




(Do not write above this line.)

State Bar Court of California		
Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco		
Counsel for the State Bar Wonder J. Liang Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2372  Bar # 184357	Case number(s) 04-0-14889 <b>PUBLIC MATTER</b>	(for Court's use)  <div style="text-align: center;"> <b>FILED</b>   <b>OCT 06 2005</b>          STATE BAR COURT CLERK'S OFFICE          SAN FRANCISCO       </div>
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Jerome Fishkin Attorney At Law 369 Pine Street, STE 627 San Francisco, CA 94104 (415) 403-1300 Bar # 47798	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of  BRIAN V. DONNELLY Bar # 162987 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 December 29, 1992  
(date)
- (2) 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.
- (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. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 16 pages.
- (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) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) 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.

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

- (a) ☐ costs added to membership fee for calendar year following effective date of discipline (public reproof)
- (b) ☐ case ineligible for costs (private reproof)
- (c) ☒ costs to be paid in equal amounts for the following membership years:  
2006 and 2007  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- (d) ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (e) ☐ costs entirely waived

(9) The parties understand that:

- (a) ☐ A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) ☐ A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) ☒ A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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 \_\_\_\_\_

(b) ☐ Date prior discipline effective \_\_\_\_\_

(c) ☐ Rules of Professional Conduct/ State Bar Act violations: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(d) ☐ Degree of prior discipline \_\_\_\_\_

(Do not write above this line.)

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

- (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. Please refer to page 13 [Attachment Page 6] of this stipulation.
- (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. Please refer to page 13 [Attachment Page 6] of this stipulation.
- (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.

(Do not write above this line.)

- (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:**

(Do not write above this line.)

#### D. Discipline:

- (1) ☐ Private reproof (check applicable conditions, if any, below)
- (a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) ☐ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) ☒ Public reproof (check applicable conditions, if any, below)

#### E. Conditions Attached to Reproof:

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of  
TWO (2) YEARS
- (2) ☒ During the condition period attached to the reproof, 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 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 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 thirty (30) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 such reports as may be requested, in addition to quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

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- (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 conditions attached to the reproof.
- (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 of the Ethics School and passage of the test given at the end of that session.
- ☐ No Ethics School ordered. 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 required to be filed with the Office of Probation.
- (10) ☒ 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 within one year of the effective date of the reproof.
- ☐ No MPRE ordered. Reason: \_\_\_\_\_
- (11) ☒ 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 type="checkbox"/> Financial Conditions                        |

**F. Other Conditions Negotiated by the Parties:**

Please refer to page 14 [Attachment Page 7] of this stipulation.

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In the Matter of BRIAN V. DONNELLY SBN 162987	Case Number(s): 04-0-14889
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### Law Office Management Conditions

- a. ☒ Within 90 days/ 0 months/ 0 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 0 days/ 0 months 2 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 3 hours of Minimum Continuing Legal Education (MCLE) approved courses in 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.

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        BRIAN V. DONNELLY, SBN 162987

CASE NUMBER(S):        04-O-14889

**FACTS AND CONCLUSIONS OF LAW.**

**Facts: Count One:**

1. On or about October 27, 2002, Robert and Michelle Munn employed Respondent to represent them in the acquisition of a business, English Garden Care, Inc. ("English Garden Care"). At this time, Mr. & Mrs. Munn entered a retainer agreement with Respondent and paid him \$1,000.00. In or around 2002, Respondent prepared an Asset Purchase Agreement with the previous owners, John Daniels, Sidney Crain, and Crain-Daniels Enterprises, Inc. ("the defendants").
2. In or around October 2003, Mr. & Mrs. Munn discovered that the defendants had breached the Asset Purchase Agreement. During the period between in or around December 2003 and August 2004, Mr. & Mrs. Munn wired approximately \$32,000.00 directly to Respondent's client trust account in lieu of making monthly payments to the defendants.
3. On or about January 22, 2004, Respondent filed a Verified Complaint for Damages on behalf of English Garden Care and Mr. & Mrs. Munn against the defendants for breach of contract and misrepresentation, entitled, *English Garden Care, Inc., et al. v. Daniels, et al.*, Sacramento County Superior Court, case no. 04AS00223.
4. On or about February 25, 2004, the defendants served Form Interrogatories, Requests for Admissions, and a Demand for Production and Inspection of Documents and Tangible Things ("Production Demand") on Respondent.
5. On or about March 30, 2004, Respondent informed Mrs. Munn that the defendants had made discovery requests and that a response was due that day. Respondent then introduced Mrs. Munn to an associate Jonathon Blum. Mrs. Munn worked with Mr. Blum and answered the Form Interrogatories and Requests for Admissions. They also discussed filing objections to the Production Demand.
6. On or about March 31, 2004, Respondent sent the defendants a Response to Demand



for Production and Inspection of Documents and Tangible Things in which he asserted objections.

7. On or about May 14, 2004, the defendants filed a Motion to Compel Further Responses to the Production Demand and for the Production of Documents ("Motion to Compel"). At no time did Respondent inform Mr. & Mrs. Munn of this motion.

