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State Bar Court of California  
Hearing Department  
Los Angeles  
STAYED SUSPENSION

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>AGUSTIN HERNANDEZ Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 94110-2299 (213) 765-1713</p> <p>Bar # 161625</p>	<p>Case Number(s): 11-O-12857; 11-O-15771</p>	<p>For Court use only</p> <p><b>FILED</b></p> <p>NOV 21 2011</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>NEIL N. NGUYEN</p> <p>Bar # 181143</p>	<p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of:</p> <p>NEIL N. NGUYEN 14550 Magnolia Street, Suite 201 Westminster, CA 92683 (714) 892-2628</p> <p>Bar # 181143</p> <p>A Member of the State Bar of California (Respondent)</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 December 13, 1995.
- (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 12 pages, not including the order.



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- (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):
  - Costs are added to membership fee for calendar year following effective date of discipline.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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 or a separate attachment entitled "Prior Discipline.
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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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.
- (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. Respondent has no record of prior discipline since being admitted to the practice of law on December 13, 1995.
- (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.

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- (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**

## D. Discipline:

(1)  **Stayed Suspension:**

- (a)  Respondent must be suspended from the practice of law for a period of one year.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and 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:

The above-referenced suspension is stayed.

(2)  **Probation:**

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

## E. Additional Conditions of Probation:

- (1)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (4)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

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- (6)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

**F. Other Conditions Negotiated by the Parties:**

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2)  **Other Conditions:**

Attachment language (if any):

ATTACHMENT TO STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:                      NEIL N. NGUYEN

CASE NUMBER:                            11-O-12857 & 11-O-15771

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 11-O-12857 (Complainant: Kim Tran):

FACTS:

1. On February 19, 2005, Kim Tran ("Tran") employed Respondent to represent her on a contingency fee basis in a personal injury matter that occurred on February 1, 2005.
2. On September 1, 2005, Tran's liability insurance carrier, the Interinsurance Exchange of the Automobile Club ("AAA"), sent to Respondent a check in the amount of \$2,000 pursuant to the terms of the medical payment coverage under Tran's insurance policy ("Med Pay check"). Pursuant to the terms of the policy, Tran was responsible for reimbursing AAA for the Med Pay check upon settlement of her personal injury matter.
3. Pursuant to the terms of employment, Respondent agreed to attempt to negotiate all liens and medical bills incurred by Tran as a result of this accident, including negotiating the Med Pay check amount with AAA. Pursuant to the terms of employment, Respondent was entitled to a fee of 33 1/3% of the amount of any reduction of the bills.
4. At all relevant times, Respondent maintained a client trust account at Bank of America, account no. xxxxxx0280 ("CTA").
5. On January 17, 2006, Respondent deposited the Med Pay check into his CTA.
6. On December 13, 2007, Respondent settled Tran's personal injury matter for \$15,000. (This amount is in addition to the \$2,000 received from AAA.)
7. On January 26, 2008, Respondent disbursed the settlement proceeds to Tran and to her medical providers, or kept settlement proceeds to pay the medical providers as follows:

Attorney fees	\$3,508.99
Dr. Dustin Tran	\$3,310.50
Dr. Son Le	\$177.91
Kaiser Permanente	\$1,552.00
Medical report	\$15.00
Police report	\$30.00
Copies, postage and photos	\$105.60
Prescriptions and co-payments	\$700.00
Summons and complaint	\$300.00
Process servers	\$50.00
Mediation fees	\$450.00
Client Tran	\$4,800.00
Total:	\$15,000.00

