

(Do not write above this line.)

**State Bar Court of California**

Hearing Department  
Los Angeles

**PUBLIC MATTER**

Counsel For The State Bar  <b>Margaret P. Warren</b>  Bar # <b>108774</b>	Case Number (s) <b>06-O-13473, 06-O-13549,</b> <b>06-O-13585, 06-O-13758,</b> <b>06-O-14471, 07-O-10506</b>	(for Court's use)  <p style="text-align: center;"><b>FILED</b></p> <p style="text-align: center;"><b>MAY 28 2009</b></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
In Pro Per Respondent  <b>Richard S. Collins</b>  Bar # <b>162552</b>	Submitted to: <b>Settlement Judge</b>	
In the Matter Of: <b>RICHARD S. COLLINS</b>  Bar # <b>162552</b>  A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <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 14, 1992**.
- (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 **21** 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 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.
- (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. **Five (5) clients were deprived of the use of their funds because Respondent did not refund the clients' monies.**
- (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. **Respondent committed multiple acts of misconduct, in five (5) separate client matters.**
- (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. **Respondent has cooperated with the State Bar throughout these 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. **Please see p. 7, below.**
- (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 (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 **five (5) 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 **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:

**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 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2)  **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, 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.

(Do not write above this line.)

---

- (3)  **Conditional Rule 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule ~~955-9.20~~, 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):

**Page 3, paragraph C(8), cont'd.**

Respondent was admitted to the practice of law in this State in December 1992 and practiced law without incident until 2006 (a period of approximately 14 years). He has no prior disciplinary record.

Since approximately mid-2005, Respondent has been suffering from increasingly severe depression. Respondent became increasingly unable to accomplish any work. He would find himself sitting and staring at his computer for hours on end, unable to perform any legal writing. He also became unable to complete billing for any work he had accomplished, resulting in significant sums being rendered uncollectible due to his failure to bill for services he had rendered. In each of the matters herein, the misconduct was attributable to Respondent's depression, which resulted in his inability to either initiate or complete tasks. The depth of his depression felt like (in his words) a tunnel which allowed no changes or options, and at which there was no light at the end. Respondent's income, which had always been modest, decreased significantly, to the point where Respondent could not pay his monthly bills, could not pay his monthly child support, and could not pay his income taxes. Respondent's worsening financial situation led to his inability to refund unearned advanced fees to clients.

Several events occurred in 2005 and 2006 that exacerbated Respondent's already deepening depression. In July 2005, the Internal Revenue Service ("IRS") executed levies on both Respondent's general and trust accounts, despite his attempt to convince the IRS that his trust account contained funds belonging to his clients, not to him. In September 2005, Respondent (a sole practitioner) lost his valuable office assistant to other employment. In January 2006, Respondent experienced much anxiety due to the fact that his daughter, who was serving in the United States Marine Corps at that time, faced being shipped to Iraq with her unit. In July 2006 Respondent was suspended for child support noncompliance. The State Bar initiated proceedings for the assumption of jurisdiction over Respondent's law practice (proceedings which Respondent did not oppose and in which he cooperated) and in October 2006 Respondent was ordered inactive as a result of those proceedings. In November 2006, Respondent's girlfriend-partner, who as it turned out was a "functioning" alcoholic and terminally ill, died of liver disease after a year of progressively worsening symptoms.

The IRS levy on Respondent's trust account was in the amount of approximately \$3,200.00. It threw off Respondent's accounting and management of the trust account even further. After he deposited client Nancy Riffenburgh's \$5,000.00 in advanced fees and costs into his trust account in July 2005, about a month after the IRS levy on the trust account, Ms. Riffenburgh's money was disbursed to or on behalf of clients whose funds had been taken pursuant to the IRS's levy. Using a client's funds to pay another client or clients indisputably constitutes misappropriation, but it must be noted that Respondent did not use Ms. Riffenburgh's funds for *personal* expenditures.

