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State Bar Court of California
Hearing Department
San Francisco

PUBLIC MATTER

Counsel For The State Bar Sherrie B. McLetchie 180 Howard Street San Francisco, CA 94105 (415) 538-2297 Bar # 85447	Case Number (s) 07-O-10463-LMA	(for Court's use) FILED APR 24 2008 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Paul Virgo (SBN 67900) Edward Lear (SBN 132699) 5200 W. Century Boulevard #940 Los Angeles, CA 90045 (310) 642-6900 extension 15 Bar #	Submitted to: Settlement Judge	
In the Matter Of: Jay William Jacobus Bar # 55757 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <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 **June 28, 1973**.
- (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."



- (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 **93-O-12749**
 - (b) Date prior discipline effective **June 30, 1994**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **4-100(A) & 4-100(B)(4)**
 - (d) Degree of prior discipline **private reproof**
 - (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. **See page 12.**
- (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 \$ o n i n 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. **See page 12.**
- (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 recently entered into a civil settlement with his former clients.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one (1) 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:

(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 **ten (10) months**.

- 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 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

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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 TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW, AND DISPOSITION

IN THE MATTER OF: Jay William Jacobus

CASE NUMBER: 07-O-10463-LMA

DISMISSALS

Count Nine of the Notice of Disciplinary Charges filed herein charging violation of Business and Professions Code section 6106 is dismissed with prejudice.

FACTS AND CONCLUSIONS OF LAW

Facts

1. On March 9, 1999, Patricia Welch (“Welch”) and Linda Hartman (“Hartman”) employed respondent to represent them as co-executors of the estate of Elizabeth C. Reynolds, deceased. Welch and Hartman employed respondent to finalize all estate matters.
2. On June 18, 1999, the State Bar sent respondent a letter to his official membership records address labeled “FINAL DELINQUENT NOTICE.” The letter informed respondent that because he had failed to pay his membership fee in full he would be placed on suspended status effective September 27, 1999.
3. Respondent received the June 18, 1999 letter soon after it was sent, but failed to pay his outstanding membership fees.
4. On September 9, 1999, respondent filed the Petition for Probate of Will and Authorization to Administer, etc. in *Estate of Elizabeth C. Reynolds*, case number MSP99-01181, Contra Costa County Superior Court .
5. On September 10, 1999, the California Supreme Court entered order number S081555, effective September 27, 1999, suspending respondent from the practice of law as a result of respondent’s failure to pay State Bar membership fees.
6. As of September 27, 1999, respondent knew or should have known that he was suspended from the practice of law, but between September 27, 1999, and January 7, 2000, respondent represented Welch and Hartman and provided them legal services.
7. Prior to October 14, 1999, the State Bar served respondent with a copy of order number S081555 by certified mail, return receipt requested. On October 14, 1999, respondent executed the return receipt for the envelope containing order number S081555, and, thus, as of October 14, 1999, respondent knew that he had been suspended from the practice of law as a result of his failure to pay his bar membership fees since September 27, 1999, and continued to be suspended.
8. On October 14, 1999, while actually suspended from the practice of law, respondent appeared at a probate hearing in Contra Costa Superior Court in the matter of the *Estate of Elizabeth C. Reynolds*. At the hearing, respondent represented Welch and Hartman who were appointed as personal representatives of the estate and the Elizabeth Reynold’s will was admitted

to probate. At the October 14, 1999 probate hearing, respondent did not tell the court that he was suspended from the practice of law. Nor did respondent tell Welch or Hartman that he was suspended from the practice of law and could not represent them.

9. On December 16, 1999, respondent instructed Welch and Hartman to pay him attorney's fees of \$52,000, which respondent contended was the fee he was owed as a result of the services he provided Welch and Hartman. At the time respondent instructed Welch and Hartman to pay him his attorney's fees, respondent knew that California Probate Code sections 10830-10831 require a court order before an attorney may receive attorney's fees from an estate in probate. At the time respondent instructed Welch and Hartman to pay him the \$52,000, respondent had not sought or obtained a court order to receive payment of attorneys fees.

