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State Bar Court of California Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES		
Counsel for the State Bar Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204 Bar # 114637	Case Number(s) PUBLIC MATTER 03-0-1010 PEM 03-0-01107 04-N-10577 05-0-04949 06-0-11409 FILED MAR 0 1 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO	(for Court use) CONFIDENTIAL LODGED NOV 06 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per Jon M. Alexander, Esq. 162 West 9th St. Crescent City, CA 95531 Tele: 707/465-6666 Bar # 129207	Submitted to Program Judge <u>FIRST AMENDED</u> STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of JON M. ALEXANDER Bar # 129207 A Member of the State Bar of California (Respondent)		

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:

- July 2, 1987
- (1) Respondent is a member of the State Bar of California, admitted _____ (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, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 10 pages.
 - (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
See attached
 - (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."
See attached

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- (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.

B. 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 93-C-17720
- (b) ☒ Date prior discipline effective April 13, 1996
- (c) ☒ Rules of Professional Conduct/State Bar Action violations Business and Professions Code section 6068(a) for misdemeanor violation of Vehicle Code 14601
- (d) ☒ Degree of prior discipline Private reproof
- (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline" (above) See 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. 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 attached
- (8) ☐ **No aggravating circumstances are involved.**

Additional aggravating circumstances:

Second prior: S118572 (02-0-15150); effective December 18, 2003, 6 months actual suspension; 2 years stayed suspension; violations of Bus. and Prof. Code sections 6068(i), 6068(j), 6106, 6125 and 6126, and Rules of Prof. Conduct 3-700(D)(2); matter proceeded by default

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C. Mitigating Circumstances [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 to the ~~State Bar during disciplinary investigation and proceedings.~~
See attached
- (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 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.
See attached
- (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.
See attached
- (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.
See attached
- (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.
See attached
- (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 attached

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **JON M. ALEXANDER**

CASE NUMBERS: **03-O-01010; 03-O-01107;**
 04-N-10577; 05-O-04949
 06-O-11409

DISMISSAL.

Upon the respondent's acceptance into the State Bar Court's alternative discipline program, the State Bar requests the Court to dismiss case number 04-N-10577, without prejudice. This case involves respondent's 21 day in filing his rule 955 affidavit, and is reflected in "additional aggravating factors" below.

FACTS AND CONCLUSIONS OF LAW.

Case No. 03-O-01010 (Raymond L. Buck):

Facts: On July 26, 2002, respondent was employed by Raymond Buck ("Mr. Buck") to represent Buck's son, Raymond Lee Buck ("Lee Buck") in a state criminal matter. Mr. Buck paid respondent \$6500.00 in advanced fees at that time. Respondent performed some legal services in the case. However, effective September 4, 2002, the California Supreme Court placed respondent on suspension for failing to pay his membership dues; he remained on suspension until September 23, 2002. Respondent received notice of the order; however, at no time did he inform the Buck family that he was not entitled to practice law. On September 10, 2002, respondent appeared in court on behalf of his client, and did not inform the court that he was not entitled to practice law. Although respondent performed some work on Lee Buck's case, he failed to complete the legal services for which he was employed. Subsequent to October 2002, respondent also stopped communicating with Lee Buck and his family. Respondent also failed to appear at two scheduled court hearings in December 2002, although he had notice of them. In January 2003, since neither Mr. Buck nor Lee Buck was able to communicate with respondent, they were forced to employ subsequent counsel to complete the case. Although respondent was requested to provide the client file to subsequent counsel, he failed to do so.

Conclusions of Law: By repeatedly failing to appear at two court hearings, or to conclude Lee Buck's case, respondent failed to perform competently the legal services for which he was employed, in violation of Rule of Professional Conduct 3-110(A). By wilfully failing to provide information to his client or his client's family subsequent to December

2002, despite their repeated requests for information, respondent failed to respond to reasonable status inquiries from a client, in violation of Business and Professions Code section 6068(m). By willfully failing to disclose to Lee Buck that he was not entitled to practice law, respondent failed to inform his client of a significant development in his case, in further violation of Business and Professions Code section 6068(m). By willfully appearing in court while he was not entitled to practice law, and continuing to represent Lee Buck, when he knew he was not entitled to practice, respondent engaged in the unauthorized practiced law, in violation of Business and Professions Code sections 6068(a), 6125 and 6126. By willfully failing to return Lee Buck's file as requested, respondent failed to promptly release a client file upon request, in violation of Rules of Professional Conduct, rule 3-700(D)(1). By willfully failing to refund the unearned advanced attorney fees to the Buck family promptly and until after the intervention of the State Bar, respondent failed to refund unearned attorney fees promptly, in violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 03-O-01107 (State Bar Investigation):

Facts: Respondent's license to practice law was placed on involuntary inactive status, effective February 10, 2003, after his default was entered in State Bar case number 02-O-15150. Respondent received actual notice of the default order. However, on February 14, 2003, he appeared at a pre-trial conference before Orange County Superior Court Judge Gregg L. Prickett, and failed to inform the court that he was not entitled to practice law.