Respondent has been treated since 2006 by Anthony Duk, M.D., a psychiatrist at the Veterans' Administration Loma Linda Healthcare System. In 2007, Dr. Duk reported that Respondent was diagnosed with, and was being treated for, major depressive disorder that began in early 2005, and that the depression affected Respondent's concentration and energy levels to the point that he was unable to perform his duties as an attorney.

(Do not write above this line.)

---

Respondent is currently in the Lawyers' Assistance Program ("LAP"). Respondent contacted LAP in early 2006 for help, and in April 2006 began attending LAP group meetings in Riverside, when a group was formed in that area. In June 2006, Respondent was formally accepted for participation in LAP, and has continuously participated in that program since. Respondent currently attends LAP meetings once a week; attends Other Bar meetings; sees a therapist when he can afford to pay (2-3 times a month); and attends Emotions Anonymous meetings once a week.



In the Matter of  
Richard S. Collins, #162552

Case number(s):  
06-O-13473 et al.

A Member of the State Bar

## 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
PLEASE SEE PAGE 18, BELOW		

- 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 reproval), 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:
- 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.

In the Matter of  
Richard S. Collins, #162552

Case number(s):  
06-O-13473 et al.

### Medical Conditions

- a.  Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b.  Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of \_\_\_\_\_ times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for \_\_\_\_\_ days or months or \_\_\_\_\_ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c.  Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:



4. On February 3, 2006, the Court granted Casillo's Motion to Disqualify.

5. On April 21, 2006, Respondent and Facchino agreed that Respondent was to refund Facchino's \$3,000.00 in advanced fees, payable in \$500.00 monthly installments beginning on May 21, 2006, and thereafter \$500.00 on the 21st of each month, with the entire \$3,000.00 to be paid by November 21, 2006.

6. To date, Respondent has not refunded to Facchino any portion of the \$3,000.00 that Facchino had paid him.

7. Respondent admits and acknowledges that he did not earn any portion of the \$3,000.00 in advanced fees he received from Facchino.

8. Respondent admits and acknowledges that he owes Facchino at least \$3,000.00.

**Legal Conclusions:**

9. By not refunding any portion of the \$3,000.00 in advanced fees paid to him by Facchino, Respondent failed to refund promptly a fee paid in advance that had not been earned, in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

**Case No. 06-O-1358**

**Facts:**

10. On March 18, 2006, David Dorado ("Dorado") hired Respondent to represent him in a paternity matter and paid him \$1,500.00 in advanced attorney's fees. Respondent was to promptly file a Determination of Parental Rights on Dorado's behalf with the court for purposes of obtaining judicial determinations as to custody, visitation, and child support.

11. On May 19, 2006, Dorado went to Respondent's office and demanded that Respondent show him what if any work he had performed on Dorado's behalf. Respondent was unable to do so, as he had not prepared or filed any documents on Dorado's behalf.

12. On May 19, 2006, Dorado terminated Respondent's services and asked Respondent to refund the \$1,500.00 in advanced fees Dorado had paid him. Respondent declined to refund the entire amount, stating he had earned \$300.00 of the \$1,200.00 as a consultation fee. On that same date, Dorado and Respondent reached an agreement that Respondent would refund \$1,200.00 to Dorado.

13. To date, Respondent has not refunded any portion of the \$1,200.00 to Dorado.

14. Respondent admits and acknowledges that he did not earn any portion of the \$1,200.00 in advanced fees he received from Dorado.

15. Respondent admits and acknowledges that he owes Dorado a refund of at least \$1,200.00.

**Legal Conclusions:**

16. By not refunding any portion of the \$1,200.00 in advanced fees paid to him by Dorado, Respondent failed to refund promptly a fee paid in advance that had not been earned, in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

**Case No. 06-O-13758**

**Facts:**

17. On July 20, 2005, Nancy Riffenburgh ("Riffenburgh") hired Respondent in connection with an accounting Riffenburgh was seeking of her late mother's, Ruth Kremer's, trust. On that same date, Riffenburgh paid Respondent \$5,000.00.