10. On December 21, 1999, respondent received a check for \$52,000 drawn on the account of "Estate of Elizabeth C. Reynolds." When respondent accepted the \$52,000 check for attorney's fees, he did not inform Welch and Hartman that he was suspended from the practice of law.

11. On January 7, 2000, respondent purchased a money order to pay his outstanding bar membership fees, and, upon receipt of the money order from respondent, the State Bar transferred respondent from suspended status to active status, and respondent was again entitled to practice law.

12. During the course of respondent's representation of Welch and Hartman, he did not list all the estate's assets on the Inventory and Appraisal form which was prepared prior to March 23, 2004 (but not filed with the court until November 21, 2005), did not ensure that appropriate estate tax forms were timely filed with the Internal Revenue Service ("IRS") and the California Franchise Tax Board ("FTB"), instructed Welch and Hartman not to pay the estate's estimated taxes as they came due resulting in a fine by the IRS, and did not timely file the Third Report of Status of Administration of Estate with the court.

13. At an April 8, 2004 hearing, the court ordered that Welch and Hartman file a further status report or a petition for distribution on or before October 8, 2004. Respondent did not file a further status report.

14. On September 16, 2005, the probate court set a hearing to consider sanctions against Welch and Hartman for their failure to file the status report ordered on April 8, 2004.

15. By letter dated September 21, 2005, Welch and Hartman terminated respondent's employment, and requested that respondent repay the estate the \$52,000 he received in fees and the \$2,100 he received in advanced costs. Respondent received the September 21, 2005 letter soon after it was sent.

16. On October 7, 2005, Heather Tremain, the attorney Welch and Hartman had hired to replace respondent, filed a Third Report of Status of Estate Administration and requested that the court order respondent to return to the estate all funds respondent received without court order.

17. On November 22, 2005, the court issued an Order Approving Third Report of Status of Estate Administration, Determining Sanctions and Ordering Prior Attorney to Return Estate Fees Received Without Court Order. Respondent, who was present in court, was ordered to reimburse the Reynolds estate for the fees of \$52,000 and costs of \$2,100 that respondent

collected without court order on or before January 17, 2006.

18. On January 17, 2006, respondent appeared at a hearing regarding his improper receipt of estate funds and admitted that he had not paid any money in compliance with the November 22, 2005 order. Respondent stated on the record that he would repay the estate \$1,000 per month until the matter was resolved.

19. As of May 25, 2006, respondent repaid the estate \$38,038, which represented one half of the attorney's fees, plus costs, taxes, penalties and bond premiums incurred by the estate as a result of respondent's taking of attorney's fees without court approval.

20. On July 15, 2006, respondent executed a promissory note in favor of Welch and Hartman in the amount of \$50,106.33, plus 10% interest per annum, payable in \$2,000 monthly installments beginning on August 15, 2006.

21. On August 22, 2006, respondent made a \$2,000 payment pursuant to the terms of the promissory note.

22. On August 28, 2006, respondent entered into a settlement agreement with Hartman and Welch wherein respondent agreed to waive all compensation in connection with the *Estate of Elizabeth C. Reynold* and agreed to reimburse Welch and Hartman for all fees previously paid him. Respondent agreed that the amount he owed at the time he entered into the settlement agreement was \$50,106.33. Respondent agreed to pay Welch and Hartman \$2,000 per month until paid in full.

23. On September 15, 2006, respondent issued a \$2,000 check pursuant to the terms of the settlement agreement. The September 15, 2006 check was returned due to insufficient funds.

24. On November 9, 2006, the court issued a Judgment of Final Distribution on Waiver of Account and for Payment of Statutory Commissions and Fees of Co-Executors and Attorneys that attached the July 15, 2006 Promissory Note and the August 28, 2006 Settlement Agreement between the Reynolds estate and respondent. The November 9, 2006 Judgment required respondent to make monthly payments of \$2,000 until paid in full.

