

(Do not write above this line.)

**State Bar Court of California**  
Hearing Department  
San Francisco

Counsel For The State Bar  <b>Tammy M. Albertsen-Murray</b> 180 Howard Street San Francisco, CA 94105 (415) 538-2527  Bar # 154248	Case Number (s) <b>05-C-04451; 06-O-13422- LMA</b>	(for Court's use)  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>AS</i>  AUG 26 2008  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent  <b>John F. Morken</b> 222 Front Street, 5 <sup>th</sup> Floor San Francisco, CA 94111-4419 (415) 433-0444  Bar # 153979	Submitted to: <b>Settlement Judge</b>	
In the Matter Of: <b>JOHN F. MORKEN</b>  Bar # 153979  A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

**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 **September 12, 1991**.
- (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 **12 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."



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- (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):
- 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: (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 **06-H-10814**
  - (b)  Date prior discipline effective **October 26, 2006**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code, sections 6077, 6078 and California Rule of Court 956.**
  - (d)  Degree of prior discipline **Stayed suspension; two years probation. Respondent ordered to comply with various standard conditions of probation as described in the stipulation.**
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.  
  
State Bar Court case # of prior case: 03-C-03937  
  
Date Prior discipline effective: June 22, 2005  
  
Rules of Professional Conduct/State Bar Act violations: Business and Professions Code, section 6068(a), by way of Vehicle Code section 23152(a).  
  
Degree of prior discipline: Public reproof.
- (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. **Respondent's misuse of his Client Trust Account was made more dishonest because of his failure to disclose receipt of funds and mishandling to his client.**
- (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. **Respondent misused his client trust account by commingling on numerous occasions and further misused it by not maintaining client funds as required.**
- (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. **Prior to the client's filing of a State Bar complaint, respondent repaid all amounts not promptly paid to his client initially on receipt and also paid interest without threat. In addition, prior to a State Bar complaint, respondent offered to stipulate to a money judgment in his client's favor in the event he was unable to pay all funds owed.**
- (5)  **Restitution:** Respondent paid \$ 50,000.00 on December 9, 2005 in restitution to Celest Olivan without the threat or force of disciplinary, civil or criminal proceedings. **In addition, respondent made a subsequent payment of \$7,958.90 on December 16, 2005, as interest on the amount not promptly paid to Ms. Olivan.**
- (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. **Respondent provided six declarations from people who attested to respondent's good character in spite of his misconduct and to his ongoing efforts to treat his substance abuse issues.**
- (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**

**Respondent has substance abuse problems other than as described in C.(8) above for which he is receiving continuing treatment and therapy. Respondent has suffered from this problem for many years and is actively seeking treatment, including attendance at A.A. Respondent has volunteered chemical test results from as far back as April, 2006, showing negative for substances.**

**Respondent stipulated and agreed to the imposition of this discipline, thus relieving the State Bar and State Bar Court from expending additional resources to resolve the matter.**

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of **three (3) 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: **shows proof of his sustained rehabilitation from substance abuse as defined by his L.A.P. participation plan and contract.**
- (b)  The above-referenced suspension is stayed.
- (2)  **Probation:**
- Respondent must be placed on probation for a period of **five (5) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3)  **Actual Suspension:**
- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **two (2) years**.

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- 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: **shows proof of his sustained rehabilitation from substance abuse as defined by his L.A.P. participation plan and contract.**

#### 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.
- (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.

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- 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 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 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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason: **Respondent took and passed the MPRE in August, 2007 (less than one year ago) and provided proof thereof.**

- (2)  **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, 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 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, 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: COMPLIANCE WITH LAWYER ASSISTANCE PROGRAM, as follows:**

**Respondent shall be evaluated by the Lawyer's Assistance Program ("LAP"). Respondent shall enter into the LAP by signing all required documents, including but not limited to a contract, participation plan and waiver. Respondent shall thereafter comply with all provisions and conditions of his participation plan with the State Bar LAP, and all modifications thereto, until such time as he graduates from LAP or until the expiration of this Stipulation, whichever is sooner. Within 14 calendar days from the effective date of this Stipulation, Respondent shall provide the Office of Probation with a copy of the waiver which he has signed with LAP that authorizes the LAP to provide Probation with information regarding his compliance with LAP. Revocation of this written waiver would be a violation of this Stipulation. In addition, each quarter and before the due date of his final report, Respondent shall request and obtain from LAP written proof of his compliance with LAP, and provide the original of the LAP compliance report to the Office of Probation with his written report. The written LAP compliance report shall be dated not sooner than 10 calendar days prior to the date Respondent submits his required written reports to the Office of Probation.**

Attachment language begins here.

**Case Number 05-C-04451**

**Facts.**

On January 9, 2005, in the county of Marin, respondent committed assaultive acts on a person. Criminal complaint number SC141292 was filed on April 27, 2005 in Marin County Superior Court naming respondent as the defendant in that action.

