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**THE STATE BAR COURT  
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of	)	Case No. 00-O-15149-JMR
<b>ROBERT D. BEASLEY,</b>	)	<b>DECISION</b>
<b>Member No. 182037,</b>	)	
<u>A Member of the State Bar.</u>	)	

**I. INTRODUCTION**

In this disciplinary matter, Alan Konig appeared for the Office of the Chief Trial Counsel of the State Bar of California ("State Bar"). Respondent Robert D. Beasley did not appear in person or by counsel.

After considering the evidence and the law, the court recommends that Respondent be suspended for two years and until he makes specified restitution and until he complies with standard 1.4(c)(ii), Standards for Attorney Practice for Professional Misconduct, and that the suspension be stayed on conditions including 20 months actual suspension and until he makes specified restitution, and until he complies with standard 1.4(c)(ii), Standards for Attorney Practice for Professional Misconduct, and until he complies with rule 205 of the Rules of Procedure of the State Bar of California.<sup>1</sup>

<sup>1</sup>This discipline is recommended assuming that the Supreme Court accepts the discipline recommendation in Respondent's prior discipline case, State Bar Court case no. 01-O-3514, which was filed with the Supreme Court on April 23, 2003. If that recommendation is not accepted, the court has made an alternate discipline recommendation regarding the instant matter below.





1 any legal services for Jenkins or contact her after he was retained.

2 On January 14, 2000, Jenkins wrote to Respondent asking about the status of her case and  
3 about any progress in the litigation and negotiations with State Farm. She sent the letter to his  
4 office address by first-class mail, postage prepaid. The letter was not returned as undeliverable.  
5 Respondent did not answer the letter.

6 On July 12, 2000, Jenkins again wrote to Respondent inquiring about the status of her  
7 case. She also stated that, if he did not respond to her letter, she was terminating his services,  
8 and, in that event, requested that he return her file. The letter was sent by certified mail to  
9 Respondent's address. It was received on July 14, 2000, and the return receipt was signed by  
10 someone at his office. Respondent did not answer the letter or return Jenkins' file.

11 Jenkins' personal injury case remains unresolved. The litigation has not progressed  
12 beyond the filing of the complaint.

13 Respondent did not return Jenkins' file or tell her about how she could obtain it.

14 On September 14, 2000, the State Bar opened an investigation on Jenkins' complaint  
15 regarding allegations of misconduct by Respondent in her matter. On January 4 and 23, 2001, a  
16 State Bar investigator sent Respondent letters requesting that Respondent answer in writing  
17 specific allegations of misconduct regarding the Jenkins complaint. The letters were addressed  
18 to Respondent's official membership records address. They were not returned to the State Bar as  
19 undeliverable. Respondent did not answer the letters.

20 On June 26, 2001, Respondent telephoned the investigator and left a voicemail stating  
21 that he was calling from court about the State Bar complaints and that he would call the  
22 investigator again. He did not do so.

23 **Legal Conclusions**

24 **Count One - Rule 3-110(A) (Failing to Perform Competently)**

25 Rule 3-110(A) of the Rules of Professional Conduct<sup>3</sup> prohibits an attorney from  
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27 <sup>3</sup>Unless otherwise noted, all further references to "rule(s)" refer to the Rules of  
28 Professional Conduct.

1 intentionally, recklessly or repeatedly failing to perform legal services competently.

2 By not performing services of any value to Jenkins, Respondent intentionally, recklessly  
3 or repeatedly did not perform competently in wilful violation of rule 3-110(A).

4 **Count Two - Rule 3-700(A)(2) (Improper Withdrawal from Representation)**

5 Rule 3-700(A)(2) prohibits an attorney from withdrawing from employment until he or  
6 she has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of a client,  
7 including giving due notice to the client, allowing time for employment of other counsel,  
8 complying with rule 3-700(D) and with other applicable laws and rules.

9 By not communicating with Jenkins and not taking any action on her behalf, either in the  
10 litigation or negotiations, Respondent effectively withdrew from representing Jenkins. By not  
11 informing Jenkins of his intent to withdraw from employment, he failed, upon termination of  
12 employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client in  
13 wilful violation of rule 3-700(A)(2).

