

ORIGINAL

(Do not write above this line.)

State Bar Court of California
Hearing Department

Counsel For The State Bar MELANIE J. LAWRENCE Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015-2299 Bar # 230102	Case Number (s) 05-O-01019; 05-O-03331; 06-O-14541; and 06-O-15540	(for Court's use) FILED APR 17 2008 <i>hc</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES
WILLIAM H. DAILEY 16161 Ventura Blvd., #748 Encino, California 91436	PUBLIC MATTER	
Bar # 125141		
In the Matter Of: WILLIAM HARVARD DAILEY	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
Bar # 125141 A Member of the State Bar of California (Respondent)	ACTUAL SUSPENSION <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 December 11, 1986.
- (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 19 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.



(Do not write above this line.)

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

- ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
- ☒ costs to be paid in equal amounts prior to February 1 for the following ^{3 billing cycles following the effective date} ~~membership years~~ of the Supreme Court Order.
(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.
- (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:

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

D. Discipline:

- (1) ☐ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of (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:
- (b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of 3 yrs, 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 (18) months.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state

whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (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.

(Do not write above this line.)

- (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:**

In the Matter of
WILLIAM HARVARD DAILEY
Member #125141
A Member of the State Bar

Case number(s): 05-O-01019;
05-O-03331;
06-O-14541; and
06-O-15540

Financial Conditions

a. Restitution

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

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

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

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

c. Client Funds Certificate

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

b. Respondent has kept and maintained the following:

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

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

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

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

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

d. Client Trust Accounting School

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

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: William Dailey

CASE NUMBER(S): 05-O-01019 ET AL.

A. FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

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 November 9, 2007, 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.

06-O-15540

1. In January 2004, Vicki Hufnagel ("Hufnagel") was sued in a civil action ("lawsuit") entitled, *Tirso Del Junco, Jr., M.D. vs. V. Georges Hufnagel, et al.*, Case no. BC309389, in Los Angeles Superior Court. Between approximately January 2004, and March 2004, Hufnagel, representing herself *in propria persona*, filed an Answer and Cross-Complaint.
2. In March 2004, Hufnagel employed Respondent to assume legal representation of her in the lawsuit. On March 9, 2004, Respondent substituted in as attorney-of-record.
3. On April 28, 2004, the opposing party in the lawsuit filed a motion to strike Hufnagel's Answer and Cross-Complaint and for Sanctions ("motion to strike and for sanctions"). A hearing on the motion to strike and for sanctions was scheduled for May 24, 2004. The motion and a notice of the hearing thereon were duly served on Respondent.
4. On May 24, 2004, the court deemed the motion to strike the Answer and

Cross-Complaint as moot based on information that an amended answer and cross-complaint had been filed. The court took the issue of sanctions under submission.

5. On June 3, 2004, the plaintiff filed a motion for reconsideration ("motion for reconsideration") of the court's May 24, 2004, ruling. A hearing on the motion for reconsideration was scheduled for June 28, 2004, and thereafter continued to July 8, 2004. The motion and notices of the hearing dates thereon were duly served on Respondent.

6. At no time did Respondent submit or file an opposition or any other pleading responding to plaintiff's motion for reconsideration.

7. On August 17, 2004, the court issued its ruling granting the plaintiff's motion for reconsideration, and imposed sanctions against Hufnagel requiring her to pay the amount of \$2,036.30, to the plaintiff, for misleading the court that an amended answer and cross-complaint had been filed. Notice of the ruling and sanctions was duly served on Respondent.

8. On August 17, 2004, the court also issued its ruling on plaintiff's motion for sanctions relating to the motion to strike the Answer and Cross-Complaint. The court imposed sanctions against Hufnagel requiring her to pay the amount of \$6,036.30, to the plaintiff ("\$6,036.30 sanctions"), for filing a cross-complaint without prior court authorization, as Hufnagel had been adjudged a "vexatious litigant" pursuant to Code of Civil Procedure section 391.1. Respondent received notice and opportunity to submit or file an objection to the award. At no time did Respondent submit or file an objection to the award.