18. Respondent's fee agreement with Riffenburgh, dated July 20, 2005, characterized the \$5,000.00 Riffenburgh paid to Respondent as "a revolving retainer to be deposited in Attorney's Trust Account and to be used to pay attorney as fees and costs accrue." The fee agreement provided that Respondent's fees would be charged at the rate of \$205.00 per hour.

19. On July 21, 2005, Respondent deposited the \$5,000.00 he received from Riffenburgh into his Trust Account.

20. In July and August 2005, Respondent performed some legal services on behalf of Riffenburgh. Respondent withdrew \$536.00 in earned fees from Riffenburgh's \$5,000.00, thus leaving \$4,444.00 of Riffenburgh's funds which he was required to maintain in trust. Respondent earned no additional fees in the Riffenburgh matter; expended no costs on behalf of Riffenburgh; and made no other disbursements to or on behalf of Riffenburgh from the remaining \$4,440.00 of Riffenburgh's funds.

21. Between August 5, 2005 and October 31, 2005, the balance in Respondent's Trust Account fell below \$4,444.00 on several occasions, as follows:

<u>DATE</u>	<u>BALANCE</u>
August 5, 2005	\$65.62
August 19, 2005	56.52
August 31, 2005	46.74
October 19, 2005	\$ .74
October 31, 2005	- 9.87

22. On December 15, 2005, Riffenburgh wrote to Respondent, terminating his services and demanding a refund of the \$5,000.00 she had paid him. Respondent told Riffenburgh that he would provide her with an accounting.

23. To date, Respondent has not provided Riffenburgh for an accounting for the \$5,000.00 he received from her.

24. Respondent admits and acknowledges that he is not entitled to any portion of the \$4,444.00 he was required to maintain in trust on Riffenburgh's behalf and that he owes Riffenburgh a refund of at least \$4,444.00.

**Legal Conclusions:**

25. By failing to provide Riffenburgh with an accounting for the \$5,000.00 he received from her, Respondent failed to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession, in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

26. By failing to maintain at least \$4,444.00 in his Trust Account on behalf of Riffenburgh, Respondent failed to maintain client funds in a trust account, in willful violation of rule 4-100(A) of the Rules of Professional conduct.

27. By misappropriating at least \$4,444.00 of Riffenburgh's funds, Respondent committed an act or acts of moral turpitude, dishonesty or corruption, in willful violation of section 6106 of the California Business and Professions Code.

**Case No. 06-O-14471**

**Facts:**

28. On February 8, 2006, Sten-Arne Svensson ("Svensson") hired Respondent to file a Petition for Dissolution on Svensson's behalf, and paid Respondent \$1,070.00. Of the \$1,070.00, \$750.00 were advanced attorney's fees; the remaining \$320.00 were advanced costs for the filing fee for the Petition for Dissolution.

29. On February 9, 2006, Respondent caused to be deposited the entire \$1,070.00 Svensson had paid him, which included \$320.00 in advanced costs, into his General Account.

30. At no time did Respondent cause the \$320.00 in advanced costs he received from Svensson to be transferred or otherwise placed into an account labeled "Trust Account," "Client's Funds Account" or words of similar import.

31. Between March 24 and 31, 2006, the balance in Respondent's General Account fell below \$320.00 on several occasions, as follows:

<u>DATE</u>	<u>BALANCE</u>
March 27, 2006	- \$70.65
March 27, 2006	- 110.65
March 28, 2006	- 134.47
March 31, 2006	- 146.85

32. Though he prepared a Petition for Dissolution on Svensson's behalf, Respondent never filed it.

33. On or about July 31, 2006, Svensson asked Respondent to refund the advanced fees and costs he had paid to Respondent. Respondent told Svensson that he could not refund any monies to him as Respondent was "broke."

34. To date, Respondent has not refunded any portion of the \$750.00 in advanced fees Svensson paid him.

35. To date, Respondent has not refunded any portion of the \$320.00 in advanced costs Svensson paid him.

36. Respondent admits and acknowledges that he did not earn any portion of the \$750.00 in advanced fees he received from Svensson.

