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**State Bar Court of California
Hearing Department
Los Angeles**

<p>Counsel For The State Bar</p> <p>Kevin B. Taylor Supervising Trial Counsel Enforcement 1149 S. Hill Street Los Angeles, California 90015</p> <p>Bar # 151715</p>	<p>Case Number (s) Investigation No. 04-O-15374</p>	<p>(for Court's use)</p> <p align="center">FILED</p> <p align="center">OCT 29 2008 <i>ABC</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p align="center">PUBLIC MATTER</p>
<p>Counsel For Respondent</p> <p>David C. Carr Law Office of David Cameron Carr 3333 Camino del Rio South, Suite 215 San Diego, California 92108 (619) 696-0526</p> <p>Bar # 124510</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: Daniel Joseph Goulding</p> <p>Bar # 120561</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:

- (1) Respondent is a member of the State Bar of California, admitted
- (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 consists of **10** pages, not including 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) 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.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **two (2) billing cycles following the effective date of the Supreme Court order on this matter.**
(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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (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.
- (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

See page 8 of this Stipulation.

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

See page 8 of this Stipulation.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two (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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.

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- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (8) 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.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input 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 within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:

- (2) **Other Conditions:**

COOPERATION AGREEMENT:

Respondent must cooperate fully with the State Bar in any investigation or prosecution it may pursue regarding any attorney involved in any manner with the Estate of James Hervey Johnson, his Charitable Educational Trust or the Trustseeker Trust. In cooperating with the State Bar in any such investigation or prosecution, Respondent agrees to testify truthfully if requested at any related deposition or trial.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: DANIEL JOSEPH GOULDING, State Bar No. 120561
INVESTIGATION NUMBER: 04-O-15374

FACTS AND CONCLUSIONS OF LAW

Respondent was admitted to the practice of law in the State of California on December 16, 1985.

In 1988, James Hervey Johnson, a noted atheist and something of a free thinking philosopher, died, leaving his assets in trust for the purpose of carrying on his work/philosophy. In 1989, that trust was reformed pursuant to a court order which created two trusts, to wit: the Charitable Educational Trust and the Truthseeker Trust. At the time of the court ordered reformation, the collective assets of the two trusts totaled approximately \$16,000,000.

In May 1996, the court appointed Kevin Munnelly and Bonnie Lange as trustees of the two trusts.

From May 1997 through August 2000, Respondent was one of two partners in the law firm of Withers & Goulding. Each partner held a 50% interest in the law firm.

In May 1997, the trustees employed Withers & Goulding to provide legal advice and represent the two trusts and the two trustees. Withers & Goulding continued to represent the trusts and trustees until August 2000, when the law firm's employment was terminated.

Withers & Goulding's work for the trusts and trustees included providing legal advice and representation relating to the financial dealings of the trusts and between the trusts, as well as, providing legal services and representation relating to various legal disputes involving the trusts, trustees and various third parties.

Respondent personally provided a significant amount of the legal services performed by Withers & Goulding for the trusts and trustees.

From May 1997 through August 2000, Withers & Goulding charged and collected no less than \$2,941,000 from the trusts for legal services it had performed and services which it was anticipated the law firm would perform in the future. These legal fees were charged and collected pursuant to an initial invoice for services billed at an hourly rate, four subsequent but overlapping written retainer agreements and four additional requests for payment of fees.

In August 2000, the California Attorney General's Office brought a civil action against Withers, as an individual, Respondent as an individual and the trustees on behalf of the beneficiaries of the trusts. This action alleged that the trustees had mismanaged the trusts in various manners and that Withers & Goulding had collected excessive fees from the trusts.

Although Withers & Goulding provided significant legal services of value to the trusts and trustees during the years it represented them, the law firm did not earn the entire \$2,941,000 it collected.

During the years that Withers & Goulding represented the trusts and trustees, Withers negotiated and established all fee arrangements between the law firm and the trusts and trustees. Nonetheless, during that same period of time, Respondent was aware of the funds that the law firm was collecting from the trusts and that the law firm had not and likely could not provide legal services commensurate with those fees.

In March 2004, the Attorney General's civil action was settled. That settlement established that Withers & Goulding had retained \$480,000 in unearned fees it had collected from the trusts. As part of that settlement, Respondent agreed to refund \$330,000 to the trusts.

Respondent was cooperative with the Attorney General's Office during the pendency of its civil action and willingly agreed to refund more than two thirds of Withers & Goulding's obligation to the trusts.