9. On October 21, 2004, the court issued its final order confirming the \$6,036.30 sanctions, and requiring payment within 45 days of the order. A copy of the order was duly served on Respondent.

10. Hufnagel did not pay the sanctions pursuant to the court's October 21, 2004, order.

11. On January 11, 2005, plaintiff through counsel filed a motion for terminating sanctions on several grounds, including Hufnagel's violation of a certain preliminary injunction previously issued in the lawsuit, and her and Respondent's failure to respond to written discovery. A hearing on the motion was scheduled on February 7, 2005. The motion and a notice of the hearing thereon were duly served on Respondent.

12. On January 7, 2005, the court scheduled a final status conference and trial on March 22, 2005. Notice of the conference and trial date was duly served on Respondent.

13. On February 14, 2005, the court issued its ruling on the motion for

terminating sanctions. The court granted the motion, and ordered that default of all defendants, including Hufnagel, be entered.

14. On July 25, 2005, Respondent filed an ex parte application for order shortening time for hearing of motion for relief from mistake. In support of the motion, Respondent filed a declaration ("declaration") purportedly made by Hufnagel. Hufnagel never signed the declaration. Hufnagel was not aware that the declaration had been prepared on her behalf; Hufnagel never reviewed the declaration prior to its filing; and Hufnagel was not aware that the declaration had been filed.

15. Respondent placed or caused Hufnagel's signature to be placed on the declaration.

16. Respondent did not have authority to place Hufnagel's signature on the declaration.

17. Respondent knew that Hufnagel did not sign the declaration that purported to bear her signature; he knew that Hufnagel was not aware of the contents of the declaration; and, he knew that Hufnagel was not aware that the declaration had been filed.

18. Respondent filed the declaration, or caused it to be filed, knowing that it had not been signed by Hufnagel, and knowing that Hufnagel was not aware of its contents.

19. On July 25, 2005, the court denied the ex parte application.

20. On November 30, 2005, the court rendered and entered a default judgment against Hufnagel, and ordered, among other things, a monetary judgment against Hufnagel in the amount of \$558,724.90 ("November 30, 2005, judgment"). The judgment was duly served on Respondent.

21. Respondent did not inform Hufnagel about the motion to strike and for sanctions, and he did not inform her that a hearing thereon had been scheduled.

22. Respondent did not inform Hufnagel about the outcome of the May 24, 2004, hearing.

23. Respondent did not inform Hufnagel about the motion for reconsideration, and he did not inform Hufnagel that a hearing on the motion had been scheduled.

24. Respondent did not inform Hufnagel about any of the rulings made by the court on August 17, 2004.

25. Respondent did not inform Hufnagel about the October 21, 2004, court order.

26. Respondent did not inform Hufnagel about the motion for terminating sanctions or the hearing thereon.

27. Respondent did not inform Hufnagel that the trial had been scheduled.

28. Respondent did not inform Hufnagel about the outcome of the February 14, 2005, hearing. At no time did Respondent inform Hufnagel that terminating sanctions were imposed against her.

29. Respondent did not inform Hufnagel about the court's order of default and entry of default against Hufnagel.

30. Respondent did not inform Hufnagel about the declaration filed on July 25, 2005; he did not discuss the contents of the declaration with Hufnagel; and, he did not inform Hufnagel that the declaration had been filed on her behalf.

31. At no time did Respondent inform Hufnagel about the November 30, 2005, judgment.

32. Hufnagel did not learn about the November 30, 2005, judgment until approximately February 2006, when she received from the county clerk's office a notice of a judgment lien.