Conclusions of Law: By engaging in the activities described above and appearing in court on February 10, 2003 while on involuntary inactive status, respondent practiced law while suspended, in wilful violation of Business and Professions Code, section 6068(a), and by advertising or holding himself out as practicing or entitled to practice law or otherwise practicing law when he was not an active member of the State Bar of California, in violation of Business and Professions Code, section 6125 and 6126.

Case No. 05-O-04949 (State Bar Investigation):

Facts: From January through June 10, 2005, respondent was employed as a deputy a deputy district attorney with the Del Norte County District Attorney's Office. On June 2, 2006, while he was suspended from his position, respondent wrote an eight page, handwritten letter to the sentencing judge in a criminal case to which he had previously been assigned, for the purpose of influencing the sentencing. It was an *ex parte* communication, and respondent did not provide a copy of the letter to the defendant's counsel.

Conclusions of Law: By willfully sending an *ex parte* communication to the sentencing judge in a criminal case in order to influence the sentence, without providing a copy of the letter to the defendant's attorney, respondent improperly communicated to a judge or judicial officer upon the merits of a contested matter pending before such judge or judicial officer, in violation of Rule of Professional Conduct 5-300(B).

Case No. 06-O-11409 (Pete Cockcroft):

Facts: On December 7, 2005, respondent was appointed by the Del Norte County Superior Court to represent Pete Cockcroft in a habeas matter in a criminal case. On January 9, 2006, respondent was also appointed to represent Mr. Cockcroft in a second habeas matter. Before the habeas matters could be heard, Mr. Cockcroft was transferred to another correctional facility, thereby mooting his two habeas petitions against Pelican Bay State Prison. Respondent filed motions to dismiss in both matters, which were granted by the court. Mr. Cockcroft made numerous inquiries to respondent about the status of his matters. However, respondent did not respond to inquiries from his client about the matters, nor did respondent tell him that the matters had been dismissed.

Conclusions of Law: By willfully failing to respond to Mr. Cockcroft's requests for status reports on his two habeas matters, respondent failed to respond promptly to reasonable status inquiries of a client, in violation of Business and Professions Code section 6068(m). By willfully failing to inform Mr. Cockcroft that his habeas matters had been dismissed, respondent failed to inform a client of a significant development in a matter in which respondent had agreed to provide legal services, in further violation of Business and Professions Code section 6068(m).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was July 27, 2006.

AGGRAVATING CIRCUMSTANCES.

Facts Supporting Aggravating Circumstances:

Prior Records of Discipline: As noted in the stipulation, respondent has two prior records of discipline. The first one, a private reproof in 1993, arose from his conviction for driving with a suspended driver's license. The second prior, effective December 22, 2003, involved the same type of misconduct as stipulated to herein, and was imposed after respondent's default was entered. The investigations regarding the cases herein were opened in March 2003, but they could not be completed in time to be included in December 2003 discipline.

Multiple Acts of Misconduct: The misconduct stipulated to herein involved multiple cases.

Significant Harm: Respondent's failure to attend one of the court hearings in Lee Buck's case resulted in an arrest warrant being issued for his client.

Additional Aggravating Circumstance:

Delay in filing rule 955 affidavit: Respondent was 21 days late in filing his rule 955 affidavit.

MITIGATING CIRCUMSTANCES.

Facts Supporting Mitigating Circumstance:

Candor and Cooperation: Respondent has been completely candid and cooperative with the State Bar in resolving these cases.

Emotional/Family problems: Beginning in 1996, respondent's mother suffered a stroke and suffered the early onset of Alzheimer's Disease, and respondent became her care giver. From 1999 to 2001, respondent lived in his mother's home and was her primary care giver, at the same time he was maintaining a law practice. The stress of trying to manage both situations exacerbated respondent's chemical dependency. Respondent's mother moved to Oregon to be near respondent's sister in 2002; she died on March 24, 2006.

Financial problems: In July 2002, respondent suffered severe financial losses, including the loss of his home to foreclosure, and all of his other assets.

Physical Problems: After he lost his home in July 2002, respondent moved into a residential motel, and while living there, became the victim of a violent crime that resulted in his sustaining a broken neck in March 2003.

