

Counsel for the State Bar Cydney Batchelor, #114637 State Bar of California 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204	Case Number(s)  00-0-13808-PEM 02-0-10066 02-0-10552 02-0-11173 02-0-15318 03-0-00046 03-0-03926 [unfiled] 04-0-11553 [unfiled]	(for Court use) <b>PUBLIC MATTER</b>  <del>CONFIDENTIAL</del> <del>LOGGED</del> JAN 18 2005 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO <i>signed in open court</i>
Counsel for Respondent Jerome Fishkin, #47798 369 Pine St., #627 San Francisco, CA 94104 Tele: 415/403-1300	Submitted to Pilot Program Judge  <b>FILED</b> STIPULATION RE FACTS AND CONCLUSIONS OF LAW AUG 21 2007 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of  LELAND D. STEPHENSON Bar # 37713  A Member of the State Bar of California (Respondent)		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted January 11, 1966  
 (Date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." This stipulation consists of 12 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts".  
 See attachment
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."  
 See attachment
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§ 6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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



8: Aggravating Circumstances (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 Action violations \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(d) ☐ Degree of prior discipline \_\_\_\_\_

(e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or under "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.

See attached

(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 the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.

(7) ☒ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct. See attachment

(8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

None

C: Mitigating Circumstances [stan d 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. See attachment
- (2) ☐ No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation to the violation of the rules of the State Bar during disciplinary investigation and proceedings.  
See attachment
- (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.  
See attachment
- (5) ☐ Restitution: Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat of force of disciplinary, civil or criminal proceedings.
- (6) ☐ Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ Good Faith: Respondent acted in good faith.
- (8) ☒ Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ No mitigating circumstances are involved.

Additional mitigating circumstances:

See attachment

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

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

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

Date 11/8/04

Leland D. Stephenson  
Respondent's Signature

LELAND D. STEPHENSON  
Print Name

Date 11/16/04

Jerome Fishkin  
Respondent's Counsel Signature

JEROME FISHKIN  
Print Name

Date 1/16/04

Cydney Batchelor  
Deputy Trial Counsel's Signature

CYDNEY BATCHELOR  
Print Name

**ATTACHMENT TO**  
**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

IN THE MATTER OF:        Leland D. Stephenson

CASE NUMBER(S):        00-O-13808, et al.

**DISMISSAL.**

**Case No. 02-O-11273 (State Bar Investigation):** Upon the execution of the pilot program contract by the Respondent and the State Bar Court, the State Bar respectfully requests the Court to dismiss case number 02-O-11173, in the interests of justice, without prejudice. This case arose from a referral from the California Court of Appeal that imposed the sanctions against Respondent; however, the same facts also underpin State Bar Case no. 04-O-11553. Therefore, case no. 02-O-1173 is duplicative to some extent of 04-O-11553.

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the State Bar Act and/or Rules of Professional Conduct:

**Case No. 00-O-13808 (David and Shari Cantal)**

**Facts:** In January 1999, David and Sharilee Cantal ("the Cantals") employed Respondent to represent them in a civil dispute, and paid him \$1000.00 as advanced attorney fees. Thereafter, Respondent filed a cross-complaint, and performed some other legal services on their behalf. However, he failed to provide further responses to interrogatories, failed to respond to a demand for inspection of documents, failed to respond to the opposing parties' motion to compel and motion for sanctions, and failed to respond to the motion for default judgment. Moreover, Respondent failed to inform the Cantals that \$1950.00 in discovery sanctions had been imposed against them on November 3, 1999, and another \$1950.00 in sanctions had been imposed against them for disobeying a court order on January 20, 2000. Respondent also failed to inform the Cantals that a default judgment had been entered against them on their cross-complaint. In June 2000, Respondent told the Cantals that he had hired another attorney to assist on the case when he had only met

with the other attorney preliminarily. Subsequently, Respondent had the default set aside, completed discovery, and paid the \$3900.00 in sanctions.

**Conclusions of Law:** By recklessly and repeatedly failing to provide further responses to interrogatories, failing to respond to a demand for inspection of documents, failing to respond to the opposing parties' motion to compel and motion for sanctions, and failing to respond to the motion for default judgment, Respondent failed to perform competently the legal services for which he was employed, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to inform the Cantals that \$3900.00 in sanctions had been imposed against them, and that a default judgment had been entered against them, and that he had only talked preliminarily with another attorney, Respondent failed to inform his clients of significant developments in their case, in violation of Business and Professions Code section 6068(m).

**Case No. 02-O-10066 (Yoshino Investment Corp.)**

**Facts:** In June 1997, Yoshino Investment Corporation employed Respondent to represent it in a civil suit. Thereafter, Respondent filed a written response on Yoshino's behalf. However, he failed to provide timely responses to multiple discovery requests, and failed to file a written response to motions to compel discovery and for terminating sanctions. Respondent also failed to inform Yoshino about a settlement offer under Code of Civil Procedure section 998, about the \$1000.00 court-ordered sanctions, and about the motion for terminating sanctions.

