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State Bar Court of California Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES		
Counsel for the State Bar DAVID T. SAUBER Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1252 Bar # 176554	Case Number(s) 04-C-15249; 05-N-04969	(for Court use) LODGED DEC 12 2006 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per DONALD E. ARNOLD 16255 VENTURA BLVD., SUITE 1110 ENCINO, CALIFORNIA 91436 (818) 995-0080 Bar # 202148	PUBLIC MATTER	
In the Matter of DONALD ELLIOTT ARNOLD Bar # 202148 A Member of the State Bar of California (Respondent)	Submitted to Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
(for Court use) FILED OCT 26 2009 STATE BAR COURT CLERK'S OFFICE LOS ANGELES		

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 June 14, 1999
(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 8 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.

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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 _____
- (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" (above)
- (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.
- (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.
- (8) **No aggravating circumstances are involved.**

Additional aggravating circumstances:

(Do not write above this line.)

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 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 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:

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: DONALD ELLIOTT ARNOLD

CASE NUMBERS: 04-C-15249; 05-N-04969

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.

Facts for Case No. 04-C-15249:

1. On August 19, 2004, a Los Angeles Sheriff's Deputy conducted a traffic stop on Respondent due to the headlight on his vehicle not working. Upon making contact with Respondent in the vehicle, the officer noticed that Respondent exhibited symptoms of being under the influence of a central nervous system stimulant: forehead sweaty; pupils were dilated; and Respondent acted agitated, nervous, and confused. The officer conducted an investigation. During this time, Respondent admitted that he had a pipe and cocaine in the vehicle which the officer later located. Respondent was placed under arrest.

2. On October 14, 2004, in Los Angeles Superior Court, case no. MA029694, Respondent pled guilty to a felony violation of Health and Safety Code section 11350(a): Possession of Narcotic Controlled Substance. The Court placed Respondent in the deferred entry of judgment program for a period of 18 months during which time Respondent was to comply with a series of requirements related to drug abuse rehabilitation.

3. On June 1, 2005, after missing several court appearances and bench warrants having been issued, Respondent again appeared in court and the following sentence was imposed: Respondent was placed on formal probation for 36 months under the terms and conditions of proposition 36- which is a program designed to treat defendants with drug and/or alcohol addiction.

4. On July 13, 2005, Respondent failed to appear for a mandatory court appearance. A bench warrant was issued and Respondent was terminated from the proposition 36 program.

5. On August 4, 2005, Respondent, who was in custody at that time on the earlier issued bench warrant, was reinstated to the proposition 36 program.

6. On August 18, 2005, Respondent failed to appear for a mandatory court appearance. A bench warrant was issued and Respondent was terminated from the proposition 36 program.

7. On September 6, 2005, Respondent, who was in custody at that time on the earlier issued bench warrant, was reinstated to the proposition 36 program.

8. On October 25, 2005, Respondent failed to appear for a mandatory court appearance. A bench warrant was issued and Respondent was terminated from the proposition 36 program.

9. On November 17, 2005, who was in custody at that time on the earlier issued bench warrant, was reinstated to the proposition 36 program. The court further advised Respondent that if he failed to enter and remain at Tarzana Residential for treatment, he would be sent out for sentencing.

Conclusions of Law for Case No. 04-C-15249:

10. The facts and circumstances surrounding Respondent's conviction do not involve moral turpitude but do involve other misconduct warranting discipline pursuant to Business and Professions Code, sections 6101 and 6102.

Facts for Case No. 05-N-04969:

11. On June 15, 2005, the Review Department of the State Bar issued an order effective July 22, 2005, suspending Respondent ("Suspension Order") in State Bar Court case no. 04-C-15249. The Suspension Order provided that since Respondent had been convicted of violating Health & Safety Code section 11350, subdivision (a), a felony which may or may not involve moral turpitude, under the authority of California Rules of Court, rule 951(a), that Respondent be suspended from the practice of law, effective July 22, 2005, pending final disposition of the criminal conviction proceeding in the State Bar Court.

