

(Do not write above this line.)

State Bar Court of California Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES		
Counsel for the State Bar Cydney Batchelor Deputy Trial Counsel 180 Howard St, 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204 Bar # 114637	Case Number(s) <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER CONFIDENTIAL</div> <div style="text-align: center;">05-0-04947-PEM</div> <div style="text-align: center; font-size: 2em; font-weight: bold;">LODGED</div> <div style="text-align: center;">JAN 09 2006</div> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO	(for Court use) <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center;">APR 27 2010</div> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per David C. Culver, Esq. PO Box 277 Duncans Mills, CA 95430 Tele: 707/632-6819 Bar # 98072	Submitted to Program Judge <u>FIRST ADDENDUM TO</u> <div style="text-align: center; font-weight: bold;">STIPULATION RE FACTS AND CONCLUSIONS OF LAW</div> <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of DAVID C. CULVER Bar # 98072 A Member of the State Bar of California (Respondent)	Submitted to Program Judge <u>FIRST ADDENDUM TO</u> <div style="text-align: center; font-weight: bold;">STIPULATION RE FACTS AND CONCLUSIONS OF LAW</div> <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 5/29/1981
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent of the State Bar.
- (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, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 37 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
See attachment
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."
See attachment



(Do not write above this line.)

- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§ 6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

See Stipulation lodged 9/27/05

- (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 Action violations _____
 - (d) Degree of prior discipline _____
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline" (above)
- (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. See attached
- (4) Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice. See attachment
- (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 the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.
- (7) Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct.
See stipulation
- (8) No aggravating circumstances are involved.

Additional aggravating circumstances:

None

(Do not write above this line.)

C. Mitigating Circumstances [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 to the ~~State Bar during disciplinary investigation and proceedings.~~
 See attachment
- (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 of 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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances are involved.**

Additional mitigating circumstances:

See stipulation lodged 9/27/05

ATTACHMENT TO
FIRST ADDENDUM TO
STIPULATION RE: FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF : **DAVID C. CULVER**

CASE NO: **05-O-4947-PEM**

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the State Bar Act and/or Rules of Professional Conduct:

Facts: In July 2003, Douglas J. Christian employed Respondent to represent him in a personal injury matter, and paid him \$2500.00 in advanced attorney fees. Thereafter, Respondent obtained a settlement in Mr. Christian's behalf in the amount of \$80,000.00. From that settlement, Respondent collected attorney fees and costs, disbursed \$53,105.00, and withheld another \$2500.00 for advanced fees in other litigation. On January 9, 2004, Respondent wrote to Mr. Christian to say that he was holding \$4710.00 in his client trust account on his behalf. In early June, Mr. Christian relieved him as counsel. Since then, Mr. Christian has repeatedly requested the return of the \$4710.00 being held in trust; however, Respondent failed to comply.

Conclusions of Law: By willfully failing to account to his client for the \$4710.00 being held in trust, Respondent failed to render appropriate accounts to the client regarding funds he held for the client, in violation of Rule of Professional Conduct 4-100(A).

MITIGATING AND AGGRAVATING FACTORS.

Other Mitigating Factors:

See stipulation lodged September 27, 2005.

Aggravating Factors:

See stipulation lodged September 27, 2005.

Multiple Acts of Wrongdoing/Pattern of Misconduct: This case and the misconduct stipulated to in the stipulation lodged September 27, 2005 involves multiple acts of misconduct.

Trust violation: Trust funds were involved in the misconduct stipulated to herein, and Respondent was unable to account to Mr. Christian for them.

PENDING PROCEEDINGS.

The disclosure date referred to on page one, paragraph A.(6), was December 12, 2005.

RESTITUTION.

Respondent waives any objection to immediate payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth below:

In accordance with the timetable set forth in the in the Alternative Discipline Program to be executed between the State Bar Court and Respondent on the captioned cases, Respondent must make restitution as follows:

Douglas J. Christian, or the Client Security Fund if it has paid, in the principal amount of \$4710.00, plus interest at the rate of 10% per annum from January 9, 2004, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

(Do not write above this line.)

In the Matter of DAVID C. CULVER	Case number(s): 05-0-4947
--	---

ORDER

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

- The stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modify or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

Date Jan 9, 2006

Pat McElroy
Judge of the State Bar Court