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State Bar Court of California Hearing Department Los Angeles			kwiktag® 035 132 022 
Counsel For The State Bar Miho Murai Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2299 213-765-1219 Bar # 235178	Case Number (s) 04-O-15864	(for Court's use) <div style="text-align: center;"> FILED AUG 13 2008 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
Counsel For Respondent Kevin P. Gerry 1001 Olive Street Santa Barbara, CA 93101 805-899-2990 805-899-2940 (fax) Bar # 129690	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter Of: LEE H. BENSON Bar # 181663 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 **February 5, 1996**.
- (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 13 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".

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- (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 (public reproof)
 - ☐ case ineligible for costs (private reproof)
 - ☒ costs to be paid in equal amounts for the following membership years: **Costs to be paid in equal amounts prior to February 1 for the following two (2) billing cycles following the effective date of discipline.**
(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
- (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
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."

- (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. **The current misconduct evidences multiple acts of wrongdoing.**
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

N/A

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. **Respondent has been a member of the State Bar since February 1996 but has not been practicing law since December 2002.**
- (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. **Respondent has been candid and cooperative with the State Bar throughout the disciplinary 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.

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- (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:

N/A

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 Reproval:

- (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 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 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 30 (thirty) 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 the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the 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 conditions attached to the reprobation.
- (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: **Respondent attended Ethics School on May 8, 2008 and passed the exam given at the end of the session.**
- (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) ☒ 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 reprobation.
- ☐ No MPRE recommended. Reason:
- (11) ☐ 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:

N/A

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

IN THE MATTER OF: LEE H. BENSON

CASE NUMBER(S): 04-O-15864

**WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND
STIPULATED FACTS AND CULPABILITY**

The parties waive any variance between the Notice of Disciplinary Charges filed on May 6, 2008 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

FACTS AND CONCLUSIONS OF LAW

Lee H. Benson ("Respondent") admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

FACTS

1. Respondent was admitted to the practice of law in the State of California on February 5, 1996, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.
2. On September 20, 2001, Maria Pacheco ("Ms. Pacheco") employed Respondent to represent her in a dissolution action filed by her husband in the Superior Court of California, County of Los Angeles, entitled, *In re Marriage of Pacheco*, Case Number PD030855 (the "dissolution matter"). At that meeting Ms. Pacheco paid Respondent a consultation fee of \$50.00.
3. On September 28, 2001, Ms. Pacheco paid Respondent \$1,000.00 in advanced attorney fees. On September 30, 2001, Ms. Pacheco paid Respondent \$500.00 in advanced attorney fees. On October 19, 2001, Ms. Pacheco paid Respondent \$1,500.00 in advanced attorney fees.
4. On November 2, 2001, Respondent filed a Response to Petition on behalf of Ms. Pacheco in the dissolution matter.

5. Settlement negotiations were on-going with respect to the dissolution matter. In or about January 2002, Respondent sent the first of several proposed settlement agreements to Ms. Pacheco.
6. On August 16, 2002, Respondent sent the signature page of the final settlement agreement to [Ms. Pacheco's] husband's attorney for signatures.
7. On October 4, 2002, Respondent sent an Appearance, Stipulation and Waiver document to [Ms. Pacheco's] husband's attorney for signatures. Respondent did not follow up on the settlement or the Appearance, Stipulation and Waiver documents.
8. By failing to follow up on the settlement and the Appearance, Stipulation and Waiver documents, Respondent effectively withdrew from representation of Ms. Pacheco. Respondent did not inform Ms. Pacheco that he intended to withdraw from employment in the dissolution matter. Nor did Respondent take any steps to avoid reasonably foreseeable prejudice to Ms. Pacheco.
9. Respondent performed no further services on behalf of Ms. Pacheco.
10. In or about April or May 2003, Ms. Pacheco drove to Respondent's office and discovered that Respondent had moved and the offices were closed. Respondent never informed Ms. Pacheco of the closure of his office.
11. Respondent had not returned any of the unearned fees paid by Pacheco.
12. On November 28, 2005, Respondent executed and entered into a Stipulation as to Facts and Agreement in Lieu of Discipline pursuant to Business and Professions Code sections 6068(l) and 6092.5(i) (hereinafter the "Agreement in Lieu of Discipline") with the State Bar of California, Office of the Chief Trial Counsel (hereinafter the "State Bar").
13. In the Agreement in Lieu of Discipline, Respondent stipulated to violations of Business and Professions Code section 6068(m) and rules 3-110(A), 3-700(A)(2), and 3-700(D)(2) of the Rules of Professional Conduct with regard to Respondent's representation of Maria Pacheco.
14. Pursuant to the Agreement in Lieu of Discipline, Respondent agreed to comply with the following terms and conditions, among others, the following:
 - (a) To comply with the conditions of the Agreement in Lieu of Discipline for a period of one (1) year from the date the Agreement in Lieu of Discipline was executed by all parties;