14 **Count Three - Section 6068(m) (Failure to Communicate)**

15 Section 6068(m) of the Business and Professions Code<sup>4</sup> requires an attorney to respond  
16 promptly to reasonable status inquiries of clients and to keep clients reasonably informed of  
17 significant developments in matters with regard to which the attorney has agreed to provide legal  
18 services.

19 By not responding to Jenkins' letters dated January 14 and July 12, 2002, seeking status  
20 updates, Respondent did not respond promptly to his client's reasonable status inquiries in wilful  
21 violation of section 6068(m).

22 **Count Four - Rule 3-700(D)(1) (Failure to Return Client Papers or Property)**

23 Rule 3-700(D)(1) requires an attorney whose employment has been terminated to  
24 promptly release to the client, at the client's request, all client papers and property, subject to any  
25 protective order or non-disclosure agreement. This includes correspondence, pleadings,  
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28 <sup>4</sup>Unless otherwise noted, all further references to "section" refer to the Business and Professions Code.

1 deposition transcripts, exhibits, physical evidence, expert's reports and other items reasonably  
2 necessary to the client's representation, whether the client has paid for them or not.

3 By not returning Jenkins' file, Respondent wilfully violated Rule 3-700(D)(1). However,  
4 since rule 3-700(D)(1) is an obligation encompassed under rule 3-700(A)(2), which Respondent  
5 already has been found culpable of, the court shall not give any additional weight to the rule 3-  
6 700(D)(1) violation in considering the appropriate level of discipline.

7 **Count Five - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

8 Section 6068(i) requires an attorney to participate and cooperate in any disciplinary  
9 investigation or other disciplinary or regulatory proceeding pending against him.

10 By not providing a written response to the investigator's letters, Respondent did not  
11 cooperate in a disciplinary investigation in wilful violation of 6068(i).

12 **Case No. 01-O-00036 - The Trevorrows Matter - Counts Six through Ten**

13 **Facts**

14 On June 30, 2000, Robert and Yvette Trevorrows retained Respondent to represent them  
15 to obtain a restraining order and to pursue civil litigation against a person who had been arrested  
16 for assault and battery on Yvette. Respondent agreed to represent them for \$2500. The  
17 Trevorrows gave Respondent their credit card information for payment of his fee. Respondent  
18 received payment from the credit card on July 3, 2000.

19 After the Trevorrows retained him, Respondent did not pursue either the restraining order  
20 or the civil litigation. He did not perform any legal services on their behalf. He did not earn or  
21 return any of the advanced fees the Trevorrows paid him.

22 Between June 30 and November 13, 2000, the Trevorrows telephoned Respondent on  
23 dozens of occasions and left messages asking that about the status of their case. Respondent only  
24 returned one call.

25 On November 13, 2000, Yvette wrote to Respondent terminating his services and  
26 requesting the refund of the \$2500 fee. She sent the letter to his office address by first-class mail,  
27 postage prepaid. The letter was not returned as undeliverable or for any other reason.

28 Respondent did not answer the letter.

1 On January 4, 2001, the State Bar opened an investigation regarding allegations of  
2 misconduct in the Trevorrow matter. On January 29 and February 14, 2001, a State Bar  
3 investigator wrote to Respondent regarding the Trevorrows' complaint. The letters asked  
4 Respondent to respond to specified allegations of misconduct being investigated by the State Bar  
5 regarding the Trevorrows' complaint. Both letters were placed in sealed envelopes correctly  
6 addressed to respondent's State Bar membership records address and were sent by first-class  
7 mail, postage prepaid. They were not returned as undeliverable or for any other reason.  
8 Respondent did not answer the letters.

9 On June 26, 2001, Respondent telephoned the investigator and left a voicemail stating  
10 that he was calling from court about the State Bar complaints and that he would call the  
11 investigator again. He did not do so.

## 12 **Legal Conclusions**

### 13 **Count Six - Rule 3-110(A) (Failing to Perform Competently)**

14 By not performing services of any value to the Trevorrows, Respondent intentionally,  
15 recklessly or repeatedly did not perform competently in wilful violation of rule 3-110(A).