37. Respondent admits and acknowledges that he is not entitled to any portion of the \$320.00 in advanced costs he received from Svensson.

38. Respondent admits and acknowledges that he owes Svensson a refund of at least \$1,070.00.



**Legal Conclusions:**

39. By depositing \$320.00 in advanced costs that he received from Svensson into his General Account instead of an account labeled "Trust Account," "Client's Funds Account" or words of similar import, Respondent failed to deposit client funds in a trust account, in willful violation of rule 4-100(A) of the Rules of Professional Conduct.

40. By misappropriating at least \$320.00 of Svensson's funds, Respondent committed an act or acts of moral turpitude, dishonesty or corruption, in willful violation of section 6106 of the Business and Professions Code.

41. By not refunding any portion of the \$750.00 in advanced attorney's fees paid to him by Svensson, Respondent failed to refund promptly a fee paid in advance that had not been earned, in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

**Case No. 07-0-10506**

**Facts:**

42. On May 16, 2005, Tim Evans ("Evans") hired Respondent to represent him in his uncontested marital dissolution matter, and paid Respondent \$1,500.00 in advanced attorney's fees. On that same date, Evans, Evans's wife, and Respondent signed a Marital Settlement Agreement and Stipulated Judgment ("Settlement Agreement") prepared by Respondent, that Respondent was to file with the court on Evans's behalf.

43. At no time did Respondent ever file the Settlement Agreement.

44. In December 2006, Evans asked Respondent about the status of his matter. Respondent informed Evans that all of his files had been seized by the State Bar of California; that he was not entitled to practice law; and that he had not filed the Settlement Agreement with the court.

45. To date, Respondent has not refunded to Evans any portion of the \$1,500.00 in advanced fees paid to him by Evans.

46. Respondent admits and acknowledges that he did not earn any portion of the \$1,500.00 in advanced fees he received from Evans.

47. Respondent admits and acknowledges that he owes Evans a refund of at least \$1,500.00.

**Legal Conclusions:**

48. By not refunding any portion of the \$1,500.00 in advanced attorney's fees paid to him by Evans, Respondent failed to refund promptly a fee paid in advance that had not been earned, in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was May 13, 2009.

**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>
06-O-13473	1	rule 3-310(E), RPC
06-O-13549	3	rule 3-110(A), RPC
06-O-13585	4	rule 3-110(A), RPC
06-O-13758	8	section 6106, Ca. Bus. & Prof. Code
06-O-13758	9	section 6106, Ca. Bus. & Prof. Code
06-O-14471	10	rule 3-110(A), RPC
07-O-10506	15	section 6106, Ca. Bus. & Prof. Code

**FINANCIAL CONDITIONS: RESTITUTION**

Respondent shall pay the following restitution to the following persons (or to the State Bar Client Security Fund ("CSF"), if it has paid said persons) in the following amounts, plus 10 % interest per annum accruing from the dates indicated. Respondent expressly waives any objection to immediate payment by the CSF upon a claim(s) for the principal amount of restitution as set forth below.

<u>Party Owed*</u>	<u>Principal Amount</u>	<u>Interest computed from</u>
Kent Facchino	\$3,000.00	April 21, 2006
David Dorado	1,200.00	May 19, 2006
Nancy Riffenburgh	4,440.00	December 15, 2005
Sten-Arne Svensson	1,070.00	July 31, 2006
Tim Evans	1,500.00	December 1, 2006

\* Restitution is due the "Party Owed" or the *State Bar Client Security Fund* if it has paid.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 13, 2009, the prosecution costs in this matter are approximately \$6,749.00. 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.

## **DISCUSSION RE STIPULATED DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct are entitled to great weight and the State Bar Court should follow their guidance wherever possible. *In re Robert Silverton* (2005) 36 Cal.4<sup>th</sup> 81, 92. The Silverton court did indicate, however, that the State Bar Court may deviate from the Standards where there exists grave doubt as to the propriety of applying them in a particular case. *Silverton, supra*, 36 Cal. 4<sup>th</sup> at p. 92. For example, deviation from the Standards may be appropriate where extraordinary circumstances exist or where the imposition of discipline called for by the Standards would be manifestly unjust.