Conclusions of Law:

By placing Hufnagel's signature or causing her signature to be placed on the declaration filed on July 25, 2005, knowing that he did not have authority to do so, or knowing that Hufnagel was not aware of the contents of the declaration, or knowing that Hufnagel was not aware of its filing, and by presenting the declaration to the court, knowing that it was not signed by Hufnagel, knowing that the signature was placed on the declaration without authorization, and knowing that Hufnagel was not aware of its contents Respondent committed an act involving moral turpitude, dishonesty, or corruption in violation of Business and Professions Code section 6106.

By filing the declaration on July 25, 2005, on behalf of Hufnagel, knowing it was not signed by Hufnagel, and without authority to sign the declaration on behalf of Hufnagel, Respondent corruptly or wilfully and without authority appeared as attorney for a party to an action or proceeding in violation of Business and Professions Code section 6104.

By not informing Hufnagel about the outcome of the May 24, 2004, hearing, by not informing Hufnagel that a motion for reconsideration had been filed, or that a hearing on the motion had been scheduled, by not informing Hufnagel about the July 8, 2004, hearing date, by

not informing Hufnagel about the rulings made by the court on August 17, 2004, by not informing Hufnagel about the October 21, 2004, order, by not informing Hufnagel about the motion for terminating sanctions, by not informing Hufnagel about the outcome of the February 7, 2005, hearing, by not informing Hufnagel about the court's granting of the motion for terminating sanctions, by not informing Hufnagel about the court's order of default and entry of default against Hufnagel, by not informing Hufnagel of the circumstances surrounding the preparation, signing and filing of the declaration filed on July 25, 2005, and by not informing Hufnagel about the default judgment rendered against Hufnagel on November 30, 2005, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code section 6068(m).

Case No. 05-O-01019

33. On April 18, 2004, Mary J. Clement ("Clement") hired Respondent to represent her in a civil dispute with Blue Cross/Blue Shield Insurance (BCBS). Respondent agreed specifically, among other things, to respond in writing to BCBS's demands for payment.

34. On April 18, 2004, Clement paid Respondent approximately \$1500 in advanced attorney's fees.

35. Between April 2004 and August 2004, Respondent received BCBS' demands of payment.

36. Between April 2004 and August 2004, Respondent did not respond to BCBS's demands for payment, in writing or otherwise.

37. On August 12, 2004, BCBS sent another demand letter to Clement. Clement forwarded the letter to Respondent on August 23, 2004, and asked him to respond to the letter.

38. Respondent did not respond to BCBS' letter dated August 12, 2004, or to any other letters from BCBS; and, he did not otherwise communicate with BCBS.

39. On November 24, 2004, Clement terminated Respondent's services.

40. Respondent did not earn any of the advanced fees of approximately \$1500.

41. On November 24, 2004, Clement requested from Respondent a refund of unearned fees.

42. In November 2004, Respondent agreed to refund all of the advanced fees in the approximate amount of \$1500.

43. Clement did not receive any amount of refund from Respondent between November 2004 and January 2005.

44. On January 17, 2005, Clement sent a letter to Respondent repeating her request for a refund of unearned fees. Respondent did not respond to her request, or otherwise refund any amount of the advanced fees.

45. On January 22, 2005, Clement filed a complaint with the State Bar.

46. Shortly after June 1, 2005, Respondent refunded approximately \$1500 to Clement.

Conclusions of Law:

By not refunding any amount of unearned fees to Clement until June 2005, approximately six months after his services were terminated, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned in violation of Rule of Professional Conduct 3-700(D)(2).

By not responding to any of BCBS' demand letters to Clement, and by not otherwise taking any action in the civil dispute between BCBS and Clement, Respondent failed to perform services with competence in violation of Rule of Professional Conduct 3-110(A).

05-O-03331

47. In December 2003, Julie Meskell ("Meskell") hired Respondent to represent her in a criminal case. Meskell paid Respondent approximately \$1000 in advanced fees.

