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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ALTERNATIVE DISCIPLINE PROGRAM</b>		
<b>Counsel For The State Bar</b>  Charles A. Murray Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2299 (213) 765-1236  Bar # 146069	<b>Case Number (s)</b> 08-O-12962	<b>(for Court's use)</b>  <div style="text-align: center;"> <b>FILED</b>  <b>JAN 12 2010</b>  STATE BAR COURT  CLERK'S OFFICE  LOS ANGELES </div>
<b>In Pro Per Respondent</b>  Jerald S. Bennett 29230 Mammoth Place Canyon Lake, CA 92587  Bar # 123450	Submitted to: <b>Program Judge</b> SECOND ADDENDUM TO ADP <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b> FOR CASE NO. 04-O-11788, et al.  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter Of:</b> JERALD S. BENNETT  Bar # 123450  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:

- (1) Respondent is a member of the State Bar of California, admitted June 10, 1986.
- (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, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the 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 consists of 8 pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".



- (6) 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 [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1) ☒ **Prior record of discipline** [see standard 1.2(f)]
  - (a) ☒ State Bar Court case # of prior case 03-O-00803
  - (b) ☒ Date prior discipline effective November 11, 2004
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: RPC: 3-110(A); 3-310(C); 3-700(D)(1); 3-700(D)(2); 4-100(B)(3); BPC: 6068(m); 6106; 6068(i)
  - (d) ☒ Degree of prior discipline 2 yrs suspension, stayed; 1 yr and until restitution and rule 205 motion actual suspension
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided 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.
- (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 victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (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 SECOND ADDENDUM TO**

**ADP STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

**FOR CASE NO. 04-O-11788, et al.**

IN THE MATTER OF:      **JERALD SCOTT BENNETT**      MEMBER # **123450**

CASE NUMBER(s):      **08-O-12962**

**PENDING PROCEEDINGS**

The disclosure date referred to on page one, paragraph A.(6), is September 13, 2009.

**STIPULATION AS TO FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct, or that s he has otherwise committed acts of misconduct warranting discipline, as follows:

**Facts for Case No. 08-O-12962**

1.      On January 12, 2006, the Hearing Department of the State Bar Court of California filed an Order Terminating Actual Suspension, in State Bar Case Nos. 03-O-00803 & 03-O-01064, consolidated, (hereinafter "January 12 Order"). The January 12 Order was mailed to Respondent, who received it. The January 12 Order directed that Respondent be placed on probation for a period of three years, subject to certain probation conditions, including:

a.      that Respondent's three year period of probation was to commence upon the effective date of the January 12 Order, to wit: January 12, 2006;

b.      that Respondent submit written quarterly reports (hereinafter "Quarterly Reports") to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation;

c.      that Respondent obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist or clinical social worker at Respondent's own expense a minimum of one time each week in individual therapy sessions, to commence no later than thirty (30) days after the effective date of the January 12 Order, and furnish evidence of Respondent's compliance therewith ("Treatment Reports") to the Office of Probation with each Quarterly Report;

d. that, within one year of the effective date of the January 12 Order, Respondent submit to the Office of Probation satisfactory evidence of his completion of no less than six hours of State Bar-approved Minimum Continuing Legal Education courses in law office management ("MCLE Proof"), in addition to those obligations otherwise required for maintenance of his license to practice law in California; and

e. that Respondent comply with all conditions attached to his disciplinary probation.

2. Respondent failed to timely file his Quarterly Reports due in July and October of 2006.

(a) The Quarterly Report due by July 10, 2006 was not submitted until August 4, 2006.

(b) The Quarterly Report due by October 10, 2006 was not submitted until October 12, 2006.

3. Respondent failed to file his Quarterly Reports due in January, April, July, and October of 2007, and in January, April, and July of 2008.

(a) No acceptable report was ever filed for the Quarterly Report due by January 10, 2007. Respondent submitted a defective report on January 18, 2007 but never submitted an acceptable report.

(b) No acceptable report was ever filed for the Quarterly Report due by April 10, 2007. Respondent submitted a defective report on April 13, 2007 but never submitted an acceptable report.

(c) No acceptable report was ever filed for the Quarterly Report due by July 10, 2007. Respondent submitted a defective report on July 11, 2007 but never submitted an acceptable report.

In a letter dated July 14, 2007, the Office of Probation advised Respondent that the January, April and July 2007 reports were defective and requested Respondent to submit corrected reports. The letter was mailed to Respondent at his then Membership Records address and was not returned as undeliverable. Respondent received this letter.