8. By on or about June 9, 2004, Respondent did not file an opposition to this motion.

9. On or about June 9, 2004, the court issued an order granting the Motion to Compel and directing Mr. & Mrs. Munn to provide further verified responses to the Request for Production (Set One) by June 21, 2004. The court served Respondent with its order granting the motion to compel. At no time did Respondent comply with or inform Mr. & Mrs. Munn of this order.

10. On or about May 26, 2004, Respondent was served with a Notice of Case Management Conference and Order to Appear on July 29, 2004 ("CMC Notice"). The notice stated that "all parties must file and serve a case management statement at least 15 days before the case management conference." By July 14, 2004, or thereafter, Respondent did not file a CMC statement on behalf of Mr. & Mrs. Munn.

11. By failing to file a timely CMC Statement, the court sanctioned Respondent \$150.00.

12. On or about August 13, 2004, Respondent was served with the defendants' Motion for Sanctions for Disobedience to Prior Court Orders ("Motion for Sanctions"), requesting terminating sanctions and the dismissal of Mr. & Mrs. Munn's complaint. At no time did Respondent file an opposition to the Motion for Sanctions. At no time did Respondent inform Mr. & Mrs. Munn of the Motion for Sanctions or his failure to file an opposition.

13. On or about August 27, 2004, Mr. & Mrs. Munn employed new counsel, Tom Knox, to represent them. On or about September 7, 2004, Mr. Knox sent a letter to Respondent indicating that Mr. & Mrs. Munn had retained Mr. Knox to represent them and asking Respondent to execute a Substitution of Attorneys ("Substitution"). The letter was sent by facsimile and by mail to Respondent.

14. On or about September 9, 2004, while Respondent still served as the attorney of record for Mr. & Mrs. Munn, the court issued an order dismissing Mr. & Mrs. Munn's complaint and striking their answer to the cross-complaint. At no time did Respondent inform Mr. & Mrs. Munn or Mr. Knox of this court order.

15. During the period between on or about September 8, 2004, through September 15,

2004, Mr. Knox made several telephone calls to Respondent requesting Mr. & Mrs. Munn's file and the execution of the Substitution. On or about September 16, 2004, having not received the client file or the executed Substitution, Mr. Knox sent a letter to Respondent requesting Mr. & Mrs. Munn's file and the execution of the Substitution. The letter was sent by facsimile and by mail to Respondent.

16. Respondent did not execute and return the Substitution until on or about October 6, 2004, nearly one month after Mr. Knox's initial request.

17. On or about November 3, 2004, Respondent was served with the Judgment Dismissing Plaintiff's Complaint and Striking Cross-Defendants' Answer to Cross-Complaint ("Judgment"). At no time did Respondent inform Mr. & Mrs. Munn or Mr. Knox of this Judgment.

18. On or about November 12, 2004, Mr. Knox filed a Motion for Order Vacating and Setting Aside Judgment Dismissing Plaintiff's Complaint and Striking Cross-Defendants Answer to Cross-Complaint ("Motion for Order Vacating and Setting Aside Judgment").

19. On or about December 8, 2004, the court granted the Motion for Order Vacating and Setting Aside Judgment, finding "positive misconduct" on the part of Respondent. The court stated in its order, in pertinent part, as follows:

[S]anctions are to be paid by plaintiffs to defendants in the reasonable amount of \$2036.30 . . . . The monetary sanctions are most properly paid by Mr. Donnelly, but in the absence of his paying them, plaintiffs shall pay the sanctions and pursue a claim against Mr. Donnelly for reimbursement.

Conclusions of Law: Count One:

By failing to oppose or comply with the court's order granting the Motion to Compel, failing to file a timely CMC Statement, failing to oppose or respond to the defendants' Motion for Sanctions thus causing the entry of the Judgment dismissing Mr. & Mrs. Munn's complaint, and failing to promptly execute the Substitution, Respondent recklessly and repeatedly failed to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

Facts: Count Two:

20. The allegations of Count One of this Notice of Disciplinary Charges are incorporated by reference.

21. On or about October 20, 2004, Mr. Knox sent a letter to Respondent, requesting the release of Mr. & Mrs. Munn's file. The letter was sent by facsimile and by mail to Respondent.

22. On or about October 28, 2004, still having not received the client file, Mr. Knox sent a letter to Respondent requesting Mr. & Mrs. Munn's file. The letter was sent by facsimile and by mail to Respondent.

23. Respondent did not release the client file until on or about November 2, 2004 — the day before the entry of the Judgment dismissing Mr. & Mrs. Munn's complaint.

24. During the period between in or around December 2003 through in or around June 2004, Mr. & Mrs. Munn wired approximately \$32,000.00 in monthly promissory note payments directly to Respondent's client trust account, as directed by Respondent, pending resolution of the suit against the defendants.

25. In or around June 2004, Mr. & Mrs. Munn requested that Respondent return the promissory note payments they had wired to his client trust account. Respondent did not return the approximate \$32,000.00 to Mr. & Mrs. Munn until on or about October 4, 2004.

