750.00 in advance attorney fees they paid him, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

85. By not providing a written response to the allegations in the Callo matter or otherwise cooperating in the investigation of the Callo matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of section 6068(i) of the Business and Professions Code.

Investigation No. 11-O-11587

Facts:

86. In November 2008, Arturo and Lydia Belenzo ("Belenzos") retained Respondent to represent their interests against, *inter alia*, their home mortgage lender in potential litigation against the lender. The Belenzos paid Respondent \$4,000.00 in advance fees by credit card on November 19, 2008; and an additional \$4,000.00 by credit card on December 23, 2008.

87. On December 23, 2008, after paying Respondent the additional \$4,000.00 in advance fees, the Belenzos changed their minds about Respondent representing them, and requested a refund of the \$8,000.00 in advance fees they had paid him.

88. Respondent performed no legal services of value to the Belenzos, and earned no portion of the \$8,000.00 in advance fees they paid him.

89. On December 24, 2008, Respondent wrote to the Belenzos' new attorney, stating that he would refund the \$8,000.00 to the Belenzos. However, Respondent did not refund any portion of the \$8,000.00 to the Belenzos at any time.

90. In May 2009, the Belenzos filed for bankruptcy. In their bankruptcy petition, they listed their claim against Respondent for the unearned advance fees they paid him, but listed the value of this claim as "unknown." The Belenzos also listed as a creditor, in their bankruptcy petition, the credit card issuer and their indebtedness to that issuer for a sum including the \$8,000.00 paid to Respondent. The Belenzos were discharged in bankruptcy on August 12, 2009. The Belenzos received no exemption from the Bankruptcy Court permitting them to receive the \$8,000.00 from Respondent.

Legal Conclusions:

91. By failing to promptly refund the \$8,000.00 in unearned fees to the Belenzos after agreeing to do so on December 24, 2008, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was June 7, 2011.

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>
09-O-15240	One	rule 3-110(A)
09-O-15240	Two	rule 3-700(D)(2)
09-O-15240	Three	rule 3-700(D)(1)
10-O-02484	Eleven	rule 3-700(A)(2)
10-O-03261	Fifteen	rule 3-110(A)
10-O-03261	Sixteen	rule 3-700(D)(2)
10-O-03261	Seventeen	rule 4-100(B)(4)

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 provides:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's 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. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

The protection of the public, the courts and the legal profession, and the preservation of public confidence in the legal profession, will be served by the stipulated disposition in this matter.

AGGRAVATING FACTORS.

The current misconduct acknowledged by Respondent, in five (5) client matters, evidences a multiple acts of misconduct.

Respondent's repeated failure to comply with the court's orders in *Jose Garcia, Sofia Garcia v. Countrywide Home Loan, Inc.*, in United States District Court, Central District (the "Court"), case no. 2:09-cv-06402-DDP-PJW (case no. 10-O-00936) significantly harmed the administration of justice in the federal court and significantly harmed the plaintiffs (his clients) in that the federal court ultimately dismissed the lawsuit without prejudice for lack of prosecution, due to Respondent's inaction.

MITIGATING FACTORS.

Respondent was admitted to the practice of law in the State of California on January 7, 1971 and has no prior record of discipline.

Respondent has been candid and cooperative with the State Bar in reaching this Stipulation, thus obviating the need for a trial.

FINANCIAL CONDITIONS, RESTITUTION.

Respondent waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein.

Respondent must make restitution as follows:

1. The Acevedo Matter (Case No. 10-O-00302):

To Jose and Maria Acevedo, in the principal amount of \$4,850.00, plus ten (10) % interest per year from September 30, 2009. If the Client Security Fund ("CSF") has reimbursed Jose and/or Maria Acevedo for all or any portion of the principal amount, Respondent must also pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.

Respondent understands and agrees that, unless he pays the principal amount of \$4,850.00 plus all accrued interest thereon within two (2) years of the effective date of the Supreme Court's order of discipline herein, his actual suspension from the practice of law shall continue until such time as he pays all principal and interest owing *and* submits satisfactory proof of such payment to the Office of Probation.