### 16 **Count Seven - Rule 3-700(A)(2) (Improper Withdrawal from Representation)**

17 By not communicating with the Trevorrows, pursuing their case, and not taking any  
18 action on their behalf, respondent effectively withdrew from representing them. By not  
19 informing them of his intent to withdraw from employment, Respondent failed to take reasonable  
20 steps to avoid reasonably foreseeable prejudice to his client in wilful violation of rule 3-  
21 700(A)(2).

### 22 **Count Eight - 6068(m) (Failure to Communicate)**

23 By not responding to the Trevorrows' msny telephone calls seeking status updates,  
24 Respondent did not respond promptly to his clients' reasonable status inquiries in wilful violation  
25 of section 6068(m).

### 26 **Count Nine - Rule 3-700(D)(2) (Failure to Return Unearned Fees)**

27 Rule 3-700(D)(2) requires an attorney whose employment has terminated to promptly  
28 return any part of a fee paid in advance that has not been earned. This rule does not apply to true

1 retainer fees paid solely for the purpose of ensuring the availability of an attorney to handle a  
2 matter.

3 By not refunding any part of the \$2500 advanced fees paid by the Trevorrows,  
4 Respondent did not return an advanced, unearned fee in wilful violation of rule 3-700(D)(2).  
5 However, since rule 3-700(D)(2) is an obligation encompassed under rule 3-700(A)(2), which  
6 Respondent already has been found culpable of, the court shall not give any additional weight to  
7 the rule 3-700(D)(2) violation in considering the appropriate level of discipline.

8 **Count Ten - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

9 By not providing a written response to the investigator's letters, Respondent did not  
10 cooperate in a disciplinary investigation in wilful violation of 6068(i).

11 **Case No. 01-O-00704 - The Jensen Matter - Counts Eleven through Seventeen**

12 **Facts**

13 In October 1999, Harold Jensen retained Respondent to represent him as the plaintiff in  
14 an unlawful detainer action. Jensen executed a special power of attorney authorizing Respondent  
15 to act on his behalf in all matters relating to the unlawful detainer and paid Respondent \$500 as  
16 an advanced fee.

17 After Jensen retained him, Respondent did not file an unlawful detainer action on his  
18 behalf nor did he perform any legal services for Jensen. Moreover, Respondent did not contact  
19 Jensen in any way after he was retained.

20 In October 2000, Jensen retained another attorney, Bruce Reeves, to contact Respondent  
21 for a status update on the unlawful detainer. In October 2000, Reeves contacted Respondent  
22 several times and left messages for him inquiring about the status of Jensen's case. Respondent  
23 did not respond to any of these messages.

24 On October 23, 2000, Reeves wrote to Respondent on Jensen's behalf inquiring about the  
25 status of Jensen's matter. The letter was sent by first-class mail, postage prepaid, to  
26 Respondent's office. It was not returned as undeliverable or for any other reason. Respondent  
27 did not answer the letter.

28 On November 30, 2002, Reeves wrote to Respondent on Jensen's behalf informing him

1 that Jensen was terminating his services and retaining Reeves in the unlawful detainer and asking  
2 that the file be returned. The letter was sent by first-class mail, postage prepaid, to Respondent's  
3 office. It was not returned as undeliverable or for any other reason. Respondent did not answer  
4 the letter.

5 On February 15, 2001, Reeves again wrote to Respondent seeking the return of Jensen's  
6 file and an accounting of the \$500 advanced fees Jensen paid Respondent. The letter was sent by  
7 first-class mail, postage prepaid, to Respondent's office. It was not returned as undeliverable or  
8 for any other reason. Respondent did not answer the letter.

9 Respondent did not return Jensen's file or communicate with him about how he could  
10 obtain the file. He also did not earn or return any of the \$500 advanced fees Jensen paid him or  
11 render an accounting as requested.

12 Reeves did not complete Jensen's unlawful detainer until June 2001 - 18 months after  
13 Respondent was retained to handle it. Reeves never received necessary documents from  
14 Respondent and had to proceed on the case without benefit of a rental agreement. Due to the  
15 delay in the action, the tenant was able to destroy Jensen's property prior to the eviction.

16 On February 21, 2001, the State Bar opened an investigation on Reeve's complaint on  
17 Jensen's behalf regarding allegations of misconduct by Respondent in Jensen's matter. On  
18 March 28, April 16 and May 1, 2001, a State Bar investigator sent Respondent letters requesting  
19 that Respondent answer in writing specific allegations of misconduct regarding the Jensen  
20 matter. The letters were addressed to Respondent's official membership records address. They  
21 were not returned to the State Bar as undeliverable. Respondent did not answer the letters.

