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

<b>Counsel For The State Bar</b>  <b>Tammy M. Albertsen-Murray</b> <b>180 Howard Street</b> <b>San Francisco, CA 94105</b> <b>(415) 538-2527</b>  <b>Bar # 154248</b>	<b>Case Number (s)</b> <b>06-O-11469; 06-O-11965</b>	<b>(for Court Use)</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>  <b>MAY 01 2008</b>  <b>STATE BAR COURT CLERK'S OFFICE</b> <b>SAN FRANCISCO</b>
<b>In Pro Per Respondent</b>  <b>John W. Findley</b> <b>5160 Columbus Place</b> <b>Oxnard, CA 93033</b> <b>(805) 248-9124</b>  <b>Bar # 154516</b>	<b>Submitted to: Settlement Judge</b>	
<b>In the Matter Of:</b> <b>JOHN W. FINDLEY</b>  <b>Bar # 154516</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>	<b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	

**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 16, 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 **10** 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.
- (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 **02-O-12058**
  - (b) ☒ Date prior discipline effective **December 16, 2005**
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rule 3-110(A); Business and Professions Code, sections 6104, 6068(m) and 6103**
  - (d) ☒ Degree of prior discipline **One year suspension, stayed; two years probation on conditions including 30 days actual suspension. In addition, respondent was ordered to comply with other conditions of probation as described in the hearing department decision and that his suspension continue until he takes and passes the MPRE.**
  - (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. **Respondent's failure to obey multiple orders of Superior Court harmed the administration of justice and the public at large.**
- (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**

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 **two (2) 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: **pays the court-ordered sanctions described herein or is otherwise legally relieved from doing so and provides proof of either scenario to the Probation Department.**

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **two (2) 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 **ninety (90) days**.

- 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: **pays the court-ordered sanctions described herein or is otherwise legally relieved from doing so and provides proof of either scenario to the Probation Department.**

**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 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.
- (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:**

Attachment language begins here.

**Facts.**

On November 16, 2005, the Supreme Court issued its order in case no.S136732 (State Bar case number 02-O- 12058). As part of the order, the Supreme Court ordered that respondent be placed on actual suspension for thirty days. The order was effective thirty days after service of the order, or on December 16, 2005. Respondent was placed on inactive status on December 16, 2005, and has been on inactive status continuously from that date to the date of the filing of this stipulation.

On June, 2005, respondent represented Candie and Cecelia Nelson, and filed a complaint on their behalf, *Cecelia Nelson and Candie Nelson, vs. One Legal*, case no. FCS026146, in Solano County Superior Court.

On June 8, 2005, the judge in the *Nelson* case issued a Notice of Case Management Conference ("June 8 Notice"), setting the matter for October 28, 2005. The court clerk served the June 8 Notice on respondent by mail to his law office address. The June 8 Notice also ordered that the parties to file a completed case management statement by the fifteenth calendar day before the date set for the case management conference.

Respondent failed to appear at the October 28, 2005 case management conference and failed to file a case management statement. On October 28, 2005, the Court issued an Order to Show Cause ("October 28 OSC order") and Notice of Hearing against respondent, as to why he should not be sanctioned \$300 for his failure to appear and failure to file a case management statement. The Court set the OSC hearing date for December 2, 2005. Respondent received notice of the October 28 OSC hearing for the December 2 hearing and was aware of its contents.

Respondent failed to appear on December 2, 2005 for the hearing on the OSC. On December 2, 2005, the Court sanctioned respondent \$300 for his failure to appear and failure to file a case management statement. The Court ordered respondent to pay the sanctions within fifteen days from the date of service of the order. The Court further ordered respondent to appear before the Court on January 20, 2006, to show cause why the Court should not impose an additional \$750.00 in sanctions for respondent's failure to appear at the December 2 hearing and for his failure to file a case management statement. Respondent received the December 2 OSC notice for the January 20, 2006 hearing, and was aware of its contents.

On December 9, 2005, respondent filed a Proof of Service of Summons in

the *Nelson One* matter. On December 16, 2005, respondent signed and mailed to the court a substitution of attorney for each of his clients, Candie Nelson and Cecelia Nelson. This substitution was not filed by the Court until January 25, 2006.

On January 20, 2006, respondent failed to appear at the hearing on the OSC. The Court sanctioned him \$750.00 for his failure to appear and failure to file a case management statement. Respondent was ordered to pay the sanctions within fifteen days of service. Respondent received the January 20 sanctions order.

Respondent failed to pay the sanctions ordered at either the December 2, 2005 or the January 20, 2006 hearing within fifteen days of service of the respective orders, or at anytime thereafter. Respondent also failed to notify the Court that he would not be appearing at the January 20 hearing because of his suspension.

#### **Conclusion of Law.**

By failing to pay the sanctions as ordered on December 2, 2005 and January 20, 2006, respondent violated orders of the court requiring him to do or forbear acts connected with or in the course of respondent's profession which he ought in good faith to do or forbear, in willful violation of Business and Professions Code, section 6103.

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was April 10, 2008.

#### **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 \$ 4273.00. 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.

#### **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>
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06-O-11965	One	Bus. & Pro. Code, section 6068(a) [Failure to Comply With Laws]
06-O-11469	Three	Bus. & Pro. Code, section 6068(b) [Failure to Maintain Respect to the Court]
06-O-11965	Four	Bus. & Pro. Code 6068(k) [Failure to Comply with Conditions of Probation]

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

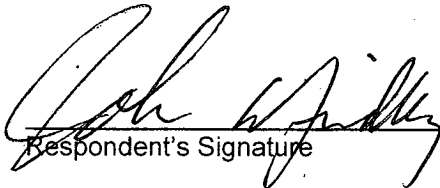
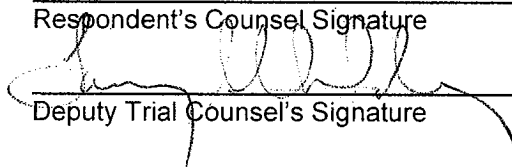
**Standard 2.6, Rules of Procedure of the State Bar of California; and  
*In re Silverton* (2005) 36 Cal.4th 81.**

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In the Matter of John W. Findley	Case number(s): 06-O-11469; 06-O-11469
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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.

<u>4-25-08</u> Date	 Respondent's Signature	<u>John W. Findley</u> Print Name
<u>4/29/08</u> Date	 Deputy Trial Counsel's Signature	<u>Tammy M. Albertsen-Murray</u> Print Name

(Do not write above this line.)

In the Matter Of  
**John W. Findley**

Case Number(s):  
**06-O-11469; 06-O-11469**

### 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.)**

5-1-08  
Date

  
Judge of the State Bar Court

Lucy Armendariz

**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 May 1, 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:

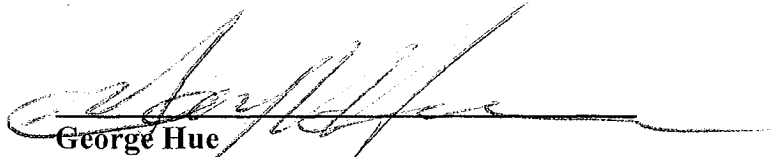
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JOHN W FINDLEY  
5160 COLUMBUS PL  
OXNARD CA 93033**

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California 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 **May 1, 2008**.

  
**George Hue**  
Case Administrator  
State Bar Court