Conclusions of Law: Count Two:

By not releasing the client file to Mr. Knox until nearly 2 months after Mr. Knox's initial request and by not refunding the promissory note payments to Mr. & Mrs. Munn until 3 months after their initial request, Respondent failed, upon termination of employment, to release promptly to a client, all the client papers and property in violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

Facts: Count Three:

26. The allegations of Counts One and Two of this Notice of Disciplinary Charges are incorporated by reference.

27. During the period between on or about May 13, 2004, through June 23, 2004, Mrs. Munn repeatedly tried to contact Respondent by telephone and by email to inquire into the status of their case. Respondent did not return her calls or respond to her emails.

Conclusions of Law: Count Three:

By not informing Mr. & Mrs. Munn of the Motion to Compel, the Motion for Sanctions, Respondent's failures to file an opposition to the Motion to Compel or the Motion for Sanctions,

and the Judgment dismissing Mr. & Mrs. Munn's complaint, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services. In addition, by failing to respond to Mrs. Munn's telephone calls and emails during the period between in or around May 2004 through July 2004, Respondent failed to respond promptly to reasonable status inquiries of a client in violation of section 6068(m) of the Business and Professions Code.

Facts: Count Four:

28. The allegations of Counts One through Three of this Notice of Disciplinary Charges are incorporated by reference.

29. Respondent effectively withdrew from representation of Mr. & Mrs. Munn on or around June 9, 2004 when the court entered its order granting the defendants' unopposed Motion to Compel. Respondent did not inform Mr. & Mrs. Munn of his intent to withdraw from representation and actually prejudiced Mr. & Mrs. Munn in their cause of action against the defendants.

Conclusions of Law: Count Four:

By not giving Mr. & Mrs. Munn notice of his termination of employment and causing actual prejudice to Mr. & Mrs. Munn in their cause of action, Respondent improperly withdrew from employment with a client in violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

Facts: Count Five:

30. The allegations of Counts One through Four of this Notice of Disciplinary Charges are incorporated by reference.

Conclusions of Law: Count Five:

By failing to comply with the CMC Notice and the court's order granting the defendants' Motion to Compel, Respondent wilfully disobeyed court orders requiring him to do acts in the course of his profession which he ought in good faith to do in violation of section 6103 of Business and Professions Code.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was August 19, 2005.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 19, 2005, the estimated prosecution costs in this matter are approximately \$1,983.00. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

## **AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.4 (b) of the Standards For Attorney Sanctions For Professional Misconduct provides that culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

## **AGGRAVATING CIRCUMSTANCES.**

### **FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.**

Harm: Due to Respondent's misconduct, the Munns suffered additional financial loss in having to employ counsel to set aside the default.

## **MITIGATING CIRCUMSTANCES.**

### **FACTS SUPPORTING MITIGATING CIRCUMSTANCES.**

No Prior Discipline: Respondent has no record of discipline in the approximate 12 years of practice prior to the current misconduct.

## **STATE BAR ETHICS SCHOOL.**

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

## **OTHER CONDITIONS NEGOTIATED BY THE PARTIES.**

Within TWO (2) 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 THREE (3) HOURS of Minimum Continuing Legal Education (MCLE) approved courses in conducting, preparing and/or responding to formal discovery in preparation for litigation. 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.)

Within TWO (2) 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 THREE (3) HOURS of Minimum Continuing Legal Education (MCLE) approved courses in preparing for and/or conducting trial. 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.)

Respondent hereby represents that he will avoid entering into a complex litigation practice. The purpose of the above-referenced MCLE requirements are to make Respondent aware of the difference between basic versus complex litigation.

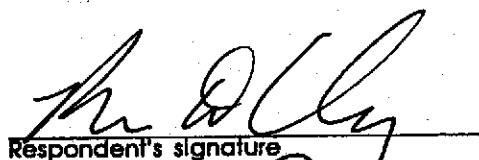
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In the Matter of BRIAN V. DONNELLY SBN 162987	Case number(s): 04-0-14889
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### SIGNATURE OF THE PARTIES

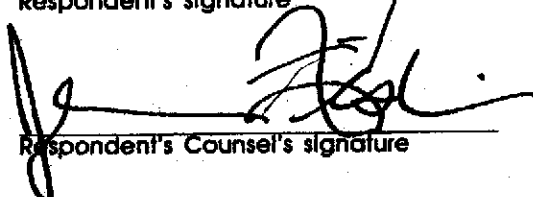
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law and Disposition.

8/30/05  
Date

  
Respondent's signature

BRIAN V. DONNELLY  
Print name

8/31/05  
Date

  
Respondent's Counsel's signature

JEROME FISHKIN  
Print name

9/1/05  
Date

 for  
Deputy Trial Counsel's signature

WONDER J. LIANG  
Print name

(Do not write above this line.)

In the Matter of

BRIAN V. DONNELLY  
SBN 162987

Case number(s):

04-0-14889

## ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☒ 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. (See rule 125(b), Rules of Procedure.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date

10/6/05

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 San Francisco, on October 6, 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:

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

**JEROME FISHKIN  
369 PINE ST #627  
SAN FRANCISCO CA 94104**

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

**WONDER LIANG, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 6, 2005.



**Laurretta Cramer**  
Case Administrator  
State Bar Court