48. Respondent represented Meskell through trial proceedings, at the end of which Meskell was convicted.

49. In November 2004, Respondent agreed to file a notice of appeal on Meskell's behalf.

50. Respondent knew or should have known that the deadline for filing a notice of appeal of Meskell's conviction was November 8, 2004.

51. Respondent did not file the notice of appeal until December 8, 2004, one month late. As a result, the court clerk rejected it.

52. Respondent did not inform Meskell that her notice of appeal was not filed by November 8, 2004.

53. Respondent did not inform Meskell that her notice of appeal was rejected by the court.

54. Between November 2004 and March 2005, Meskell repeatedly contacted Respondent and inquired about the status of her case, including but not limited to the following occasions:

- a) Meskell sent an e-mail to Respondent on January 22, 2005;
- b) Meskell sent a letter by certified mail to Respondent on February 15, 2005;
- c) Meskell sent an e-mail to Respondent on February 16, 2005;
- d) Meskell sent an e-mail to Respondent on February 28, 2005;
- e) Meskell sent an e-mail to Respondent on March 1, 2005.

55. In each e-mail and letter, Meskell inquired about the status of her appeal. Respondent received each e-mail and certified letter.

56. Respondent did not respond to any of Meskell's inquiries about the status of her appeal, between November 2004 and March 1, 2005, and he did not otherwise provide her with any information about the status of her appeal.

57. In March 2005, Meskell went to the courthouse and reviewed her criminal case file. At that time, she discovered that her notice for appeal had been rejected because it had been filed late.

58. On March 6, 2005, Meskell sent an e-mail to Respondent asking about the status of her case. Respondent responded by reply-email, stating that he had filed the notice of appeal in compliance with the rules "but the clerk has disagreed."

59. Meskell did not hear from Respondent again after March 6, 2005.

Conclusions of Law:

By not informing Meskell that her notice of appeal was not filed until December 8, 2004, and by not informing Meskell that her notice of appeal was rejected as late by the court clerk,

until March 6, 2005, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code section 6068(m).

By not responding to Meskell's repeated inquiries between November 2004 and March 1, 2005, inclusive, and by not otherwise providing Meskell with any information about the status of her case during that time period, Respondent failed to respond promptly to reasonable status inquiries of a client in violation of Business and Professions Code section 6068(m).

Case No. 06-O-14541

60. During all times mentioned herein, Respondent maintained a client trust account at U.S. Bank designated account no. 164301073544 ("CTA").

61. At all times pertinent herein, Respondent maintained client funds in his CTA.

62. Respondent issued the following checks drawn on his CTA against insufficient funds:

<u>Check Number</u>	<u>Date Issued</u>	<u>Payable to:</u>	<u>Check Amount</u>
565	6/14/06	Bartlein & Company	\$ 755.60
566	6/14/06	SeaColony HOA II, Inc.	\$1,477.70

63. On June 14, 2006, Respondent knew or should have known that the balance in his CTA was insufficient to cover payment of check no. 565.

64. On June 14, 2006, Respondent knew or should have known that the balance in his CTA was insufficient to cover payment of check no. 566.

65. Both Check Nos. 565 and 566 were returned unpaid by the bank due to insufficient funds.

Conclusions of Law:

By issuing checks drawn against insufficient funds, Respondent committed acts involving moral turpitude in violation of Business and Professions Code section 6106.

B. AUTHORITIES SUPPORTING DISCIPLINE.

Standards:

Standard 1.6(a) states that where two or more acts of professional misconduct are charged and different sanctions are prescribed by the standards for the acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.

Standard 2.3 applies to offenses involving moral turpitude. It requires actual suspension or disbarment, depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law.

Standard 2.4(b) provides that the discipline for willfully 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.

Standard 2.6 applies to violations of Business and Professions Code, section 6068 and 6104. It provides for disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Standard 2.10 applies to violations of Rule 3-700(D)(2). It requires reproof or suspension according to the gravity of the offense or hard and with due regard to the purposes of imposing discipline set forth in standard 1.3.