- (b) To comply with the provisions of the State Bar Act and Rules of Professional Conduct of the State Bar of California during the effective period of the Agreement in Lieu of Discipline;
- (c) To submit to the Office of Probation of the State Bar of California ("Office of Probation") written quarterly reports each January 10, April 10, July 10 and October 10 of each year or part thereof during which the Agreement in Lieu of Discipline is in effect, certifying under penalty of perjury that he has complied with all provisions of the State Bar Act and the Rules of Professional Conduct during the preceding calendar quarter or part thereof covered by the report and to file a final report covering the remaining portion of the effective period of the Agreement in Lieu of Discipline;
- (d) To promptly report, and in no event in more than ten (10) days, to the Membership Records Office of the State Bar and to the Office of Probation, all changes of information, including current office or other address for State Bar purposes as prescribed by Business and Professions Code section 6002.1;
- (e) Within ten (10) months of the date of the execution of this Agreement in Lieu of Discipline by all parties, to make restitution to Maria Pacheco in the amount of \$1,500.00, plus interest at the rate of 10% per annum from October 19, 2001 until paid in full and furnish satisfactory evidence of restitution to the Office of Probation;
- (f) To maintain with the Office of Probation a current address and current telephone number at which Respondent can be reached and respond within twelve (12) hours; and
- (g) To attend State Bar Ethics School and to take and pass the test given at the end of the session and provide proof of same to the Office of Probation within one (1) year of the date of the execution of the Agreement in Lieu of Discipline by all parties.

15. On December 15, 2005, a probation deputy of the Office of Probation wrote a letter to Respondent in which the probation deputy reminded Respondent of the terms and conditions of his Agreement in Lieu of Discipline. In the December 15, 2005 letter, the probation deputy specifically advised Respondent regarding his obligations to file quarterly reports, with the first report due on April 10, 2006, to pay restitution to Maria Pacheco by October 6, 2006 (within ten (10) months of the date of the execution of the

Agreement in Lieu of Discipline by all parties), and to attend State Bar Ethics School by December 6, 2006. Enclosed with the December 15, 2005 letter to Respondent were, among other things, copies of the relevant portions of the Agreement in Lieu of Discipline showing the conditions; a notice of counsel representation form; a quarterly report instructions sheet; a quarterly report form specifically tailored for Respondent to use in submitting his quarterly report; an ethics and client trust accounting schools instruction sheet; and a State Bar of California Ethics/Client Trust Account School Application Enrollment form. Respondent received the December 15, 2005 letter.

16. On March 10, 2006, the Client Security Fund sent Respondent a notice of intention to pay the principal balance of the restitution owed to Maria Pacheco, in the amount of \$1,500.00. The notice advised Respondent that he remained obligated to pay the interest to the client from October 19, 2001, as stipulated to in the Agreement in Lieu of Discipline. Respondent received the notice from the Client Security Fund, but did not respond to it or offer any objection to the payment.
17. On May 15, 2006, the Client Security Fund paid Ms. Pacheco \$1,500.00.
18. Respondent failed to file with the Office of Probation the quarterly reports that were due on April 10, 2006, July 10, 2006, and October 10, 2006.
19. Respondent failed to file with the Office of Probation the final report that was due on December 6, 2006.
20. Respondent failed to provide satisfactory proof to the Office of Probation that within ten (10) months of the date of the execution of the Agreement in Lieu of Discipline by all parties Respondent made restitution to Maria Pacheco in the amount of \$1,500.00, plus interest at the rate of 10% per annum from October 19, 2001 until paid in full.
21. Respondent failed to provide satisfactory proof to the Office of Probation that he attended State Bar Ethics School and took and passed the exam given at the end of the session by December 6, 2006.
22. Respondent failed to maintain a current telephone number with the Office of Probation.
23. On May 6, 2008, the State Bar filed the First Amended Notice of Disciplinary Charges based upon Respondent's ALD violations.
24. On June 17, 2008, Respondent filed with the Office of Probation the quarterly reports that were due on April 10, 2006, July 10, 2006, and October 10, 2006.

25. On June 17, 2008, Respondent filed the final report that was due on December 6, 2006.
26. On June 30, 2008, Respondent faxed proof to the Office of Probation that he attended the State Bar Ethics School on May 8, 2008 and successfully passed the exam given at the end of the session.
27. On June 30, 2008, Respondent faxed satisfactory proof to the Office of Probation that he fully reimbursed the Client Security Fund on June 17, 2008 for the \$1,500.00 payment made by the Client Security Fund to Ms. Pacheco on May 15, 2006.
28. On July 2, 2008, Respondent faxed satisfactory proof to the Office of Probation that he paid restitution to Ms. Pacheco in the amount of \$1,500.00 on December 15, 2006. Although Respondent did not include the accrued interest in his December 15, 2006 payment to Ms. Pacheco, since she received payment from both the Client Security Fund and Respondent, she ultimately was paid the accrued interest.