25. Thereafter, respondent made no further payments pursuant to his settlement agreement with Welch and Hartman. However, the respondent, Welch, and Hartman recently entered into a new civil settlement.

Conclusions of Law

By representing Welch and Hartman from September 27, 1999, through January 6, 2000, including his appearance at the October 14, 1999 probate hearing, and by charging and collecting legal fees for services he performed while he was suspended, respondent held himself out as entitled to practice law and did practice law when he was not an active member of the State Bar of California in violation of Business and Professions Code, sections 6125 and 6126, thereby violating Business and Professions Code section 6068(a).

By practicing law while he was suspended when he represented Welch and Hartman at the October 14, 1999 hearing, by continuing to represent Welch and Hartman between October 14, 1999, and January 7, 2000, by failing to inform Welch and Hartman that he was suspended, and by charging and accepting legal fees for services he performed while he knew he was

suspended, respondent committed acts in violation of Business and Professions Code section 6106.

By instructing Welch and Hartman to pay him the \$52,000 in attorney's fees without probate court approval and by advising them to make distributions from the *Estate of Reynolds* without the consent of the probate court, respondent advised clients to violate a law without believing in good faith that the law was invalid, thereby wilfully violating rule 3-210, Rules of Professional Conduct.

By not listing all the estate's assets on the Inventory and Appraisal form prepared prior to March 23, 2004, but filed with the court on November 21, 2005, by not ensuring that appropriate estate tax forms were timely filed with the IRS and the FTB, by instructing Welch and Hartman not to pay the estate's estimated taxes when they became due resulting in a fine by the IRS, and by not timely filing the Third Report of Status of Administration of Estate with the court, respondent recklessly and repeatedly failed to perform legal services with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.

By not advising Welch or Hartman that he had been suspended from the practice of law from September 27, 1999, until January 7, 2000, respondent failed to keep clients reasonably informed of significant developments in a matter in which he had agreed to provide legal services in violation of Business and Professions Code section 6068(m).

By collecting attorney's fees from the *Estate of Reynolds* without court approval, respondent collected an illegal fee in wilful violation of rule 4-200(A), Rules of Professional Conduct.

By not reimbursing the *Estate of Reynolds* for the illegal, advance attorney's fees and costs before January 17, 2006, respondent disobeyed the court's November 22, 2005 order in violation of Business and Professions Code section 6103.

By not repaying \$52,000 to the *Estate of Reynolds*, respondent failed to refund promptly a fee paid in advance that had not been earned once his employment was terminated in wilful violation of rule 3-700(D)(2), Rules of Professional Conduct.

PENDING PROCEEDINGS.

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

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.3 provides that

an act of moral turpitude, fraud, or intentional dishonesty . . . 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. (Emphasis supplied.)

Standard 2.4(b) provides that culpability of a member of wilfully failing to communicate

with a client shall result in **reproval or suspension** depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6 provides that culpability of a violation of certain provisions of the Business and Professions Code, including sections 6068(a), 6103, 6125, and 6126 – all of which respondent is charged – shall result in **disbarment or suspension** depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Standard 2.10 provides that wilful violation of any provision of the Business and Professions Code or Rule of Professional Conduct not otherwise specified in the standards shall result in **reproval or suspension** according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3. Here, respondent is charged with violation of rules 3-110(A) [failure to render competent legal services] 3-210 [advising violation of law], 3-700(D)(2) [failure to return unearned fee] and 4-00(A) [charging and collecting illegal fee].

In *In the Matter of Burckhardt* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343, in two client matters the attorney failed to communicate, failed to competently perform, and improperly withdrew from employment. He also collected an illegal fee in one matter, practiced law while suspended and was found culpable of moral turpitude by intentionally deceiving one client on several occasions. He also failed to cooperate with the State Bar in its investigations. Burchkhardt had 13 years of practice without a true prior (prior record of discipline, but misconduct occurred contemporaneously and was afforded minimal weight). He was actually suspended for **one year**.

