

(Do not write above this line.)

State Bar Court of California
Hearing Department
San Francisco



<p>Counsel For The State Bar</p> <p>Robin B. Brune Deputy Trial Counsel 180 Howard Street San Francisco, California 94105 (415) 538-2218</p> <p>Bar # 149481</p>	<p>Case Number (s)</p> <p>06-O-13115; 07-O-11508; 07-O-11886; 07-O-13321</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>AS</i></p> <p>JAN 15 2009</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Daniel M. Davis, Esq. 816 Alhambra Boulevard Sacramento, California 95816 (916) 441-4586</p> <p>Bar # 65589</p>	<p>Submitted to: Settlement Judge</p>	
<p>In the Matter Of: Daniel M. Davis</p> <p>Bar # 65589</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 **December 15, 1975**.
- (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 **13** 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
 - (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.

See attachment
- (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 attachment.**
- (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. **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 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 **three 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 **three 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 **one year**.
 - 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 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

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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 (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW & DISPOSITION

IN THE MATTER OF: **Daniel M. Davis**

CASE NUMBERS: **06-O-13115**
07-O-11508
07-O-11886
07-O-13321

FACTS & CONCLUSIONS OF LAW

1. Case Number 06-O-13115 (Richard Gutzke)

Statement of Facts

In April 2004, Richard Gutzke hired respondent to represent him in his ongoing child support and custody matters. Carole Gutzke, Richard Gutzke's mother, paid respondent the sum of \$2,500 by way of check on April 4, 2004. The parties did not execute a written fee agreement. Respondent did not get a written waiver from Richard Gutzke for his mother to pay for his legal representation. Carole Gutzke, on behalf of Richard Gutzke, wrote to respondent on May 8, 2004, and again on May 30, 2004, and again on July 6, 2004 and July 22, 2004 asking questions about various aspects of the representation, such as the amount of child support, complaints regarding back child support, and requesting court records and other information. In the July 22, 2004 letter, Carole Gutzke complained that respondent has not sent a bill for her review (referring to his legal services). She also stated "You're fired!". On or about July 25, 2004, respondent wrote directly to Richard Gutzke, addressing several of the concerns raised by Carol Gutzke. In addition, respondent advised Richard Gutzke, that he, Richard Gutzke, and not Carol Gutzke, was the client, and that respondent would thereafter only discuss the case with Richard Gutzke, and not Carol Gutzke.

In or about January 30, 2005, Richard Gutzke telephoned respondent. In response, on or about February 5, 2005, respondent wrote to Richard Gutzke, again advising that he, not Carole Gutzke, is respondent's client. The parties terminated their relationship and respondent, in the letter, enclosed a Substitution of Attorney.

Both Carole and/or Richard Gutzke requested that respondent provide monthly invoice statements regarding an ongoing accounting of the attorney's fees.

Respondent failed, at any time, to provide the Gutzke's with an accounting of his fees.

Conclusions of Law

1. By failing to obtain a written waiver whereby Richard Gutzke agreed that Carole Gutzke could pay his legal fee, respondent failed to obtain the client's informed written consent to receive compensation from someone other than the client, in willful violation of Rules of Professional Conduct, rule 3-310(F).

The word wilfully implies simply a purpose or willingness to commit the act or make the omission – it does not require any intent to violate the law or to injure another, or to acquire any advantage. Only a general purpose or willingness to commit the act or permit the omission is necessary. *Durbin v. State Bar* (1979) 23 Cal.3d 461.

2. By failing to provide an accounting of his fees in the *Gutzke* matter to Richard Gutzke, respondent failed to account for his fees, in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

2. Case Number 07-O-11508 (Reyna Gunter)

Statement of Facts

In 2007, respondent represented Mark D. Gunter (hereinafter "Mr. Gunter") *In re the Marriage of Reyna Gunter v. Mark D. Gunter*, Case Number 06FL08111, filed in Sacramento County Superior Court. Respondent filed a Responsive Declaration to Order Show Cause dated March 6, 2007, signed under penalty of perjury with the purported signature of Mr. Gunter. In fact, respondent signed in his own handwriting, "Mark Gunter." Respondent did not sign his own name, as representative for Mr. Gunter, nor did he identify when he signed "Mark Gunter" that he was signing for Mr. Gunter as Mr. Gunter's counsel. Reyna Gunter brought this matter to the attention of the State Bar. Mr. Gunter confirmed that respondent had his authority to sign pleadings on his behalf.