22 On June 26, 2001, Respondent telephoned the investigator and left a voicemail stating  
23 that he was calling from court about the State Bar complaints and that he would call the  
24 investigator again. He did not do so.

## 25 **Legal Conclusions**

### 26 **Count Eleven - Rule 3-110(A) (Failing to Perform Competently)**

27 By not performing services of any value to Jensen, Respondent intentionally, recklessly or  
28 repeatedly did not perform competently in wilful violation of rule 3-110(A).

1 **Count Twelve - Rule 3-700(A)(2) (Improper Withdrawal from Representation)**

2 By not communicating with Jensen, pursuing the unlawful detainer action and not taking  
3 any action on Jensen's behalf, Respondent effectively withdrew from representing Jensen. By  
4 not informing Jensen of his intent to withdraw from employment, Respondent failed to take  
5 reasonable steps to avoid reasonably foreseeable prejudice to his client in wilful violation of rule  
6 3-700(A)(2).

7 **Count Thirteen - 6068(m) (Failure to Communicate)**

8 By not responding to Reeves' communications to respondent on Jensen's behalf,  
9 Respondent did not respond promptly to his client's reasonable status inquiries in wilful violation  
10 of section 6068(m).

11 **Count Fourteen - Rule 3-700(D)(1) (Failure to Return File)**

12 By not returning Jensen's file, Respondent wilfully violated rule 3-700(D)(1). However,  
13 since rule 3-700(D)(1) is an obligation encompassed under rule 3-700(A)(2), which Respondent  
14 already has been found culpable of, the court shall not give any additional weight to the rule 3-  
15 700(D)(1) violation in considering the appropriate level of discipline.

16 **Count Fifteen - Rule 3-700(D)(2) (Failure to Return Unearned Fees)**

17 By not refunding any part of the \$500 advanced fees, respondent did not return an  
18 advanced, unearned fee in wilful violation of rule 3-700(D)(2). However, as set forth above, the  
19 court shall not give any additional weight to this violation in considering the appropriate level of  
20 discipline since it is encompassed under Respondent's rule 3-700(A)(2) violation.

21 **Count Sixteen - Rule 4-100(B)(3) (Failure to Account)**

22 Rule 4-100(B)(3) requires, in relevant part, that an attorney to maintain complete records  
23 of all client funds, securities or other property coming into the attorney's or law firm's possession  
24 and to render appropriate accounts to the clients regarding them. The attorney is to preserve such  
25 records for no less than five years after final appropriate distribution of the funds or property.

26 By not providing Jensen with an accounting of the \$500, Respondent did not render  
27 appropriate accounts to the client regarding such funds.

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1 **Count Seventeen - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

2 By not providing a written response to the allegations of misconduct in the Jensen matter  
3 or otherwise cooperating in its investigation, Respondent did not participate in a disciplinary  
4 investigation in wilful violation of 6068(i).

5 **Case No. 01-O-01399 - The Sabatasso Matter - Counts Eighteen and Nineteen**

6 **Facts**

7 In September 2000, William Sabatasso contacted Respondent's office seeking  
8 representation on a personal injury matter. At the time, Sabatasso was incarcerated at the  
9 California Medical Facility in Vacaville.

10 Sabatasso spoke with Phillis Loya, an attorney in Respondent's office, who asked  
11 Sabatasso to send his file and documents to Respondent's office to determine if Respondent  
12 would represent Sabatasso. Sabatasso sent the documents which were received by Respondent's  
13 office on September 13, 2000, according to the signed return receipt.

14 During October and November 2000, Sabatasso telephoned Respondent's office and left a  
15 voice message on numerous occasions trying to determine whether Respondent would represent  
16 him. None of the calls were returned.

17 In December 2000, at Sabatasso's request, his prison counselor left several voice  
18 messages for Respondent trying to ascertain whether Respondent was going to take Sabatasso's  
19 case. None of the calls were returned.

20 On January 3, 2001, Sabatasso and his counselor left a message with one of Respondent's  
21 employees, inquiring whether Respondent was going to take Sabatasso's case and, if not, to  
22 return his documents. This call was not returned.

