


PUBLIC MATTER

ORIGINAL

(Do not write above this line.)

<p align="center">State Bar Court of California</p> <p>Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco</p>		
<p>Counsel for the State Bar</p> <p>Terrie Goldade Deputy Trial Counsel 1149 S. Hill St. Los Angeles, CA 90015 (213) 765-1494 Bar # 155348</p>	<p>Case number(s)</p> <p>04-0-11861 04-0-13785 05-0-00291 05-0-02583</p> <p>kwiktag® 022 605 220</p> 	<p>(for Court's use)</p> <p align="center">FILED</p> <p align="center">SEP 15 2005</p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p><input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent</p> <p>David C. Carr 600 W. Broadway #900 San Diego, CA 92101 (619) 515-1155 Bar # 124510</p>	<p>Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of</p> <p>Robert Michael Nusbaum</p> <p>Bar # 149672</p> <p>A Member of the State Bar of California (Respondent)</p>		

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:

- Respondent is a member of the State Bar of California, admitted December 5, 1990
 (date)
- The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- All investigations or proceedings listed by case number in the caption of this stipulation, are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 17 pages.
- A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- 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.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
- ☒ costs to be paid in equal amounts prior to February 1 for the following membership years:
2006, 2007, & 2008
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- ☐ costs entirely waived

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 00-0-11043; 01-0-01841; 01-0-01179; 99-0-12413; 00-0-13842; 00-0-12925

(b) ☒ Date prior discipline effective December 29, 2001

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: "RPC" - B.P. 4 counts RPC 3-110(A)(failure to

perform competently); RPC 3-500(failure to communicate); 2 counts RPC 3-700(D)(2) (failure

to refund unearned fees); B.P. 6065(c)(failure to cooperate); 4 counts B.P. 6068(c)(failure to communicate).

(d) ☒ Degree of prior discipline 1 year + until restitution, stayed, 2 years probation, 60 days actual suspension.

(e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline." See Attachment.

(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.

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- (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.

(Do not write above this line.)

- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances: See Attachment.

D. Discipline:

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of 5 years
- i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☒ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following: _____
- (b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of 5 years
which will commence upon the effective date of the Supreme Court order in this matter.
(See rule 953, Calif. Rules of Ct.)

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(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of 2 years

i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(II), Standards for Attorney Sanctions for Professional Misconduct

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following: _____

E. Additional Conditions of Probation:

(1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(II), Standards for Attorney Sanctions for Professional Misconduct.

(2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

(6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

(7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

(Do not write above this line.)

- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: _____
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: _____
- (2) ☒ **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: _____
- (5) ☐ **Other Conditions:**

(Do not write above this line.)

In the Matter of Robert Michael Nusbaum	Case Number(s): 04-0-11861 04-0-13785 05-0-00291; 05-0-02583
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Law Office Management Conditions

- a. ☐ Within ___ days/ ___ months/ ___ years of the effective date of the discipline herein, Respondent must develop a law office management/ organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. ☒ Within ___ days/ 18 months ___ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than 12 hours of Minimum Continuing Legal Education (MCLE) approved courses in ~~law~~ law ~~office management, attorney-client relations and/or~~ general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. ☐ Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for ___ year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

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In the Matter of Robert Michael Nusbamm	Case Number(s): 04-0-11861; 04-0-13785; 05-0-00291; 05-0-02583
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Financial Conditions

a. Restitution

- ☒ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF of the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Anne E. Stilwagen	\$2000-	July 15, 2003

- ☒ Respondent must pay the above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 1 year from the effective date

b. Installment Restitution Payments

- ☒ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Anne E. Stilwagen	\$600-	quarterly

c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Do not write above this line.)

In the Matter of Robert Michael Nusbaum	Case Number(s): 04-0-11861 04-0-13785 05-0-00291; 05-0-02583
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b. Respondent has kept and maintained the following:

- i. a written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. **Client Trust Accounting School**



Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Robert Michael Nusbaum

CASE NUMBERS: 04-O-11861, 04-O-13785, 05-O-00291, 05-O-02583

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.

Case No. 04-O-11861

1. On or about November 5, 2003, Gina Hmiel hired Respondent to represent her in a marriage dissolution matter. On or about that date, Hmiel paid Respondent \$2,500 in advanced legal fees and \$350 for advanced court costs.

2. On or about February 13, 2004, Hmiel spoke with Respondent's employee, Laura, and requested a billing statement. Laura informed Hmiel that Respondent would not be available until Tuesday so the statement would not be finished until Thursday.

3. On or about February 19, 2004, Respondent signed a substitution of attorney for another attorney to take over Hmiel's matter.

4. On or about February 20, 2004, after not receiving a billing statement from Respondent, Hmiel spoke with Respondent's employee Debby who stated that it would take Respondent 2 to 3 weeks to complete an itemized statement.