Pro bono and Community Service: Respondent has participated in numerous pro bono and community services, as attested to by Curry County Human Services (respondent served as the Keynote speaker at the Del Norte County Methamphetamine Summit in October 2005; serves as Co-Chair of ongoing Community Action Committee which resulted from the methamphetamine summit; provides volunteer counseling services to residents at the residential Jordan Recovery Center; speaks on a bi-monthly basis to youth incarcerated at the Del Norte County Juvenile Hall; and acts as adviser and featured speaker for the Crescent City Police Department's Crime-Free Housing Program), and by Jordan Recovery Center (for past 1-1/2 years, respondent has facilitated a group every Friday night for residents of both residential treatment facilities; has helped on a voluntary basis with legal assistance, housing, problem solving and mentoring).

Delay in Finalizing Stipulation: The investigations for the two cases herein, 03-O-1010 and 03-O-1107, were opened in the Los Angeles office of the State Bar in March 2003. Respondent's prior discipline became effective on December 18, 2003, but the two investigations could not be completed prior to that date, although the misconduct herein is similar to the cases which were memorialized in the disciplinary prior. The two cases herein were assigned to Los Angeles investigators and deputy trial counsel until March 2005, when they were transferred to the San Francisco office. The notice of disciplinary charges memorializing these cases was filed in San Francisco on December 22, 2005. The delay in processing these cases is in no way attributable to respondent.

ADDITIONAL MITIGATING CIRCUMSTANCE

Treatment Programs before LAP: On his own volition, respondent voluntarily obtained residential treatment for his chemical dependency at the Salvation Army from April to July 2003. In addition, respondent has voluntarily participated in an outpatient treatment program through Curry County Mental Health Services from April 2004 to the present.

Participation in Lawyer's Assistance Program. On July 10, 2003, respondent contacted the State Bar Lawyer Assistance Program ("LAP") and completed the intake process. Respondent signed an evaluation agreement with LAP, whereby he was assessed and monitored for a period of time. At the conclusion of the process, respondent entered into a long-term participation plan with LAP on September 30, 2003. He remains in full compliance with LAP.

Physical problems post-misconduct : Respondent suffered a severe back injury in February 2004, which necessitated surgery and extensive rehabilitation. However, respondent remains in full compliance with LAP.

Restitution and Remorse: Although he did not do so until after the intervention of the State Bar, respondent began paying restitution to the Buck family at the rate of \$100.00 a month in December 2005, and has already paid a total of \$1350.00. In addition, respondent has agreed to refund the advanced attorney fees to Mr. Buck in full, although he performed some legal services.

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 State Bar Court Alternative Discipline Program contract to be executed between the State Bar Court and respondent on the captioned cases, respondent must make restitution as follows:

Raymond L. Buck, or the Client Security Fund, if it has paid, in the principal amount of \$6500.00 (less payments made by respondent to the Bucks), plus interest at the rate of 10% per annum from January 1, 2003, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

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In the Matter of JON M. ALEXANDER	Case number(s): 03-0-1010-PEM
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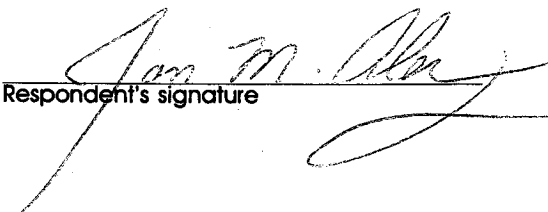

SIGNATURE OF THE PARTIES

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 and Conclusions of Law.

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

If the Respondent is not accepted into the Program or does not sign the 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 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.

<u>7/31/06</u> Date	 Respondent's signature	JON M. ALEXANDER Print name
 Date	 Respondent's Counsel's signature	 Print name
<u>7/31/06</u> Date	 Deputy Trial Counsel's signature	CYDNEY BATCHELOR Print name

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In the Matter of JON M. ALEXANDER	Case number(s): 03-0-1010-PEM
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ORDER

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

- ☒ The 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.
- ☐ All court dates in the Hearing Department 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

Nov. 6, 2006
Date

Pat McElrath
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. 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 November 6, 2006, I deposited a true copy of the following document(s):

**CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND
ORDERS (Rules Proc. of State Bar, rule 803 (a))**

FIRST AMENDED STIPULATION RE FACTS AND CONCLUSIONS OF LAW

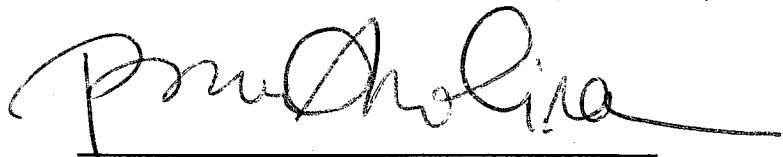
**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR
COURT'S ALTERNATIVE DISCIPLINE PROGRAM**

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

☒ by personally delivering such documents to the following individuals at 180 Howard Street, 6th Floor, San Francisco, California 94105-1639:

**JON M. ALEXANDER, ESQ.
CYDNEY BATCHELOR, ESQ.**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on
November 6, 2006



Bernadette C. O. Molina
Case Administrator
State Bar Court