**Conclusions of Law:** By recklessly and repeatedly failing to provide timely responses to multiple discovery requests, or to file written responses to motions to compel discovery and for terminating sanctions, Respondent failed to perform competently the legal services for which he was employed, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to inform Yoshino about a settlement offer, and about a motion for terminating sanctions, Respondent failed to keep his client reasonably informed of significant developments in their case, in violation of Business and Professions Code section 6068(m).

**Case No. 02-O-10552 (Greg Eger)**

**Facts:** In January 1998, Greg Egar employed Respondent to represent his business named Granum Partners in a civil dispute. In December 2001, Eger wrote to Respondent to terminated his services and to request that the client file be sent to his new attorney right

away. Respondent failed to comply, or to comply with a similar letter sent in early 2002. To date, Respondent has failed to return the client file as requested.

**Conclusions of Law:** By willfully failing to return the client file upon demand, promptly or at any other time, Respondent failed to return a client file promptly, in violation of Rule of Professional Conduct 3-700(D)(1).

**Case No. 02-O-15318 (State Bar Investigation Re: Client Trust Account)**

**Facts:** During 2002, Respondent maintained a client trust account, number 16640-07862, at the Bank of America. From April 24, 2002 to August 19, 2002, the balance in the client trust account was \$135.63. However, on August 15, 2002, Respondent issued an insufficient funds check (number 1084) in the amount of \$3000.00 on the client trust account, when he knew or should have known that he had insufficient funds in the account to cover the check. However, no client was harmed by the overdraft, which Respondent remedied as soon as it was brought to his attention.

**Conclusions of Law:** By willfully issuing an insufficient funds check on his client trust account when he knew or should have known that there were insufficient funds, Respondent failed to maintain appropriate funds in his client trust account, in violation of Rule of Professional Conduct 4-100(A).

**Case No. 03-O-00046 (State Bar Investigation Re: Unauthorized Practice of Law)**

**Facts:** Effective September 3, 2002, Respondent was enrolled as an inactive member of the State Bar for failure to comply with mandatory continuing legal education requirements. Respondent received actual notice of his inactive enrollment. However, from September 3, 2002 to January 15, 2003, Respondent continued to file pleadings and make appearances in *People (Dept. of Transportation) vs. Papazian, et al.*, in Fresno County Superior Court.

**Conclusions of Law:** By willfully making court appearances and filing pleadings in Fresno County Superior Court when he knew that he had been enrolled as an inactive member of the State Bar, Respondent held himself out as entitled to practice law and practiced law, in violation of Business and Professions Code sections 6125 and 6126.

**Case No. 03-O-03926 (State Bar Investigation Re: US District Court Referral)**

**Facts:** From at least October 12, 2001 to at least March 17, 2003, Respondent was counsel of record for Riverbend Ranch Golf Court and Riverbend Ranches in the case entitled *Riverbend Ranch Golf Course, et al. Vs. County of Madera, et al.*, in the US District Court for the Eastern District of California, docket number CV-F-55500 REC/DLB. On December 27, 2002, Respondent knew that he was on administrative suspension from the State Bar for non-compliance with Mandatory Continuing Legal Education requirements. However, on that date he executed a stipulation to continue a hearing on a summary judgment motion. At no time did Respondent inform his client, the Court or opposing counsel that he was not entitled to practice law. In addition, during his representation, Respondent failed to follow court orders in the following ways: he failed to appear at a hearing on March 31, 2003 although he had notice of the hearing order; and delayed payment of \$18,410.00 in sanctions assessed by the court. Finally, Respondent failed to communicate with his clients as follows: he failed to inform them of discovery requests; failed to inform them of the summary judgment; failed to inform them of the March 17, 2003 court appearance; and failed to inform them that he was suspended from the practice of law; failed to respond to their telephone calls for information about the case. Subsequently, Respondent paid the \$18,410.00 in sanctions.

**Conclusions of Law:** By willfully signing the stipulation when he knew he was not entitled to practice law, Respondent held himself out as entitled to practice law and practiced law, in violation of Business and Professions Code sections 6125 and 6126. By willfully failing to appear at a hearing on March 31, 2003 although he had notice of the hearing order and by delaying payment of \$18,410.00 in sanctions assessed by the court, Respondent failed to comply with court orders, in violation of Business and Professions Code section 6103. By willfully failing to respond to his clients' telephone calls for information, Respondent failed to respond to reasonable status inquiries of his clients in violation of Business and Professions Code section 6068(m). In further violation of Business and Professions Code section 6068(m), Respondent failed to inform his clients of significant developments in the case by willfully failing to inform them of the March 2003 hearing, the summary judgment motion, and discovery requests, and that he was not entitled to practice law.

**Case No. 02-11173 (Kirk and Dia Ringgold)**

**Facts:** By June 1997, Respondent became the attorney of record for Kirk and Dia Ringgold ("the Ringolds"). He was eventually paid \$6248.47 in advanced fees and costs for the representation. In October 1999, Respondent filed an appeal on behalf of the Ringolds; however, Respondent thereafter failed to file an opposition to a sanctions motion. Later that month, the Court of Appeal ordered Respondent and the Ringolds to



pay total sanctions in the amount of \$3000.00. Respondent received notice of the sanctions order, and paid the \$500.00 sanctions imposed against him individually. However, he failed to pay the remainder in a timely manner, or to notify the Ringgolds that he and they had been sanctioned. The Ringgolds did not learn about the \$2500.00 sanctions until a lien was placed on their residence, and then they paid them in full. In addition, Respondent failed to return original documents they had entrusted to him.