12. In the Suspension Order, Respondent was ordered to comply with Rule 955 of the California Rules of Court, subdivisions (a) and (c). Subdivision (a) required Respondent to inform all his clients of his suspension within thirty (30) days after the effective date of July 22, 2005; and subdivision (c) required Respondent to file a proof of compliance with the State Bar Court within forty (40) days of July 22, 2005. A true and correct copy of the Suspension Order is attached hereto as Exhibit 1.

13. On June 15, 2005, the Clerk of the Review Department of the State Bar properly served Respondent with a copy of the Suspension Order at his State Bar membership records address.

14. On June 22, 2005, Probation Deputy Yolanda Acosta of the State Bar's Office of Probation sent a letter to Respondent enclosing copies of the Suspension Order and a form affidavit of compliance with Rule 955, and informing him that the completed affidavit was to be filed with the State Bar Court no later than August 24, 2005. In fact, Respondent's affidavit was due to be filed within 40 days of the effective date of the Suspension Order, or by September 1, 2005. The Probation Deputy's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar of California membership records address. The letter was mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

15. On July 5, 2005, the United States Postal Service returned the Probation Deputy's letter dated June 22, 2005, marked "RETURN TO SENDER - NO LONGER HERE".

16. On December 5, 2005, State Bar Deputy Trial Counsel Erin Joyce sent a letter to Respondent informing him that the State Bar was prepared to proceed with charges based on his failure to comply with California Rule of Court 955. The December 5, 2005 letter was placed in

a sealed envelope correctly addressed to Respondent at his State Bar of California membership records address. The letter was mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

17. On December 13, 2005, the United States Postal Service returned the December 5, 2005 letter marked "RETURN TO SENDER – NO FORWARDING ADDRESS".

18. On December 13, 2005, Deputy Trial Counsel Joyce spoke with Respondent, who called after having spoken with someone at his old firm about the mail the firm had been receiving from the State Bar addressed to Respondent. Respondent had failed to update his State Bar membership address after leaving the firm in Summer 2004.

19. Respondent came to the State Bar's offices on December 14, 2005, and together, Deputy Trial Counsel Joyce and Respondent completed Respondent's Rule 955 declaration and filed it with the State Bar Court that day.

Conclusions of Law for Case No. 05-N-04969:

20. By failing to timely file the Rule 955 affidavit of compliance with the State Bar Court, Respondent wilfully disobeyed a court order ordering him to do acts in the course of his profession which he ought in good faith should do in wilful violation of Business and Professions Code section 6103.

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In the Matter of DONALD ELLIOTT ARNOLD Member #202148	Case number(s): 04-C-15249; 05-N-04969
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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>10/12/06</u> Date	 Respondent's signature	<u>DONALD E. ARNOLD</u> Print name
_____ Date	_____ Respondent's Counsel's signature	_____ Print name
<u>Oct. 11, 2006</u> Date	 Deputy Trial Counsel's signature	<u>DAVID T. SAUBER</u> Print name

(Do not write above this line.)

In the Matter of DONALD ELLIOTT ARNOLD Member #202148	Case number(s): 04-C-15249; 05-N-04969
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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.)

12/12/06
Date


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 Los Angeles, on January 5, 2007, I deposited a true copy of the following document(s):

STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS;

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:


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

**DONALD E. ARNOLD
ALTMAN & LUNCHE
16255 VENTURA BLVD #1110
ENCINO, CA 91436**

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

David Sauber, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 5, 2007**.


Milagro del R. Salmeron
Case Administrator
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 Los Angeles, on December 21, 2009, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING CERTAIN DOCUMENTS and
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

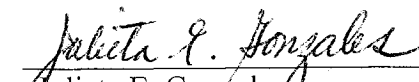
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DONALD E ARNOLD ESQ
ALTMAN & LUNCHE
16255 VENTURA BLVD #1110
ENCINO, CA 91436

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

Charles A. Murray, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 21, 2009.



Julieta E. Gonzales
Case Administrator
State Bar Court