Cal. Code Civ. Proc. § 446 (2006) which requires the verification of all pleadings states, in relevant part, as follows:

Every pleading shall be subscribed by the party or his or her attorney.

* * *

In all cases of a verification of a pleading, the affidavit of the party shall state that the same is true of his own knowledge, except as to the matters which are therein stated on his or her information or belief, and as to those matters that he or she believes it to be true; and where a pleading is verified, it shall be by the affidavit of a party, unless the parties are absent from the county where the attorney has his or her office, or from some cause unable to verify it, or the facts are within the knowledge of his or her attorney or other person verifying the same. When the pleading is verified by the attorney, or any other person except one of the parties, he or she shall set forth in the affidavit the reasons why it is not made by one of the parties.

Conclusions of Law

1. By signing Mr. Gunter's name, without identifying that he, himself was signing on behalf of Mr. Gunter, respondent failed to properly notify the court that he was signing on behalf of Mr. Gunter, and failed to set forth the reasons why it was not signed by Mr. Gunter, and thereby violated the law, in violation of Business & Professions Code § 6068(a), for failure to abide by Cal. Code Civ. Proc. § 446.

3. Case Number 07-O-11886 (Jose Ramirez)

Statement of Facts

In May 2006, Veronica Gonzalez (hereinafter "Gonzalez") retained respondent on behalf of her son, Jose Juan Ramirez (hereinafter "Ramirez") to bring a petition for writ of habeas corpus on behalf Ramirez. Gonzalez paid respondent \$200 on May 1, 2006 and thereafter paid \$6,600 towards the total fee of \$7,500. Gonzalez signed a written retainer agreement with respondent which stated that the written agreement was between respondent and Gonzalez, and the services were for Ramirez. The written retainer agreement also stated that the "client's mother" (referring to Gonzalez) has retained respondent for both herself and Ramirez in a dissolution of marriage and visitation matter. In fact, Ramirez was a client, and respondent did not obtain Ramirez's informed written consent for receiving compensation from Gonzalez.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

On February 24, 2006, respondent wrote to Ramirez stating, "as you know, your mom hired me to represent you on your appeal." Respondent requested additional information from Ramirez.

Thereafter, respondent failed to communicate with Ramirez. On June 13, 2006, respondent filed an application for writ of habeas corpus on behalf of Ramirez. On August 24, 2006, the Attorney General filed a response to the petition. Respondent failed to advise Ramirez that he had filed a petition on Ramirez's behalf. Respondent failed to provide Ramirez with a copy of the petition he filed. Respondent failed to advise Ramirez that the Attorney General had responded to the petition, and he failed to provide Ramirez with a copy of the response.

Ramirez wrote from prison to respondent on August 21, 2006 and again on January 23, 2007, inquiring about his case and requesting copies of all pleadings. Respondent sent one response on February 8, 2007. Respondent did not send Ramirez a copy of the pleadings in his case. As of the date of this stipulation, there has been no additional action taken on the case by the court. The last action on the case was when the Attorney General filed its brief on August 24, 2006.

Conclusions of Law

1. By failing to obtain a written waiver whereby Ramirez agreed that Gonzalez could pay his legal fee, respondent failed to obtain the client's informed written consent to receive compensation from someone other than the client, in willful violation of Rules of Professional Conduct, rule 3-310(F).

2. By failing to advise Ramirez that he had filed a petition for habeas corpus, and that he had received a response, and by failing to respond to Ramirez's written request of August 21, 2006 and January 23, 2007, for copies of his pleadings, respondent failed to keep his client reasonably informed in a matter in which he agreed to perform legal services and respondent failed to respond to the reasonable status inquiries of his client, all in violation of Business & Professions Code § 6068(m).