8. At the time of the January 26, 2008 disbursement as described above, Respondent had not paid any portion of the \$1,552.00 to Kaiser Permanente on behalf of Tran because he was going to negotiate and reduce the bill. In April 2008, Respondent negotiated the Kaiser Permanente bill to \$724.88. In April 2008, Respondent paid Kaiser Permanente \$724.88 on behalf of Tran. Respondent had kept \$1,552.00 for payment of the Kaiser Permanente bill. After paying \$724.88 to Kaiser Permanente, Respondent was still holding \$827.12 that was kept specifically for the Kaiser Permanente bill. Respondent was entitled to keep \$275.70 of this amount for his fee and was required to disburse \$551.42 to Tran as her share ( $\$827.12 - \$275.70 = \$551.42$ ).
9. At the time of the January 26, 2008 disbursement as described above, Respondent should have included a \$2,000 reimbursement to AAA or to Tran for the Med Pay check. Respondent made some limited efforts to negotiate a settlement or reduction with AAA but was unsuccessful.
10. On October 7, 2009, AAA's attorney, Margaret Dunne ("Dunne") sent a letter to Respondent informing him that if he did not reimburse \$2,000 to AAA for the Med Pay check, they will file a lawsuit. In response to Dunne's October 7, 2009 letter, on November 5, 2009, Respondent called Dunne's office and left a telephone message for her regarding the Med Pay check reimbursement. Dunne did not return Respondent's message.
11. On November 19, 2010, AAA filed an action in Orange County Superior Court titled Interinsurance Exchange of The Automobile Club v. Kim Thanh Tran, case no. 30-2010 00426838 against Tran to recover the \$2,000 that it had paid Tran pursuant to the medical payment coverage of her policy ("Med Pay action").
12. On November 29, 2010, December 20, 2010, and January 6, 2011, Respondent sent facsimiles to Dunne offering to resolve the Med Pay check reimbursement.
13. On March 22, 2011, Tran settled the Med Pay action with AAA for \$850 on a payment plan. Between March 22, 2011, and July 27, 2011, Tran paid AAA \$400 toward the \$850 settlement.
14. On July 27, 2011, Respondent paid AAA the balance of \$450 still owed on the settlement of the Med Pay action. On July 27, 2011, Respondent reimbursed to Tran the \$400 that she paid AAA.



15. On July 27, 2011, after paying \$450 to AAA and \$400 to Tran, Respondent was still holding \$1,150 of the \$2,000 Med Pay check. Respondent was entitled to keep \$383.33 of this amount for his fee and was required to disburse \$766.67 to Tran as her share ( $\$1,150 - \$383.33 = \$766.67$ ).
16. On August 26, 2011, Respondent sent Tran a check in the amount of \$1,318.08 representing her share of the savings from the reduction of the Kaiser Permanente bill and Med Pay check.
17. On January 6, 2011, Tran filed a complaint with the State Bar about Respondent's conduct.
18. On June 13, 2011, and June 28, 2011, a State Bar Investigator mailed letters to Respondent at his address of record with the State Bar regarding the complaint by Tran. The letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Tran's complaint. Respondent received the letters.
19. Effective on July 1, 2011, Respondent was placed in Not Entitled Status for failing to comply with his Minimum Continuing Legal Education ("MCLE") requirements. Respondent remained enrolled in Not Entitled Status until September 2, 2011, when he complied with MCLE requirements.
20. In response to the investigator's letters, on July 19, 2011 and August 9, 2011, Respondent prepared and sent letters to the investigator regarding Tran's complaint. Respondent prepared and signed the July 19, 2011 letter and utilized the suffix "Esq." twice. Respondent prepared and signed the August 9, 2011 letter and identified himself as an attorney at law and utilized the suffix "Esq." twice. At the time that he prepared and sent the July 19, 2011 and August 9, 2011 letters, Respondent was aware that he was enrolled in Not Entitled Status and that he was not entitled to practice law.
21. On July 27, 2011, Respondent prepared and sent a letter to AAA regarding the Med Pay action. In this letter, Respondent indicated that he was remitting \$450 to AAA and \$400 to Tran pertaining to the settlement of the Med Pay action and requested that AAA file a request for dismissal. In this letter, Respondent identified himself as an attorney at law and utilized the suffix "Esq." twice. At the time that he prepared and sent the July 27, 2011 letter, Respondent was aware that he was enrolled in Not Entitled Status and that he was not entitled to practice law.
22. By preparing and sending the July 19, 2011, July 27, 2011, and August 9, 2011 letters when he was not entitled to practice law, Respondent held himself out as entitled to practice law and actually practiced law when he was not entitled to practice law.

#### CONCLUSIONS OF LAW:

23. By failing to disburse to Tran her share of the savings from the reduction of the Kaiser Permanente bill (\$551.42) when the settlement amount was determined in April 2008, and by failing to disburse to either Tran or AAA the \$2,000 medical payment when the disbursements were made on January 26, 2008, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive, in willful violation of rule 4-100(B)(4), Rules of Professional Conduct.