CONCLUSIONS OF LAW

29. By failing to follow up on the settlement and the Appearance, Stipulation and Waiver documents, by failing to perform any further services on behalf of Pacheco after on or about October 4, 2002, and by failing to advise his client that he had moved his offices, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
30. By failing to follow up on the settlement and the Appearance, Stipulation and Waiver documents and effectively withdrawing from representation of Pacheco and by failing to take any other steps to avoid reasonably foreseeable prejudice to this client, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client, thereby willfully violating rule 3-700(A)(2) of the Rules of Professional Conduct.
31. By failing to refund any portion of the unearned advanced fees paid by Pacheco, Respondent willfully failed to promptly refund any part of a fee paid in advance that had not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.
32. By failing to advise Pacheco that he would no longer be performing any further services on her behalf and by failing to advise Pacheco that he had moved and closed his office, Respondent failed to keep his client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

33. By failing to timely file quarterly reports that were due on April 10, 2006, July 10, 2006, and October 10, 2006 until June 17, 2008, by failing to timely file the final report that was due on December 6, 2006 until June 17, 2008, by failing to timely provide satisfactory proof to the Office of Probation that Respondent attended State Bar Ethics School and took and passed the exam given at the end of the session by December 6, 2006 until June 30, 2008, by failing to maintain a current telephone number with the Office of Probation, and by failing to timely provide satisfactory proof to the Office of Probation that he made restitution to Ms. Pacheco by October 6, 2006 until July 2, 2008, Respondent failed to comply with the conditions of the Agreement in Lieu of Discipline in willful violation of Business and Professions Code section 6068(l).

PENDING PROCEEDINGS

The disclosure date referred to on page two, paragraph A.(7), was July 31, 2008.

SUPPORTING AUTHORITY

The Standards for Attorney Sanctions for Professional Misconduct ("standards") and the applicable case law both support the recommended level of discipline.

The State Bar submits that the following standards are applicable:

Standard 1.3 provides that the primary purposes of disciplinary proceedings and imposing sanctions for professional misconduct are, "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys; and the preservation of public confidence in the legal profession."

Standard 2.6(a) provides that a violation of section 6068 *shall result in disbarment or suspension* depending upon the gravity of the offense and or the harm, if any, to the victim.

Standard 2.4(b) provides that, "[c]ulpability 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" (emphasis added).

Finally, standard 2.10 provides that culpability of a member of any provision of the Business and Professions Code not specified in these standards or of a willful violation of any Rule of Professional Conduct not specified in these standards, including a rule 3-700(A)(2) and a rule 3-700(D)(2) violation, *shall result in reproof or suspension* according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline.

Turning to applicable case law for guidance, the State Bar relies on *In the Matter of Roger S. Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703. There, the Review Department recommended the attorney be publically reprovod for failing to return unearned fees and failing to take steps to avoid foreseeable prejudice to the clients prior to withdrawal from representation in one client matter. In aggravation, Hanson had a private reprovod involving one client matter for failing to perform legal services for which he was hired, for failing to communicate with his client, and for failing to release all the client's papers to the client promptly. There were no findings in mitigation. Although the Hearing Department gave significant weight to Hanson's prior record of discipline, the Review Department found that the prior discipline was remote and minimal, and therefore, did not give it much weight. Nevertheless, the Review Department found that a public reprovod was appropriate.

Here, Respondent failed to comply with his ALD conditions, as well as failed to perform with competence, failed to refund unearned fees, failed to inform his client of significant developments, and improperly withdrew from the case. Although Respondent's misconduct is arguably more serious than Hanson's misconduct, since Respondent does not have a prior record of discipline and there was no significant harm to the client in the underlying misconduct leading to the ALD, a public reprovod is appropriate and would adequately protect the public, the courts, and the legal profession from further misconduct from this Respondent.

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that, as of July 31, 2008, the costs in this matter is \$3,654.00. Respondent further acknowledges that should this stipulation be rejected or should relief from this stipulation be granted, the costs in this matter may increase due to the costs of further proceedings.

(Do not write above this line.)

In the Matter of
LEE H. BENSON

Case number(s):
04-O-15864

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.

8-5-08

Date

8/8/08

Date

8/12/08

Date



Respondent's Signature

Lee H. Benson

Print Name



Respondent's Counsel Signature

Kevin Gerry

Print Name



Deputy Trial Counsel's Signature

Miho Murai

Print Name

(Do not write above this line.)

In the Matter Of LEE H. BENSON	Case Number(s): 04-O-15864
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

08-13-08
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 August 13, 2008, I deposited a true copy of the following document(s):

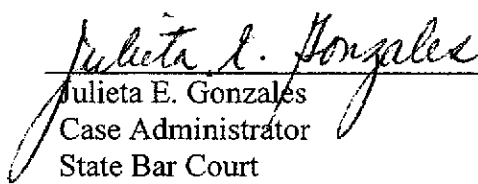
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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:
- KEVIN P GERRY ESQ
1001 OLIVE ST
SANTA BARBARA, CA 93101
- ☐ 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:

Miho Murai, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 13, 2008.


Julieta E. Gonzales
Case Administrator
State Bar Court