23 On March 15, 2001, another prison counselor called Respondent's office on Sabatasso's  
24 behalf and spoke with Respondent. Respondent agreed to have a conference call with Sabatasso  
25 and the counselor the next day. When they called Respondent the next day, they were informed  
26 that he was in Brentwood and would call them back. He never did so.

27 In March 2001, Loya heard several voice messages from Sabatasso for Respondent asking  
28 Respondent to return his file. She also told Respondent that she would assist him with the case if

1 he chose to accept it. In April 2001, Loya dissolved her partnership with Respondent without  
2 ever becoming involved in Sabatasso's case. In May 2001, Loya became aware that Respondent  
3 had not returned Sabatasso's file. She contacted him and urged him to return it.

4 On May 31, 2001, a State Bar investigator, left Respondent a voice message at his office  
5 urging him to return Sabatasso's file. There was no response to this call.

6 Respondent did not return Sabatasso's file or communicate with him about how he could  
7 obtain it.

8 On April 3, 2001, the State Bar opened an investigation regarding allegations of  
9 misconduct in Sabatasso's matter. On May 9 and 29, 2001, a State Bar investigator wrote to  
10 Respondent, asking him to respond to specified allegations of misconduct being investigated by  
11 the State Bar regarding this matter. The letters were placed in sealed envelopes correctly  
12 addressed to his official address by first-class mail, postage prepaid. The letters were not  
13 returned as undeliverable or for any other reason. Respondent did not answer the letters.

14 On June 26, 2001, Respondent telephoned the investigator and left a voicemail stating  
15 that he was calling from court about the State Bar complaints and that he would call the  
16 investigator again. He did not do so.

17 **Legal Conclusions**

18 **Count Eighteen - Rule 3-700(D)(1) (Failure to Return File)**

19 Rule 3-700(D)(1) requires an attorney whose employment has been terminated to  
20 promptly release to the client, at the client's request, all client papers and property, subject to any  
21 protective order or non-disclosure agreement. However, Respondent never requested Sabatasso's  
22 file, Respondent was never employed by Sabatasso, and Sabatasso was never a client. Therefore,  
23 rule 3-700(D)(1) does not apply to Respondent and there can be no finding of culpability under  
24 this rule.<sup>5</sup>

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26 <sup>5</sup>Even if Respondent has not been found culpable of this rule violation, Respondent  
27 should promptly return Sabatasso's file, as the return of the file will undoubtedly be an issue  
28 regarding Respondent's rehabilitation at the hearing under standard 1.4(c)(ii) of the Standards for  
Attorney Sanctions for Professional Misconduct.

1 **Count Nineteen - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

2 By not providing a written response to the allegations of misconduct, Respondent did not  
3 participate in a disciplinary investigation in wilful violation of 6068(i).

4 **IV. LEVEL OF DISCIPLINE**

5 **A. Aggravating Circumstances**

6 The court judicially notices its records which indicate that Respondent has one instance of  
7 prior misconduct, an aggravating circumstance. (Evid. Code § 452(d)(1); Rules Proc. of State  
8 Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, standard 1.2(b)(i) (hereinafter  
9 "standards").) In State Bar Court case no. 01-O-3514, which was filed with the Supreme Court  
10 on April 23, 2003, and is pending,<sup>6</sup> it was recommended that Respondent be suspended for two  
11 years and until he makes specified restitution; and that the suspension be stayed on conditions  
12 including 120 days actual suspension and until he makes specified restitution and complies with  
13 rule 205 of the Rules of Procedure. He was found culpable of violating, in three client matters,  
14 the following: Rules 3-110(A), 3-700(A)(2) (two counts each); section 6068(i) (three counts);  
15 and sections 6068(j) and (m), rules 3-700(D)(1) and (2), and rule 4-100(B)(3) (one count). In  
16 aggravation, the court found multiple acts of misconduct, harm to one client and failure to  
17 participate in the disciplinary proceedings prior to the entry of default. No mitigating  
18 circumstances were found.