Respondent paid the trusts \$150,000 just prior to his execution of the settlement agreement with the Attorney General's Office and agreed to pay the remaining \$180,000 at the rate of \$1,500 per month during the ten years following March 2004.

Since entering into the settlement with the Attorney General's Office, Respondent has made his all of his monthly payments to trusts as agreed. As of September 2008, Respondent had paid the trusts \$232,500.

Thereafter, Respondent became able to pay off the balance of the restitution he owed the trusts. Therefore, on October 6, 2008, Respondent paid the trusts \$97,500, completing his restitution obligation to the trusts 5 ½ years sooner than the time frame set forth in his settlement agreement with the Attorney General's Office.

In August 2000, Respondent left the firm of Withers & Goulding and ended his personal and professional relationship with Withers.

Legal Conclusions

By failing to refund any portion of the unearned fees due the trusts until March 2004, Respondent failed to promptly refund unearned fees upon the termination of employment in wilful violation of rule 3-700(D)(2) of the *California Rules of Professional Conduct*.

FACTORS IN AGGRAVATION

Respondent's conduct harmed his clients in that the trusts were deprived of the use of significant funds over a significant period of time.

FACTORS IN MITIGATION

Respondent has no record of prior discipline since being admitted to the State Bar of California and commencing his practice of law in December 1985.

Respondent displayed candor and cooperation with the California Attorney General's Office and the State Bar during their respective investigations of this matter. In so doing, Respondent recognized and acknowledged the wrongfulness of his conduct.

Respondent also demonstrated his remorse by taking affirmative steps to address the harm suffered by his clients as a result of his misconduct.

DISCUSSION RE STIPULATED DISCIPLINE

Standard 1.3 of the *Standards For Attorney Sanctions For Professional Misconduct* provides that the primary purpose of discipline is the protection of the public, the courts and legal profession; maintenance of high professional standards; and the preservation of public confidence in the legal profession.

Standard 2.10 states that reproof or suspension is the appropriate discipline, with due regard to the harm suffered by any victim and the purposes of imposing discipline, for violations of any of the Rules of Professional Conduct not specifically specified in other Standards, such as rule 3-700(D)(2).

The parties submit that the stipulated discipline in this matter complies with the Standards both specifically and with regard to the general purposes and goals of the disciplinary process.

Respondent's misconduct is aggravated by the fact that it harmed his clients and deprived the trusts of their assets for a significant period of time. However, Respondent cooperated with

the California Attorney General's Office, entered into a stipulation with that office and agreed to pay the trusts more than two thirds of Withers & Goulding's obligation to the trusts.

Additionally, Respondent, once he was able to do so, accelerated his restitution payments to the trusts, completing same 5 ½ years early by making a \$97,500 payment in October 2008. Respondent made substantial and concrete efforts to rectify the harm he caused. In so doing, Respondent demonstrated his remorse.

Given the aggravating and mitigating circumstances present in this case, a two year stayed suspension, along with the probationary conditions set forth herein, is consistent with Standard 2.10.

Finally, the parties submit that given Respondent's recognition of wrongdoing, along with his conduct in attempting to rectify the harm he caused, the stipulated discipline and probationary conditions in this matter are sufficient to assure that Respondent will conform his future conduct to ethical standards and, therefore, protect the public, courts and profession. This is consistent with Standard 1.3.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph A.(7), was October 9, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.



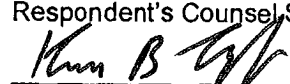
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 9, 2008, the rough estimate of disciplinary costs to be assessed in this matter is \$2000.

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In the Matter of Daniel Joseph Goulding	Case number(s): Investigation No. 04-O-15374
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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 Fact, Conclusions of Law and Disposition.

<u>10/21/08</u> Date	 Respondent's Signature	<u>Daniel Joseph Goulding</u> Print Name
<u>10/21/08</u> Date	 Respondent's Counsel Signature	<u>David C. Carr</u> Print Name
<u>10/23/08</u> Date	 Deputy Trial Counsel's Signature	<u>Kevin B. Taylor</u> Print Name

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In the Matter Of Daniel Joseph Goulding	Case Number(s): Investigation No. 04-O-15374
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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.)

10-29-08
Date


Judge of the State Bar Court

RICHARD A. PLATEL

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 October 29, 2008, 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 CARR
LAW OFFICE OF DAVID C CARR
3333 CAMINO DEL RIO SOUTH, STE 215
SAN DIEGO CA 92108

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:


by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

KEVIN TAYLOR, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 29, 2008.


Angela Owens-Carpenter
Case Administrator
State Bar Court