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

~~CONFIDENTIAL~~

PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES

<p>Counsel For The State Bar</p> <p>Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 Telephone: 415/538-2204</p> <p>Bar # 114637</p>	<p>Case Number (s)</p> <p>05-O-05266-PEM</p> <p align="center">LODGED</p> <p align="center">FEB 27 2008</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>	<p>(for Court's use)</p> <p align="center">PUBLIC MATTER</p> <p align="center">FILED</p> <p align="center">APR 27 2010</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>David C. Culver PO Box 277 Duncans Mills, Ca 95430 Tele: 707/529-9937</p> <p>Bar # 98072</p>	<p>Submitted to: Assigned Judge <u>SECOND ADDENDUM TO</u></p> <p align="center">STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of:</p> <p>David C. Culver</p> <p>Bar # 98072</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **May 29, 1981**.
- (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 the Respondent or 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 consists of **6** pages, excluding 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) 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 [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. **See attached**
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

None

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See attached

ATTACHMENT TO
SECOND 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, respondent was employed by JoLyne Miller to represent her in a marital dissolution matter. Respondent filed Ms. Miller's dissolution matter, and served her husband on January 30, 2004. However, during the Summer of 2004, and the period from October to December 2005, respondent failed to respond to numerous efforts by Ms. Miller to contact him regarding the status of her case.

Conclusions of Law: By willfully failing to respond to Ms. Miller's repeated requests for information about her case, respondent failed to respond to reasonable status inquiries from a client, in violation of Business and Professions Code section 6068(m).

MITIGATING AND AGGRAVATING FACTORS.

Other Mitigating Factors:

See stipulation lodged September 27, 2005, and first addendum to stipulation lodged January 9, 2006.

Fee Arbitration and Restitution: At the request of Ms. Miller and the State Bar, respondent participated in fee arbitration with Ms. Miller on April 12, 2007. Thereafter, on May 8, 2007, the arbitrator issued an award in favor of Ms. Miller in the amount of \$1849.98. As a demonstration of his remorse, respondent will not challenge the award, but has agreed to be bound by the award and to pay it in full, plus interest, as restitution herein.

Aggravating Factors:

See stipulation lodged September 27, 2005, and first addendum to stipulation lodged January 9, 2006.

Multiple Acts of Wrongdoing This case and the misconduct stipulated to in the stipulation lodged September 27, 2005, and the first addendum to the stipulation lodged January 9, 2006, involves multiple acts of misconduct,

PENDING PROCEEDINGS.

The disclosure date referred to on page one, paragraph A.(6), was November 26, 2007.

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:

JoLyne Miller (Madison) or the Client Security Fund if it has paid, in the principal amount of \$1849.98, plus interest at the rate of 10% per annum from May 8, 2007, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

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SIGNATURE OF THE PARTIES

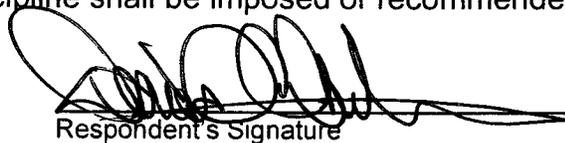
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

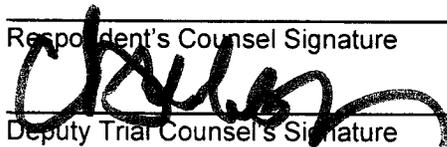
If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

09/17/07
Date


Respondent's Signature

DAVID C. CULVER
Print Name

11/30/07
Date


Deputy Trial Counsel's Signature

Print Name

CYDNEY BATCHELOR
Print Name

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ORDER

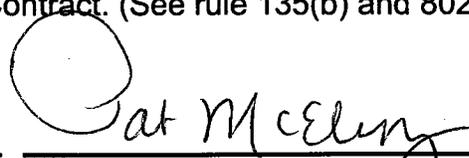
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

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

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

February 27, 2008

Date


Pat E. McElroy
Judge of the State Bar Court