19 The misconduct in the prior discipline case commenced in September 2000 and lasted  
20 until March 2002, so it coincides with some of the time that the misconduct occurred in the  
21 instant matter. Accordingly, the aggravating effect of this prior discipline is diminished as it is  
22 not indicative of Respondent's inability to conform to ethical norms and the court will consider  
23 the totality of the findings in both cases to ascertain what the discipline would have been had the  
24 matters been brought as one case. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar  
25 Ct. Rptr. 602, 619.)

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<sup>6</sup>A discipline recommendation not yet acted upon by the Supreme Court is considered a  
prior record of discipline. (Standard 1.2(f).)

1 Respondent's multiple acts of misconduct are an aggravating factor. (Standard 1.2(b)(ii).)  
2 Respondent's misconduct significantly harmed clients. (Standard 1.2(b)(iv).) As a result  
3 of the misconduct, Jensen had to retain other counsel, his case was delayed and his property was  
4 destroyed. Jenkins' case remains unresolved.

5 **B. Mitigating Circumstances**

6 Since Respondent did not participate in these proceedings and he bears the burden of  
7 establishing mitigation by clear and convincing evidence, the court has been provided no basis  
8 for finding mitigating factors. (Standard 1.2(e)(i).)

9 **C. Discussion**

10 The purpose of disciplinary proceedings is not to punish the attorney, but to protect the  
11 public, to preserve public confidence in the profession, and to maintain the highest possible  
12 professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper*  
13 *v. State Bar* (1987) 43 Cal.3d 1016, 1025; standard 1.3.)

14 Standard 1.6 provides that the appropriate sanction for the misconduct found must be  
15 balanced with any mitigating or aggravating circumstances, with due regard for the purposes of  
16 imposing discipline. If two or more acts of professional misconduct are found in a single  
17 disciplinary proceeding, the sanction imposed shall be the most severe of the applicable  
18 sanctions. (Standard 1.6(a).) The level of discipline is progressive. (Standard 1.7(b).) The  
19 standards, however, are guidelines from which the court may deviate in fashioning the most  
20 appropriate discipline considering all the proven facts and circumstances of a given matter. (*In*  
21 *re Young* (1989) 49 Cal.3d 257, 267, fn. 11; *Howard v. State Bar* (1990) 51 Cal.3d 215.) They  
22 are "not mandatory 'sentences' imposed in a blind or mechanical manner." (*Gary v. State Bar*  
23 (1988) 44 Cal.3d 820, 828.)

24 Standards 2.2(b), 2.4(a) and (b), 2.6(a) and 2.10 apply in this matter. The more severe  
25 sanction is suggested by standard 2.2(b): at least three months actual suspension regardless of  
26 mitigating circumstances for commingling entrusted funds or property with personal property or  
27 committing another violation of rule 4-100, none of which result in the wilful misappropriation  
28 of entrusted funds or property.

1 In the instant case, Respondent has been found culpable of abandoning three clients, not  
2 communicating or returning client files or fees and, in four client matters, of failing to cooperate  
3 in the State Bar's investigation. There are no mitigating factors. Aggravating factors include  
4 multiple acts of misconduct and harm to clients. In the prior disciplinary case, he was found  
5 culpable of violating, in three client matters, the following: Rules 3-110(A), 3-700(A)(2) (two  
6 counts each); section 6068(i) (three counts); and sections 6068(j) and (m), rules 3-700(D)(1) and  
7 (2), and rule 4-100(B)(3) (one count). In aggravation, the court found multiple acts of  
8 misconduct, harm to one client and failure to participate in the disciplinary proceedings prior to  
9 the entry of default. No mitigating circumstances were found. The court notes that the  
10 misconduct and aggravating circumstances are similar in both matters.

11 The State Bar suggests, among other things, five years stayed suspension with actual  
12 suspension consisting of 30 months and until restitution, compliance with standard 1.4(c)(ii) and  
13 rule 205 of the Rules of Procedure, if the effective date of discipline is retroactive to the  
14 commencement of the prior discipline. If it is not retroactive, then the actual suspension  
15 recommended is two years with the aforementioned "and until" provisions. After considering the  
16 misconduct and balancing the aggravating and mitigating factors in the present and prior  
17 disciplinary matters, the court recommends, among other things, actual suspension of 20 months  
18 and until Respondent makes restitution and until he complies with standard 1.4(c)(ii) and until he  
19 complies with rule 205 of the Rules of Procedure.