5. In or about mid-March 2004, after not receiving a billing statement from Respondent, Hmiel telephoned Respondent and was told that he would not be in that day and to leave a message. Hmiel had a friend telephone Respondent approximately five minutes later. The friend was immediately put through to Respondent and asked about Hmiel's billing statement. Respondent stated that he had not gotten around to it yet.

6. On or about March 23, 2004, Hmiel mailed Respondent a letter by certified mail setting forth her previous attempts to receive an itemized billing statement and again requesting such statement. Respondent's employee, Deborah Saffery, received and signed for the letter.

7. To date, Respondent has failed to respond to Hmiel's requests for an itemized billing statement in any manner.

8. Respondent did not provide services of any value to Hmiel. Respondent did not earn any of the advanced fees paid by Hmiel. Respondent did not refund Hmiel's \$2,500 until on or about June 10, 2005.

Legal Conclusion:

By failing to respond to Hmiel's requests for an itemized billing statement, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code, section 6068(m).

By not promptly refunding the \$2,500 to Hmiel, Respondent failed to promptly refund unearned fees in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 04-O-13785

9. On or about July 21, 2004, Mary Sargent and Edward Rodriguez employed Respondent to represent Rodriguez in relation to paternity matters. On or about that date, Sargent paid Respondent \$3,500 in advanced legal fees and \$400 as advanced costs.

10. At no time did Respondent inform Sargent or Rodriguez that he would be actually suspended from the practice of law for 60 days effective August 8, 2004 as a result of State Bar discipline.

11. On or about July 22, 2004, Sargent and Rodriguez learned from a court clerk that Respondent was going to be suspended as a result of discipline effective August 8, 2004.

12. On or about July 23, 2004, Sargent went to Respondent's office and terminated his services and requested a full refund.

13. Respondent provided no services to Sargent or Rodriguez. Respondent did not earn any of the advanced fees paid by Sargent or Rodriguez. Respondent incurred no costs in relation to Sargent or Rodriguez. Respondent did not refund the \$3,900 paid by Sargent until on or about June 10, 2005.

Legal Conclusion:

By failing to inform Sargent or Rodriguez that he would be actually suspended from the practice of law for 60 days effective August 8, 2004 as a result of State Bar discipline, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code, section 6068(m).

By not promptly refunding the \$3,500 to Sargent or Rodriguez, Respondent failed to promptly refund unearned fees in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

By not promptly refunding the \$400 to Sargent or Rodriguez, Respondent failed to promptly refund funds which his client was entitled to receive in wilful violation of Rules of Professional Conduct, rule 4-100(B)(4).

Case No. 05-O-00291

14. On or about December 23, 2003, Israel Wareham hired Respondent to represent Wareham in relation to a child support matter.

15. On or about December 26, 2003, Wareham paid Respondent \$500 as advanced legal fees.

16. On or about December 31, 2003, Respondent mailed a letter to Los Angeles County Child Support Services Department ("CSSD") notifying them that he was representing Wareham and would provide requested documentation soon.

17. On or about January 15, 2004, Wareham provided Respondent's employee, a secretary by the name of Laura, with paycheck stubs and income information.

18. On or about February 4, 2004, Wareham paid Respondent \$2,000 as advanced legal fees and \$400 as advanced costs.

19. On or about March 1, 2004, Wareham went to Respondent's office to check on the status of matter. Respondent's employee Laura asked Wareham to leave because he did not have an appointment and stated that Respondent would be given a message.

20. On or about March 2, 2004, Respondent's employee Laura telephoned Wareham and told him that she was preparing the necessary documentation and would look over the case.

21. On or about May 1, 2004, Wareham went to Respondent's office to check on the status of the matter. Respondent's employee asked Wareham to leave because he did not have an appointment and stated that Respondent would be given a message. Respondent did not respond in any manner.

22. Between in or about June and October 2004, Wareham telephoned Respondent's office approximately once a week to obtain the status of his matter. Wareham was told each time that Respondent was not in the office. Wareham left messages with Respondent's employee requesting a return call. Respondent did not respond in any manner.

23. In or about July or August 2004, Wareham went to Respondent's office to terminate Respondent and asked Respondent's employee Laura for a refund. Laura stated that she had been very busy and asked Wareham to provide the information he had already provided. She further stated that she would tell Respondent to call Wareham.

24. On or about September 2, 2004, Wareham received a letter from CSSD stating that it was requesting income information from his employer, since it had not been received from any other source.

25. On or about November 10, 2004, Wareham went to Respondent's office for an appointment that he had made under a fictitious name. At that time, Wareham terminated Respondent's services and requested a refund of his \$2,900 and handed Respondent a letter reiterating such termination and request for refund.

26. Respondent performed no services for Wareham.

27. Respondent did not earn any of the advanced fees paid by Wareham. Respondent did not refund the \$2,500 paid by Wareham until on or about June 10, 2005.

28. Respondent did not pay any costs in relation to Wareham. Respondent did not refund the \$400 paid by Wareham until on or about June 10, 2005.