**Standard 1.6 (a)** provides, “. . . If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.”

**Standard 2.2(a)** provides:

Culpability of a member of wilful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances.

**Standard 2.2 (b)** provides:

Culpability of a member of . . . the commission of another violation of rule 4-100 . . . none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

**Standard 2.3** provides, in pertinent part:

Culpability of a member of an act of moral turpitude . . . shall result in 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 1.3** provides:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

The parties submit that application of Standard 2.2(a) in the instant matter without deviation would be manifestly unjust. While Respondent's conduct was improper, it was attributable primarily to Respondent's clinical depression, which rendered him increasingly less capable to tend to his professional obligations. Respondent's misconduct, however, was not due to, nor motivated by, intentional dishonesty or venality.

The parties submit that the protection of the public, the courts and the legal profession, and the preservation of public confidence in the legal profession, will be served by the disposition in this matter, which focuses on the rehabilitation of Respondent through the imposition of a substantial period of actual suspension whose termination is subject to (a) Respondent making the agreed restitution and (b) complying with Standard 1.4(c)(2). Said suspension is coupled with a substantial period of probation with conditions.

#### **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. The MCLE credit for Ethics School will be in addition to Respondent's regular MCLE requirement.

#### **STATE BAR CLIENT TRUST ACCOUNT SCHOOL**

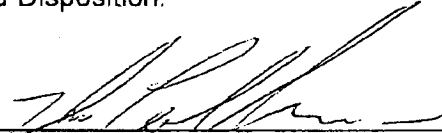
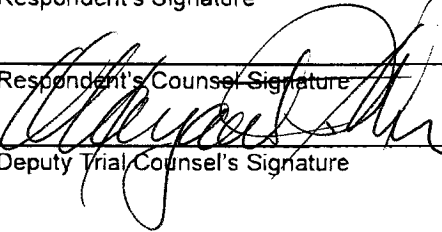
Because respondent has agreed to attend State Bar Client Trust Account School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Client Trust Account School. The MCLE credit for Client Trust Account School will be in addition to Respondent's regular MCLE requirement.

(Do not write above this line.)

In the Matter of <b>Richard S. Collins, #162552</b>	Case number(s): <b>06-O-13473 et al.</b>
--	---

### 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>5-14-09</u> Date	 Respondent's Signature	<u>Richard S. Collins</u> Print Name
<u>5/14/09</u> Date	 Deputy Trial Counsel's Signature	<u>Margaret P. Warren</u> Print Name

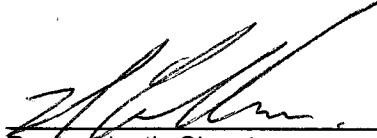
(Do not write above this line.)

In the Matter of  
Richard S. Collins, #162552

Case number(s):  
06-O-13473 et al.

### 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>5-14-09</u> Date	 Respondent's Signature	<u>Richard S. Collins</u> Print Name
_____ Date	_____ Respondent's Counsel Signature	_____ Print Name
_____ Date	_____ Deputy Trial Counsel's Signature	<u>Margaret P. Warren</u> Print Name

(Do not write above this line.)

In the Matter Of <b>RICHARD S. COLLINS, #162552</b>	Case Number(s): <b>06-O-13473 et al.</b>
--	---

**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.)**

05-27-09  
Date

  
Judge of the State Bar Court

**RICHARD A. PLATEL**

**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 May 28, 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:

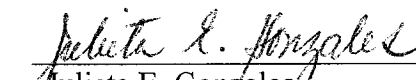
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

RICHARD S COLLINS ESQ  
PO BOX 11895  
SAN BERNARDINO, CA 92423

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

Margaret P. Warren, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 28, 2009.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court