**Conclusions of Law:** By recklessly failing to oppose the sanctions motion, Respondent failed to perform competently the legal services for which he was employed, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to tell the Ringgolds that sanctions had been imposed, Respondent failed to inform his clients of significant events in their case, in violation of Business and Professions Code section 6068(m). By willfully failing to return the Ringgolds' original documents, Respondent failed to release to the client all the client papers, in violation of Rule of Professional Conduct 3-700(D)(1).

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was November 12, 2004.

#### **AGGRAVATING CIRCUMSTANCES.**

##### **FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.**

**Multiple Acts of Misconduct:** The facts and conclusions set forth above involve multiple acts of misconduct to multiple clients.

**Significant Harm:** By the afore stated misconduct, Ichino Yoshino had to pay significant attorneys' fees to set aside the default judgment entered against him as a result of Respondent's misconduct. As a result of his failure to pay the sanctions in the Ringgolds' matter, or to inform about the sanctions so they could pay them, the Ringgolds had a lien placed against their real property, and had to pay \$2500.00 to have it removed. In addition, the Ringgolds and Greg Eger suffered the loss of original papers that Respondent failed to return to them.

## MITIGATING CIRCUMSTANCES.

### Facts supporting mitigating circumstances:

No prior record: Respondent has no prior record of discipline, since being admitted to practice in 1966, 38 years ago.

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

*OK*  
*Challen*  
Remorse: ~~After the intervention of the State Bar~~ In the Cantal matter, Respondent had the default set aside, completed the discovery and paid the \$3900.00 in sanctions; and in the Riverbend matter, he paid the \$18,410.00 sanctions.

Extreme Emotional and Physical Difficulties: If called as a witness, Respondent would testify that beginning in 1999, he started to experience a number of traumatic events, including: the sudden, unexpected illness, hospitalization and death of his mother within three weeks time; his wife's move to another town to begin a doctoral program and their eventual divorce; his father's grand mal seizure and subsequent health problems for the next two years that culminated in his death; and the abrupt departures of the firm's other attorney and secretary. None of these events was the product of any illegal conduct by the Respondent, and Respondent no longer suffers from these difficulties.

### Additional Mitigating Circumstance.

Participation in Lawyer's Assistance Program: In February 2004, Respondent voluntarily signed a pre-enrollment assessment agreement with the State Bar's Lawyer Assistance Program (LAP). Respondent was then assessed and monitored for a period of time by the LAP. At the conclusion of the LAP evaluation, Respondent met with its Evaluation Committee, and was accepted into the LAP program. On July 16, 2004, Respondent entered into a participation agreement with LAP, thereby memorializing his five-year commitment to the program.

## RESTITUTION.

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

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

Dave and Shari Cantal, or the Client Security Fund if it has paid, in the principal amount of \$1000.00, plus interest at the rate of 10% per annum from January 26, 1999, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

Kirk and Dia Ringgold, or the Client Security Fund if it has paid, in the principal amount of \$2500.00, plus interest at the rate of 10% per annum from July 1, 2002, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

Ichiro Yoshino, or the Client Security Fund if it has paid, in the principal amount of \$87,306.22, plus interest at the rate of 10% per annum from December 8, 2003, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court (pursuant to the judgment entered against Respondent in *Yoshino v. Stephenson*, Fresno County Superior Court docket number 02-CE-03887).

#### **ADDITIONAL RESTITUTION CONDITION.**

Fee arbitration in Ringgolds' matter: In addition to the fixed restitution set forth above, which represents repayment of sanctions, Respondent hereby agrees to write to the Ringgolds, within ninety days from the date he signs this stipulation, and therein offer to initiate and participate in fee arbitration upon their request regarding their outstanding dispute with him about \$6248.47 in advanced fees. Respondent further agrees to initiate and participate in fee arbitration upon the Ringgolds' request, and to abide by the final order if any there be. Respondent understands and agrees that his failure to write the letter, or to initiate or participate in fee arbitration upon the Ringgolds' request, or to abide by the final order, if any there be, may constitute a violation of this stipulation.

ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Pilot Program or does not sign the Pilot Program Contract. (See rules 135(b) and 802(b), Rules of Procedure.)

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

Date

Jan 18, 2005

Pat McElroy

Judge of the State Bar Court

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 10, 2007, I deposited a true copy of the following document(s):

**DECISION AND ORDER SEALING DOCUMENTS**

**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

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 San Francisco, California, addressed as follows:

**LELAND DALE STEPHENSON**  
**P O BOX 1752**  
**FRESNO, CA 93717**

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

**CYDNEY BATCHELOR , Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **September 10, 2007.**

  
**Laurretta Cramer**  
Case Administrator  
State Bar Court