4. Case Number 07-O-13321 (Romel V. White)

Statement of Facts

In May 2000, client Romel V. White (hereinafter "White") hired respondent to represent him in his pending criminal matters, first, to argue for a new trial, and when that was unsuccessful, to pursue his appeal, in the matter of *People v. Romel White et. al.*, Case Number C035663 (Superior Court Number 96F07937) filed in the Court of Appeal, Third Appellate District (hereinafter "Court"). White had been convicted of 30 counts of committing lewd acts by force or fear on his nephew, in violation of Penal Code § 288 (b). White's parents, Joan Mouton & Willie White, were also convicted at the same trial of related charges. The White family paid respondent a \$10,000 flat fee for the representation.

On September 15, 2000, respondent substituted in as White's counsel in the appellate matter. On January 11, 2001, the Court issued an order, ordering respondent to submit his opening brief on behalf of White no later than February 13, 2001. Respondent received this order and all subsequent orders of the Court in this matter. Respondent requested and obtained four extensions of time to file his opening brief. The last extension dated October 15, 2001, gave respondent until November 14, 2001 to file his brief. The Court stated that no further requests would be granted.

Respondent failed to meet the November 14, 2001 deadline. On November 20, 2001, the court clerk notified respondent that the matter would be dismissed if the brief was not received by December 20, 2001. Respondent filed his opening brief on behalf of White on December 20, 2001.

On May 15, 2002, the Attorney General filed a responsive brief. On May 15, 2002, respondent requested and was granted the opportunity to file an (optional) reply brief. The Court ordered that respondent's reply brief be filed no later than June 4, 2002. Respondent requested and obtained two extensions to file his reply brief. The last extension dated June 24, 2002, gave respondent until July 15, 2002 to file his reply brief. On July 15, 2002, respondent requested additional time to submit a reply brief. The Court denied his request. Respondent did not submit a reply brief.

On July 26, 2002, the Court sent a letter directly to client White, in response to White's request regarding the status of his case. On August 12, 2003, respondent filed some additional cites for oral argument. On October 24, 2003, respondent gave oral argument on behalf of White. On December 4, 2003, the Court ordered respondent to submit a supplemental brief on behalf of White regarding specific, enumerated questions by the Court. The Court ordered respondent's brief due no later than January 5, 2004. Respondent requested and obtained, an extension to March 15, 2004 to file his supplemental brief.

Respondent failed to submit a supplemental brief on behalf of White.

Respondent did not advise his client of his failure to file a reply brief or a supplemental brief. Respondent did not advise his client of the Court's request for supplemental briefing.

On July 28, 2004, the Court denied White's appeal.

Respondent did not advise White of the ruling on his appeal.

On September 7, 2004, respondent filed a Petition for Review with the California Supreme Court, on behalf of White.

On September 8, 2004, White wrote directly to the Court advising the Court that respondent did not inform him that his conviction was affirmed.

On September 14, 2004, the Court returned the letter to White.

On October 13, 2004, the Supreme Court denied review.

Conclusions of Law

1. By failing to file a reply brief and a supplemental brief on behalf of White, respondent failed to perform, in willful violation of Rules of Professional Conduct, rule 3-110(A).
2. By failing to advise his client of the Court's orders for reply and supplemental briefs and the Court's decision, respondent failed to keep his client reasonably informed in a matter in which he agreed to provide legal services, in willful violation of Business & Professions Code § 6068(m).
3. By failing to timely file his appellant's opening brief and by failing to file his supplemental brief, respondent failed to abide by orders of the Court, in willful violation of Business & Professions Code § 6103.

PENDING PROCEEDINGS.