20 The court found *Nizinski v. State Bar* (1975) 14 Cal.3d 587, instructive. In *Nizinski*, the  
21 attorney was actually suspended for two years and until he made restitution of \$1000 to one  
22 client. He was found culpable of failing to perform and of misrepresenting the status of cases in  
23 three client matters and of misusing client funds in two matters. Although the attorney in  
24 *Nizinski* participated in the proceeding, there were no mitigating factors. He had one prior  
25 instance of discipline for failing to perform competently in one client matter and for making false  
26 statements to his clients and to the State Bar about the case. *Nizinski* is distinguishable from the  
27 instant case in that, although Respondent *Nizinski* participated in the proceedings, he was found  
28 culpable of more serious misconduct - dishonesty in three client matters and misusing client



1           2. That he be ordered to comply with the conditions of probation, if any, hereinafter  
2 imposed by the State Bar Court as a condition for terminating his actual suspension; and

3           It is not recommended that Respondent be ordered in the instant matter to take and pass  
4 the Multistate Professional Responsibility Examination or to comply with rule 955 of the  
5 California Rules of Court as he was previously ordered to do so.

6           **Second Alternate Recommendation**

7           If the Supreme Court does not impose discipline as recommended in State Bar Court case  
8 no. 01-O-3514, the court recommends the following discipline:

9           1. That Respondent **ROBERT D. BEASLEY** be suspended from the practice of law for  
10 two years and until he makes restitution to Robert or Yvette Trevorrow (or the Client Security  
11 Fund, if appropriate) in the amount of \$2500 plus 10% interest per annum from July 3, 2000, and  
12 furnishes satisfactory proof thereof to the State Bar Probation Unit, and until he makes restitution  
13 to Harold Jensen (or the Client Security Fund, if appropriate) in the amount of \$500 plus 10%  
14 interest per annum from October 1999, and furnishes satisfactory proof thereof to the State Bar  
15 Probation Unit, and until he provides proof satisfactory to the State Bar Court of his  
16 rehabilitation, fitness to practice and present learning and ability in the general law pursuant to  
17 standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct; that said  
18 suspension be stayed; and that he be actually suspended from the practice of law for 20 months  
19 and until he makes restitution and provides proof as set forth above, and until he provides proof  
20 satisfactory to the State Bar Court of his rehabilitation, fitness to practice and present learning  
21 and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for  
22 Professional Misconduct, and until the State Bar Court grants a motion to terminate Respondent's  
23 actual suspension at its conclusion or upon such later date ordered by the court;

24           2. That he be ordered to comply with the conditions of probation, if any, hereinafter  
25 imposed by the State Bar Court as a condition for terminating his actual suspension;

26           3. That Respondent be ordered to comply with the requirements of rule 955 of the  
27 California Rules of Court within 30 calendar days of the effective date of the Supreme Court  
28 order in this matter, and file the affidavit provided for in paragraph (c) within 40 days of the

1 effective date of the order showing his compliance with said order. Failure to comply with rule  
2 955 could result in disbarment. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Respondent  
3 is required to file a rule 955(c) affidavit even if he has no clients to notify. (*Powers v. State Bar*  
4 (1988) 44 Cal.3d 337, 341); and

5 4. That Respondent take and pass the Multistate Professional Responsibility Examination  
6 and to provide satisfactory proof thereof to the State Bar Probation Unit within one year after the  
7 effective date of this order or during the period of Respondent's actual suspension, whichever is  
8 longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.)

9 **VI. COSTS**

10 The court recommends that costs be awarded to the State Bar pursuant to Business and  
11 Professions Code section 6086.10, and that those costs be payable in accordance with section  
12 6140.7.

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16 Dated: July 17, 2003

  
17 JOANN M. REMKE  
18 Judge of the State Bar Court  
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**CERTIFICATE OF SERVICE**  
**[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]**

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on July 17, 2003, I deposited a true copy of the following document(s):

**DECISION**

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

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

**ROBERT D. BEASLEY**  
**1904 SEAL WAY**  
**DISCOVERY BAY CA 94514**

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

**ALAN H. KONIG , Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **July 17, 2003**.



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**Bernadette C. O. Molina**  
Case Administrator  
State Bar Court