AGGRAVATING CIRCUMSTANCES.

The current misconduct evidences multiple acts of wrongdoing. (Std. 1.2(b)(ii).)

MITIGATING CIRCUMSTANCES.

Respondent has no prior discipline in 21 years of practice. (Std. 1.2(e)(i).)

Respondent has cooperated with the State Bar. (Std. 1.2(e)(v).)

At the time of the misconduct, Respondent suffered extreme difficulties in his personal life including that he was living with and caring for his son's mother, who had a terminal illness.

Case Law:

In the contested case of *Matter of Johnson* (2000) 4 Cal. State Bar Ct. Rptr. 179, an attorney was culpable of misconduct in five client matters and for violating conditions attached to a public reproof. The misconduct in the client matters included that the respondent failed to perform competently, failed to respond to client inquiries and to return unearned fees, and in one matter, signed a declaration using his client's name without the client's knowledge or approval - an act of moral turpitude. There were very few factors in mitigation and some in aggravation including a prior record of discipline. *Johnson* received a five year stayed suspension with a term of probation that included two years actual suspension.

In *Bledsoe v. State Bar* (1991) 52 Cal.3d 1074, a defaulting respondent with no prior record of discipline, was culpable of neglect in four client cases. Respondent also failed to communicate with his clients, failed to refund unearned fees, and failed to cooperate in a State Bar investigation. *Bledsoe* received five years suspension, stayed, with five years probation including conditions of two years actual suspension.

In *Matter of Peterson* (1990) 1 Cal. State Bar Ct. Rptr. 73, a defaulting attorney was culpable of misconduct in three client matters and failed to cooperate in a State Bar investigation. The misconduct included failing to perform and abandoning his clients and misleading two of those same clients. There were no mitigating circumstances. In aggravation, the clients were harmed, there were multiple acts of wrongdoing, and the attorney displayed indifference and a lack of candor. *Peterson* received a three year stayed suspension with a term of probation that included one year actual suspension.

C. COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of March 25, 2008, the costs in this matter are \$3,654.00. 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.

(Do not write above this line.)

In the Matter of WILLIAM HARVARD DAILEY Member #125141	Case number(s): 05-O-01019; 05-O-03331; 06-O-14541; and 06-O-15540
--	---

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.

_____ Date	_____ Respondent's Signature	WILLIAM H. DAILEY _____ Print Name
_____ Date	_____ Respondent's Counsel Signature	_____ Print Name
4/8/08 _____ Date	_____ Deputy Trial Counsel's Signature	MELANIE J. LAWRENCE _____ Print Name

(Do not write above this line.)

In the Matter of WILLIAM HARVARD DAILEY Member #125141	Case number(s): 05-O-01019; 05-O-03331; 06-O-14541; and 06-O-15540
--	---

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>4/4/08</u> Date	<u>W-H Dailey</u> Respondent's Signature	<u>WILLIAM H. DAILEY</u> Print Name
<u> </u> Date	<u>in pro per</u> Respondent's Counsel Signature	<u> </u> Print Name
<u> </u> Date	<u> </u> Deputy Trial Counsel's Signature	<u>MELANIE J. LAWRENCE</u> Print Name

(Do not write above this line.)

In the Matter Of WILLIAM HARVARD DAILEY Member #125141	Case Number(s): 05-O-01019; 05-O-03331; 06-O-14541; and 06-O-15540
--	---

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.

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.)**

Date

4/16/08

Judge of the State Bar Court

RICHARD A. HONN

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 April 17, 2008, I deposited a true copy of the following document(s):

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

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:

**WILLIAM H. DAILEY
16161 VENTURA BLVD #748
ENCINO, CA 91436**

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

MELANIE LAWRENCE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **April 17, 2008.**



Tammy R. Cleaver
Case Administrator
State Bar Court