On or before June 4, 2007, the Court granted a motion to amend the criminal complaint to allege two counts of misdemeanor violations of Penal Code section 242 (battery). On June 4, 2007, respondent entered guilty pleas to the two misdemeanor counts.

On October 3, 2007, respondent was sentenced in Superior Court. The sentence included but was not limited to the following: 10 days in county jail on count one and 5 days in county jail on count two (jail time stayed pending probation performance); stay away/no contact order effective until October 3, 2010; sentence suspended; formal, supervised probation imposed for two years to expire on October 3, 2009; pay \$590.00 in fines and fees; may not possess firearm; must totally abstain from use of alcohol and other non-prescribed drugs during criminal probation period; must submit to chemical testing; must participate in any treatment/therapy/counseling program as may be directed by probation officer.

**Conclusion of Law.**

Respondent wilfully violated Business and Professions Code, section 6068(a), by way of Penal Code section 242, when he committed criminal battery on a person, crimes which, while they do not involve moral turpitude, do constitute other misconduct warranting discipline.

**Case Number 06-O-13422**

**COUNT ONE (A) AND COUNT ONE (B)**

**Facts.**

On January 11, 2003, Justen Purcell, father of Gavin Purcell, was killed while on the job, as a result of the negligence of a third party.

On February 12, 2003, Celeste Olivan ("Olivan"), as Guardian ad Litem for

**Gavin Purcell, hired respondent to represent Gavin Purcell, in a personal injury case and workers' compensation case arising from Justen Purcell's death. Justen Purcell also had a \$50,000 life insurance policy issued by Mutual of Omaha.**

**Although respondent was not hired to pursue the Mutual of Omaha policy benefits, on May 12, 2004, Mutual of Omaha sent respondent check number 730352S made payable to respondent and Olivan in the amount of \$50,000. Respondent received this check on Olivan's behalf and deposited it into his Bank of America Client Trust Account ("CTA"). After depositing the \$50,000 received from Mutual of Omaha, respondent did not promptly pay the funds to Olivan.**

**On July 13, 2004, respondent wrote to Olivan regarding the life insurance policy of Justen Purcell. On August 24, 2005, respondent again wrote to Olivan, implying that the insurance policy proceeds distribution was contingent on the litigation matters. However, the insurance policy proceeds had nothing to do with the litigation matters. In addition, respondent implied that he had a claim to attorney fees on the policy when he in fact was not hired to collect the insurance policy proceeds.**

**On September 12 and 28, 2005, respondent wrote to Olivan. With his letters, respondent provided a Client Settlement Statement on which he claimed fees and costs on the \$50,000 life insurance proceeds.**

**However, on December 9, 2005 and before Olivan had made her complaint to the State Bar, respondent wrote to Olivan apologizing for the delay in remitting the life insurance proceeds. Respondent enclosed a cashier's check in the amount of \$20,000 and his office's post-dated check number 1440 in the amount of \$30,000.**

**On December 16, 2005 and before Olivan had made her complaint to the State Bar, respondent issued check number 1442 in the amount of \$7,958.90 made payable to Olivan, representing interest on the life insurance proceeds which respondent had delayed transmitting to Olivan.**

**On December 21, 2005, respondent's check number 1440 in the amount of \$30,000 was returned for non-sufficient funds, however Olivan was subsequently able to successfully negotiate respondent's check number 1440.**

**Between on or about May 28, 2004, and November 30, 2005, the balance in respondent's CTA fell below \$50,000 on repeated dates.**



## Conclusions of law.

By not maintaining at least \$50,000 received from Mutual of Omaha on behalf of Olivan in respondent's CTA, respondent wilfully failed to maintain client funds in a trust account in violation of Rules of Professional Conduct, rule 4-100(A).

Respondent dishonestly or with gross negligence misappropriated Olivan's insurance proceeds received from Mutual of Omaha by allowing his CTA to drop below the \$50,000 he was bound to hold on Olivan's behalf, thereby violating Business and Professions Code, section 6106.

## COUNT ONE (E)

### Facts.

While maintaining the Bank of America CTA described above, on June 9, 2004, respondent deposited State Compensation Insurance Fund check number 961553 in the amount of \$14,500, into the CTA. The check was payable only to respondent and respondent's firm. The check was for respondent's benefit and not for the benefit of any client or any third party.

On August 2, 2004, respondent deposited Mercury Insurance check no. 24883855, made payable to Morken Law Office, in the amount of \$22,500, into his CTA. The check was payable only to respondent's firm. The check was issued pursuant to the July 12, 2004 court order in *Purcell v. Steiner*. The check was only for respondent's fees.

On November 10, 2004, respondent deposited into his client trust account a check made payable to Morken, John Franklin, in the amount of \$1,000. The check represented a referral fee to respondent for *Navarro v. Truong* and was not held for the benefit of any client. Respondent deposited \$700 of the check into the CTA and took \$300 in cash.