24. By preparing and sending the July 19, 2011, July 27, 2011, and August 9, 2011 letters when he was not entitled to practice law, Respondent held himself out as entitled to practice law and actually practiced law when he was not entitled to do so, in wilful violation of Business and Professions Code sections 6125 and 6126, and thereby failed to support the laws of the State of California in violation of Business and Professions Code, section 6068(a).

Case No. 11-O-15771 (Complainant: Lela Martinez):

FACTS:

25. At all relevant times, Respondent represented Hoi Van Nguyen in a claim for personal injuries filed against Alliance United Insurance.

26. On July 12, 2011, a non-attorney member of Respondent's staff sent a letter to the claims representative for United Alliance Insurance, Lela Martinez ("Martinez"). In this letter, Respondent's employee made a settlement demand and attached medical records substantiating the client's injuries and damages. The July 12, 2011 letter was printed on letterhead that utilized the suffix "Esq." after Respondent's name. At the time that Respondent's employee sent the July 12, 2011 letter, Respondent was aware that he was enrolled in Not Entitled Status and that he was not entitled to practice law.

27. On July 25, 2011, a non-attorney member of Respondent's staff sent a letter to Martinez discussing liability. The July 25, 2011 letter was printed on letterhead that utilized the suffix "Esq." after Respondent's name. At the time that Respondent's employee sent the July 25, 2011 letter, Respondent was aware that he was enrolled in Not Entitled Status and that he was not entitled to practice law.

CONCLUSIONS OF LAW:

28. By allowing his staff to send the July 12, 2011 and July 25, 2011 letters that utilized the suffix "Esq." after his name when he was not entitled to practice law, Respondent failed to adequately supervise his staff and thereby, intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was October 5, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system 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.”

Standard 2.6(d) also provides that Respondent’s violation of Business and Professions Code, section 6125 and 6126 shall result in suspension or disbarment depending on the gravity of the offense and the harm to the victim.

Standard 2.6(a) provides that Respondent’s violation of Business and Professions Code, section 6068(a) shall result in suspension or disbarment “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.”

#### Case Law

The Supreme Court has emphasized the importance of the standards and has held that great weight should be given to the application of the standards in determining the appropriate level of discipline. (In re Silverton (2005) 36 Cal. 4th 81.) The standards must be followed unless there is a compelling reason justifying a deviation from the standards. (In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404.) The Supreme Court has held that unless it has “grave doubts as to the propriety of the recommended discipline,” it will uphold the application of the standards. In re Silverton, supra, 36 Cal. 4th at p. 91-92.

In this case, stayed suspension is warranted by standards 2.6(a) and 2.6(d). There is no compelling reason or anything in mitigation that would justify a deviation from the standards.

Discipline consisting of a one-year stayed suspension and two years of probation is appropriate and sufficient to protect the public, the courts and the integrity of the legal profession.

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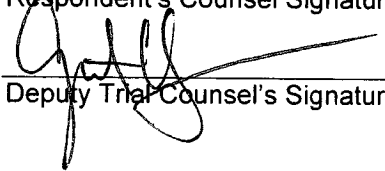
In the Matter of:  
NEIL N. NGUYEN

Case number(s):  
11-O-12857 & 11-O-15771

### 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.

10/27/2011            NEIL N. NGUYEN  
Date      Respondent's Signature      Print Name

November 2, 2011            AGUSTIN HERNANDEZ  
Date      Deputy Trial Counsel's Signature      Print Name

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In the Matter of: NEIL N. NGUYEN	Case Number(s): 11-O-12857 & 11-O-15771
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### STAYED SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

11-09-11  
Date

  
\_\_\_\_\_  
Judge of the State Bar Court  
RICHARD A. PLATEL

## 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 November 21, 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:

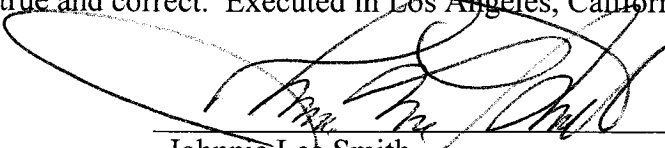
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

NEIL N. NGUYEN  
NGUYEN & ASSOCIATES  
14550 MAGNOLIA ST STE 201  
WESTMINSTER, CA 92683

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

AGUSTIN HERNANDEZ, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 21, 2011.



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Johnnie Lee Smith  
Case Administrator  
State Bar Court