(d) Respondent submitted no Quarterly Report at all for the report due October 10, 2007, or the Quarterly Reports due by the 10<sup>th</sup> day of January, April and July, 2008.

4. Respondent failed to timely submit his Treatment Reports due in July and October of 2006, and in January, April, and July of 2007.

- (a) The Mental Health Report due by July 10, 2006 was not submitted until August 4, 2006.
- (b) The Mental Health Report due by October 10, 2006 was not submitted until October 12, 2006.
- (c) The Mental Health Report due by January 10, 2007 was not submitted until January 18, 2007.
- (d) The Mental Health Report due by April 10, 2007 was not submitted until April 13, 2007.
- (e) The Mental Health Report due by July 10, 2007 was not submitted until July 11, 2007.

5. Respondent failed to submit his Treatment Reports due in October of 2007, and in January, April, and July of 2008.

6. Respondent failed to submit proof of no less than six hours of State Bar-approved Minimum Continuing Legal Education courses in law office management.

Respondent did submit proof of six hours of MCLE related to the practice of law in January 2007, however these courses were not approved in law office management as required by the Order.

7. On Respondent's Quarterly Report filed October 12, 2006 (which was due on October 10, 2006), Respondent declared, under the penalty of perjury under the laws of the State of California, that during the preceding calendar quarter, he had complied with all provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California.

8. The representation made in Respondent's Quarterly Report filed October 12, 2006 and referred to in the preceding paragraph was false, and known to Respondent to be false, in that Respondent's failure to timely file his Quarterly Report in July of 2006, and his failure to timely file his Treatment Report in July of 2006 constituted violations of Business and Professions Code, section 6068(k).

#### **Conclusions of Law for Case No. 08-O-12962**

9. By not timely filing his Quarterly Reports due in July and October of 2006; by not filing his Quarterly Reports due in January, April, July, and October of 2007, and in January, April, and July of 2008; by not timely submitting his Treatment Reports due in July and October of 2006, and in January, April, and July of 2007; by failing to submit his Treatment Reports due in October of 2007, and in January, April, and July of 2008; and by failing to submit his MCLE Proof, as set forth above, Respondent failed to comply with all conditions attached to a disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).

10. By making an intentional misrepresentation in his Quarterly Report filed October 12, 2006, under the penalty of perjury under the laws of the State of California, to wit: that he had complied with all provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California, despite knowing that he had violated Business and Professions Code Section 6068(k) by failing to timely file his Quarterly Report in July of 2006 and his failing to timely file his Treatment Report in July of 2006, Respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

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In the Matter of JERALD S. BENNETT	Case number(s): 08-O-12962
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### SIGNATURE OF THE PARTIES

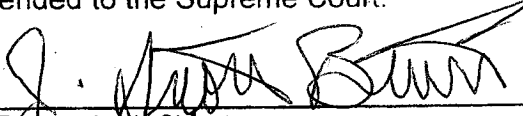
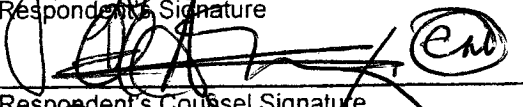
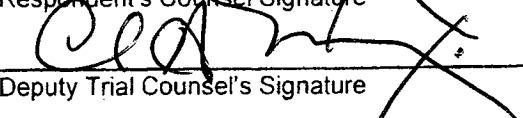
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

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, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

9-3-09  
Date  
Cm 9/15/09  
Date  
9/15/09  
Date

  
Respondent's Signature  
  
Respondent's Counsel Signature  
  
Deputy Trial Counsel's Signature

JERALD S. BENNETT  
Print Name

Print Name

CHARLES A. MURRAY  
Print Name



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In the Matter Of  
**JERALD S. BENNETT**

Case Number(s):  
**08-O-12962**

### 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(a), Rules of Procedure.)

Date

1-12-10

Judge of the State Bar Court

**RICHARD A. HONN**

## 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 12, 2010, I deposited a true copy of the following document(s):

SECOND ADDENDUM TO ADP STIPULATION RE FACTS AND CONCLUSIONS  
OF LAW FOR CASE NO. 04-O-11788, ET AL.

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

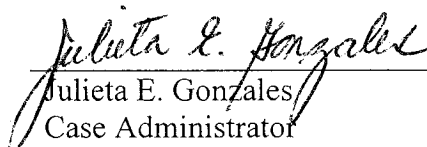
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JERALD S BENNETT ESQ  
35328 TRAILSIDE DR  
LAKE ELSINORE, CA 92532

- ☒ 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 January 12, 2010.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court