The disclosure date referred to on page one, paragraph A.(7), was December 11, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 3, 2008, the costs in this matter are \$4,118. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct call for disbarment upon the third disciplinary offense unless there are compelling mitigating circumstances (Standard 1.7(b)). The Standards also call for successive discipline indicating that each discipline should be greater than the prior (Standard 1.7(a)). Willful failure to communicate or perform shall result in reproof or suspension (Standard 2.4(b)). Violation of Court orders and failures to communicate warrant disbarment or suspension (Standard 2.6(b) and (a)).

Case law also demonstrates that the abandonment of an incarcerated client merits a strong response. In respondent's case, in *White*, respondent failed to contact the client, complete the appropriate pleadings and notify the client of the results of the appeal.

He did appear for oral argument and argued the case; and he subsequently filed a Petition for Review to the Supreme Court on behalf of the client.

There is no case law directly on point, involving failure to communicate and partial failure to perform on a criminal matter. Most of the case law addresses a complete abandonment of the criminal case, and ranges from stayed suspension up to actual suspension for two years for abandoning criminal appellate matters. *Borre v. State Bar* (1991) 52 Cal.3d 1047 (two year actual suspension for abandonment of an incarcerated client's criminal appeal, fabricated exculpatory letter); *Harris v. State Bar* (1990) 51 Cal. 3d.1082 (ninety day actual suspension for failure to perform over a four year period); *In the matter of Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr.459 (six month actual suspension for abandoning a habeas corpus petition, failure to return file and failure to refund \$7,000 in fees and failure to cooperate in State Bar investigation); *In the matter of Thomas Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct Rptr. 41 (stayed suspension for abandonment of criminal appeal).

While respondent's other violations might not be deemed to be serious, they must be considered in light of his extensive record of discipline. This will be respondent's fifth disciplinary matter, and it involves four client matters.

AGGRAVATING CIRCUMSTANCES.

Standard 1.2(b)(i) prior record of discipline

Standard 1.2(b)(ii) multiple acts of wrongdoing

PRIOR DISCIPLINE.

Respondent has four incidents of prior discipline.

Respondent received an admonition in 1990.

Respondent received a public reproof in 1991 (90-O-12625) for violation of the Rules of Professional Conduct, rules 3-110(B), 3-200(B), 3-500, 3-700(D)(2) and violations of Business & Professions Code §§ 6068(a) and 6068(m).

Respondent received another public reproof in 1995 (93-O-12950) for violations of Rules of Professional Conduct, rule 3-700(A)(2) and violations of Business & Professions Code § 6068(m).

Respondent received a stayed suspension in 2004 (02-O-12174) for failure to perform (rule not specified, presumably Rule 3-110(A)) and failure to communicate in violation of Business & Professions Code § 6068(m).

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

There are four client matters that are the subject of discipline in this case, representing multiple acts of wrongdoing.

MITIGATING CIRCUMSTANCES.

Standard 1.2(v) candor and cooperation

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent has been candid and cooperative in reaching a stipulation in this matter.

STATE BAR ETHICS SCHOOL.

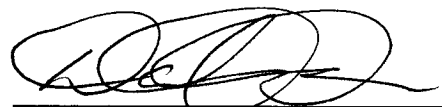
Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

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In the Matter of Daniel M. Davis	Case number(s): 06-O-13115; 07-O-11508; 07-O-11886; 07-O-13321
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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>12/15/08</u> Date	 Respondent's Signature	<u>Daniel M. Davis</u> Print Name
<u>12/29/08</u> Date	<u>Robin B Brune</u> Deputy Trial Counsel's Signature	<u>Robin B. Brune</u> Print Name

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In the Matter Of Daniel M. Davis	Case Number(s): 06-O-13115; 07-O-11508; 07-O-11886; 07-O-13321
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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.

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.)**

Jan. 13, 2009
Date

Lucy Armendariz
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 January 15, 2009, 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:

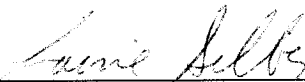
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DANIEL MARTIN DAVIS
816 ALHAMBRA BLVD
SACRAMENTO, CA 95816 - 4413

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

ROBIN BRUNE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 15, 2009.



Laine Silber
Case Administrator
State Bar Court