2. The Belenzo Matter (Investigation No. 11-O-11587):

Not later than 30 days after the effective date of the Supreme Court's order of discipline herein, Respondent shall file a motion in the U.S. Bankruptcy Court, Southern District of California, in the bankruptcy matter entitled *In Re Arturo Cal Belenzo and Lydia Ting Ho Belenzo*, case no. 09-O6378-LT7 (the "Belenzo bankruptcy"), requesting to reopen the Belenzo bankruptcy for the purpose of obtaining a ruling on the issue of whom Respondent should pay \$8,000.00 in unearned attorney's fees the Belenzos paid him prior to their filing for bankruptcy ("motion to reopen bankruptcy"). In their bankruptcy, the Belenzos listed their claim against Respondent, in an "unknown" amount, on Schedule B/Personal Property attached to their bankruptcy petition. The Belenzos had paid Respondent the \$8,000.00 by credit card, and listed that credit card issuer (and their indebtedness to that creditor) on Schedule F/Creditors Holding Unsecured Nonpriority Claims attached to their bankruptcy petition, which they filed on May 8, 2009. The Belenzos were discharged in bankruptcy on August 12, 2009. The Belenzos received no exemption from the Bankruptcy Court permitting them to receive the \$8,000.00 from Respondent.

Respondent shall serve his motion to reopen bankruptcy on the Belenzos; their bankruptcy attorney, Quintin Shammam; the Trustee in the Belenzo bankruptcy, Leslie T. Gladstone; and the Office of Probation of the State Bar of California.

Respondent shall state, in his Declaration accompanying his motion to reopen, that pursuant to stipulation with the State Bar of California in a disciplinary matter which included a complaint by the Belenzos concerning refund of the \$8,000.00 in unearned fees from Respondent, he is required to

disgorge the \$8,000.00 in unearned fees and seeks a ruling from the Bankruptcy Court indicating to whom Respondent must pay or deliver said funds.

Respondent shall submit any and all copies of the Bankruptcy Court's rulings, orders, or other documents filed in response to his motion to reopen bankruptcy to the Office of Probation of the State Bar of California within ten (10) days of the date of the filing of any such rulings, orders, or other filed documents.

Respondent may, with the permission of the Bankruptcy Court, come to whatever arrangements the Bankruptcy Court and/or the Bankruptcy Trustee approve, to pay the full \$8,000.00 amount owing (i.e., in installments of a specified minimum amount, on a fixed schedule of payments, until the debt is fully discharged). Respondent shall, within ten (10) days of the execution of any such repayment schedule or filing of any Bankruptcy Court order approving any such repayment schedule, provide a copy of said schedule or order (including payment amounts and frequency of payments) to the Office of Probation. Respondent shall submit satisfactory proof of each payment he makes in repayment of the \$8,000.00 to the Office of Probation with the next Quarterly Report due after such payment is made.

Respondent's actual suspension in the instant disciplinary matter shall continue for a period of two years *and until* he makes full restitution to the Acevedos, as set forth hereinabove *and until* he repays the \$8,000.00 in full as ordered and directed by the U.S. Bankruptcy Court.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

No later than thirty (30) days after the effective date of the Supreme Court's order of discipline herein, Respondent shall notify the following clients in writing, by certified mail return receipt requested, of binding arbitration of each client's fee dispute with Respondent through a State Bar-approved fee arbitration program in the county in which that particular client resides (hereinafter referred to as the "notification"):

<u>Client</u>	<u>Disputed Amount</u>
Lea Egana	\$2,000.00
Jose and Maria Acevedo	\$12,000.00
John and Adam Kirby	\$23,000.00
Rodrigo and Tagumpay Callo	\$5,750.00

In his notification, Respondent shall make clear to the client that the **sole** purpose of the fee arbitration will be to determine what if any portion of the fee already paid by that client the Respondent may be entitled to, and shall further make clear that Respondent **will not** be seeking any additional monies from that client. In his notification to Jose Acevedo, Respondent shall also make clear that Respondent has agreed, pursuant to the stipulated disposition of his State Bar disciplinary matter, to make restitution to Acevedo of the \$4,850.00 (plus statutory interest) that Acevedo had paid Respondent in advance fees for Acevedo's bankruptcy matter, and that the fee arbitration will address only the \$12,000.00 in advance fees Acevedo paid Respondent for non-bankruptcy-related legal services.