Legal Conclusions:

By not performing any services for Wareham, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

By not promptly refunding the \$2,500 to Wareham, Respondent failed to promptly refund unearned fees in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2)

By not promptly refunding the \$400 to Wareham, Respondent failed to promptly refund funds which his client was entitled to receive in wilful violation of Rules of Professional Conduct, rule 4-100(B)(4).

Case No. 05-O-02583

30. On or about July 15, 2003, Anne E. Stilwagen hired Respondent to file a dissolution of marriage and to remove a lien that had been placed on her home. On or about that date she paid Respondent \$1,000 as advanced attorney fees on a flat fee of \$2,000.

31. On or about July 29, 2003, Stilwagen again met briefly with Respondent. That was the last time she ever had contact with him.

32. Between in or about July 2003 and January 2005, Stilwagen attempted to contact Respondent on numerous occasions to determine the status of her matter. Each time Stilwagen left messages for Respondent with his secretary.

33. Between in or about July 2003 and January 2005, Respondent failed to provide any services on Stilwagen's behalf.

34. By January 8, 2004, Stilwagen had paid Respondent the remaining \$1,000 on his flat fee.

35. On or about January 31, 2005, Stilwagen sent a letter to Respondent terminating his services and requesting a full refund.

36. To date, Respondent has failed to refund any of the \$2,000 paid by Stilwagen.

Legal Conclusions:

By not performing any services for Stilwagen, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

By not refunding the \$2,000 to Stilwagen, Respondent failed to refund unearned fees. in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2)

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was August 9, 2005.

AGGRAVATING CIRCUMSTANCES.

PRIOR DISCIPLINE.

State Bar Court case #: 02-O-13937; 03-O-01330; 03-O-01476.

Date prior discipline effective: August 7, 2004

Rules of Professional Conduct ("RPC")/State Bar Act ("B&P") violations:

RPC 3-110(A) (failure to perform competently); RPC 4-100(A) (failure to deposit into a client trust account); 3 counts RPC 4-100(B)(3) (failure to promptly account); RPC 4-100(B)(4) (failure to promptly pay out funds to client).

Degree of prior discipline: 2 years, stayed, 2 years probation with 60 days actual suspension.

MITIGATING CIRCUMSTANCES.

Beginning in early 2004, Respondent experienced family difficulties arising from counseling that a family member was required to attend. Such counseling required Respondent's time and money. Respondent also contends that the family difficulties caused him emotional distress making it difficult for him to concentrate on his work.

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(Do not write above this line.)

In the Matter of Robert Michael Nusbaum	Case number(s): 04-0-11861 04-0-13785 05-0-00291 05-0-02583
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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, Conclusions of Law and Disposition.

8/3/05
Date

[Signature]
Respondent's signature

Robert Michael Nusbaum
Print name

Date

Respondent's Counsel's signature

David C. Carr
Print name

Date

Deputy Trial Counsel's signature

Terrie Goldade
Print name

_____ [Faint text]	_____ [Faint text]
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In the Matter of Robert Michael Nusbaum	Case number(s): 04-0-11861 04-0-13785 05-0-00291 05-0-02583
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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, Conclusions of Law and Disposition.

8/31/05

Date



Respondent's signature

Robert Michael Nusbaum

Print name

8/31/05

Date



Respondent's Counsel's signature

David C. Carr

Print name

9/7/05

Date



Deputy Trial Counsel's signature

Terrie Goldade

Print name

15A

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In the Matter of ROBERT MICHAEL NUSBAUM	Case number(s): 04-O-11861; 04-O-13785; 05-O-00291; 05-O-02583
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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 stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

Page 2, (8) (c) Should Read: 2007, 2008 and 2009.

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. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)**

09-13-05
Date


RICHARD A. PLATEL
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 September 15, 2005, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING**

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

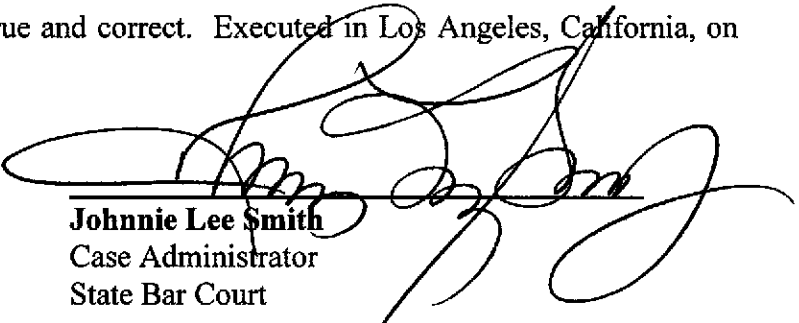
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**DAVID C. CARR
600 W BROADWAY STE 900
SAN DIEGO CA 92101 3354**

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

TERRIE GOLDADE , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 15, 2005.**


Johnnie Lee Smith
Case Administrator
State Bar Court