On January 12, 2005, respondent deposited into his client trust account a check made payable to Morken, John Franklin, in the amount of \$3,000. The check represented a referral fee to respondent for *Loya v. Henry* and was not held for the benefit of any client. Respondent deposited \$1,000 of the check into the CTA and took \$2,000 in cash.

On April 18, 2005, respondent deposited into his client trust account a check made payable to Morken, John Franklin, in the amount of \$973.33. The check represented a referral fee to respondent for *Papajohn, Adrian v. William* and was not held for the benefit of any client. Respondent deposited \$773.33 of

the check into the CTA and took \$200 in cash.

On June 18, 2005, respondent wrote CTA check number 2215 in the amount of \$150 made payable to Marin Municipal Water District. The check was for a personal obligation of respondent and not to or for the benefit of any client.

On June 27, 2005, respondent wrote CTA check number 2216 in the amount of \$162.50 made payable to SBC. The check was for a personal obligation of respondent and not to or for the benefit of any client.

On June 29, 2005, respondent wrote CTA check number 2217 in the amount of \$200 made payable to ComCast. The check was for a personal obligation of respondent and not to or for the benefit of any client.

On June 29, 2005, respondent wrote CTA check number 2218 in the amount of \$74.65 made payable to Mill Valley Refuse. The check was for a personal obligation of respondent and not to or for the benefit of any client.

On June 29, 2005, respondent deposited into his client trust account a check made payable to Morken, John Franklin, in the amount of \$1,599. The check represented a referral fee to respondent for *Martinez, Antonio v. Helm* and was not held for the benefit of any client. Respondent deposited \$1,299.99 of the check into the CTA and took \$300 in cash.

On August 24, 2005, respondent deposited into his client trust account a check made payable to Morken, John Franklin, in the amount of \$5,527.31. The check represented a referral fee to respondent for *Mathias v. Seller* and was not held for the benefit of any client.

On September 14, 2005, respondent deposited into his client trust account a check was made payable to Morken, John Franklin, in the amount of \$6,904.69. The check represented a referral fee to respondent for *Delao v. Yellow Cab* and was not held for the benefit of any client. Respondent deposited \$6,204.69 of the check into the CTA and took \$700 in cash.

On December 29, 2005, respondent deposited into his client trust account a check was made payable to Morken, John Franklin, in the amount of \$8,000. The check represented a referral fee to respondent for *Hart, Charles v. Calif. Exotic* and was not held for the benefit of any client.

#### Conclusion of Law.

By depositing personal funds in respondent's CTA, respondent commingled respondent's own personal funds in a client trust account, thereby

wilfully violating Rules of Professional Conduct, rule 4-100(A).

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was July 22, 1008.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 10, 2008, the costs in this matter are \$ 6,844.89. 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.

**DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
06-O-13422	One (C)	Bus. & Pro. Code, section 6106 [Moral Turpitude]
06-O-13422	One (D)	Bus. & Pro. Code, section 6106 [Moral Turpitude]

**AUTHORITIES SUPPORTING DISCIPLINE.**

*Doyle v. State Bar* (1982) 32 Cal. 3d 12;  
Standards 2.6 and 2.2, Rules of Procedure of the State Bar of California; and  
*In re Silverton* (2005) 36 Cal.4th 81.

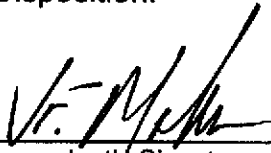
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In the Matter of John F. Morken	Case number(s): 05-C-04451; 06-O-13422, cons.
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### SIGNATURE OF THE PARTIES

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.

July 25, 2008  
Date

  
Respondent's Signature

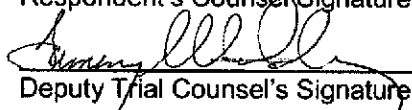
John F. Morken  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent's Counsel Signature

\_\_\_\_\_  
Print Name

July 28, 2008  
Date

  
Deputy Trial Counsel's Signature

Tammy M. Albertsen-Murray  
Print Name

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In the Matter Of <b>John F. Morken</b>	Case Number(s): <b>05-C-04451; 06-O-13422</b>
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**ORDER**

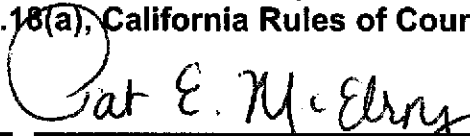
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.
1. On page 2, Section B(1)(e) --July 13, 2005, is the prior effective date of discipline.

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 9.18(a), California Rules of Court.)**

August 25, 2008

Date

  
Pat E. McElroy  
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 August 26, 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:

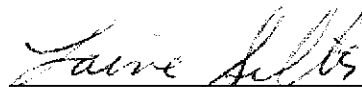
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JOHN F. MORKEN  
222 FRONT ST FL 5TH  
SAN FRANCISCO, CA 94111 - 4419

addressed as follows:

TAMMY ALBERTSEN MURRAY, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 26, 2008.



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Laine Silber  
Case Administrator  
State Bar Court