Within sixty (60) days of the effective date of the Supreme Court's order of discipline herein, Respondent shall pay the filing fee and file all necessary paperwork to initiate the arbitration in each of the four client fee disputes listed above.

Respondent agrees to be bound by the arbitrator's award in each of the four arbitration matters, and hereby waives his right to seek trial after arbitration pursuant to section 6204, Bus. & Prof. Code in each arbitrated matter.

Respondent shall submit satisfactory proof to the Office of Probation of his notification to each of the clients listed above, within ten (10) days of mailing the notification to each of the four clients.

Respondent shall submit satisfactory proof to the Office of Probation that he has paid the fees and filed the necessary paperwork to initiate fee arbitration in each of the four client matters listed above, within ten (10) days of paying the filing fee and filing the necessary paperwork to initiate the arbitration in each of the four client matters.

Respondent shall submit a copy of the arbitrator's award in each of the four arbitrated matters to the Office of Probation within ten (10) days of the issuance of said award in each of the four client matters.

The Office of Probation is not required by this Stipulation to enforce Respondent's payment of arbitration awards, if any, to the four clients listed above.

STATE BAR ETHICS SCHOOL.

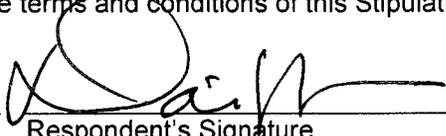
Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School. The MCLE credit for Ethics School will be in addition to Respondent's regular MCLE requirement.

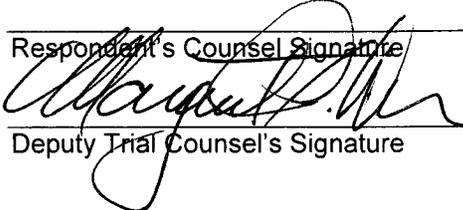
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In the Matter of: David A. St. John	Case number(s): 09-O-15240 et al.; Investigation No. 11-O-11587
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SIGNATURE OF THE PARTIES

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.

6-14-2011  David A. St. John
Date Respondent's Signature Print Name

6-14-2011  Margaret P. Warren
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter Of
DAVID A. ST. JOHN, #48746

Case Number(s):
09-O-15240; 10-O-00302; 10-O-00936; 10-O-02484;
10-O-03261; INV NO. 11-O-11587

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:

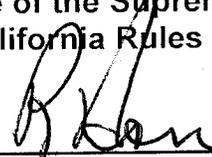
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

1. At page 1 and 11, case number 10-O-0326 should be **10-O-03261**.
2. At page 3, (7) Multiple/Pattern of Misconduct, at "Please see p., below." insert "21" to the missing page number.
3. At page 4, delete E. (1) re conditional standard 1.4(c)(ii).
4. At page 3, the box C. (8) emotional/physical difficulties should be checked.

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.)**

Date

7/12/11


Richard A. Honn
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 July 12, 2011, 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:

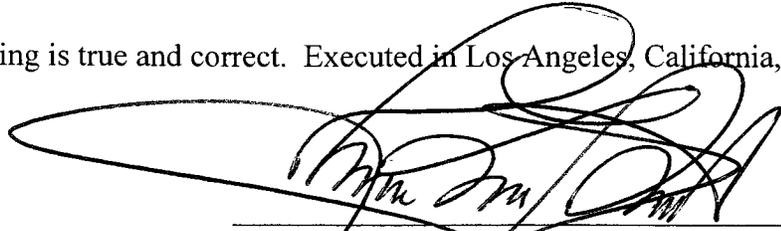
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID ALBERT ST. JOHN
DAVID A. ST. JOHN
309 S "A" ST
OXNARD, CA 93030

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

MARGARET WARREN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 12, 2011.



Johnnie Lee Smith
Case Administrator
State Bar Court