In *In the Matter of Lantz* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126, in four matters the attorney misappropriated funds through gross negligence, withheld an illegal fee for over two years, recklessly failed to perform legal services competently, failed to return unearned fees promptly, failed to comply with a court order, committed moral turpitude through gross negligence in failing to obtain court approval before settling a workers' compensation matter, and failed to render an appropriate accounting. He had no prior record of discipline over seven years of practice, good character, and did pro bono work. However, there was significant harm to clients, overreaching/bad faith, indifference to rectification/atonement, and lack of candor in his testimony. Lantz was actually suspended from the practice of law for **one year**.

In *In the Matter of Wells* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 896, the attorney charged and collected illegal and unconscionable fees, violated rule 1-300(B) which prohibits the practice of law in another jurisdiction where to do so would be in violation of that jurisdiction's regulation of the profession; failed to return unearned fees [3-700(D)(2)], failed to maintain entrusted funds in trust [4-100(A)], and made misrepresentations to a State Bar investigator and a South Carolina deputy solicitor amounting to moral turpitude. Wells had a prior private reproval. Wells was actually suspended for **six months and until** she pays restitution suspension.

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AGGRAVATING CIRCUMSTANCES

PRIOR DISCIPLINE

See page 2.

HARM

Respondent harmed the probate court by his taking of an illegal fee requiring the court to expend unusual time and attention to the probate in question.

MITIGATING CIRCUMSTANCES

FAMILY PROBLEMS

In September 1999 and for many years prior thereto, respondent had been financially drained by the medical expenses of his now ex-wife.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 7, 2008, the costs in this matter are \$5,070.25. 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.

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In the Matter of Jay William Jacobus	Case number(s): 07-O-10463-LMA
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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>April 7, 2008</u> Date	<u><i>Jay William Jacobus</i></u> Respondent's Signature	<u>Jay William Jacobus</u> Print Name
<u>April 7, 08</u> Date	<u><i>E. Lear</i></u> Respondent's Counsel Signature	<u>Edward O. Lear</u> Print Name
_____ Date	_____ Deputy Trial Counsel's Signature	_____ Print Name

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In the Matter of Jay William Jacobus	Case number(s): 07-O-10463-LMA
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April 7, 2008 Jay William Jacobus Jay William Jacobus
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name
April 7, 2008 Sherrie B. McLetchie Sherrie B. McLetchie
Date Deputy Trial Counsel's Signature Print Name

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In the Matter Of
Jay William Jacobus

Case Number(s):
07-O-10463-LMA

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.

Pursuant to the agreement of the parties, box number 5 on page 6 is checked, and the following additional condition of probation is added:

During the two-year period of probation herein, pursuant to the terms of the Compromise Settlement and Release entered into between respondent and the plaintiffs in *Linda Hartman and Patricia Welch, as co-Executors of the Estate of Elizabeth Reynolds, deceased v. Jay William Jacobus, Contra Costa Superior Court case number MSC07-02437*:

- (A) Respondent shall pay to the Estate of Elizabeth Reynolds the sum of \$20,000 on or before April 30, 2008;
- (B) Commencing on May 31, 2008, and continuing on the last day of each month thereafter, respondent shall pay to the Estate of Elizabeth Reynolds not less than \$250 per month;
- (C) For any month in which respondent is not suspended from the practice of law as a result of this Stipulation, respondent shall pay to the Estate of Elizabeth Reynolds not less than \$500;
- (D) Notwithstanding (B) and (C) above, respondent shall pay no less than \$9,000 (not including the \$20,000 payment due by April 30, 2008) per year (May 31, 2008 through May 30, 2009, and May 31, 2009 through May 30, 2010) to the Estate of Elizabeth Reynolds; and
- (E) In each report respondent submits to the Office of Probation, he shall set forth all payments made to the Estate of Elizabeth Reynolds during the period each report covers.

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.)**

4-23-08

Date


Judge of the State Bar Court

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 April 24, 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:

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

**PAUL JEAN VIRGO
PO BOX 67682
LOS ANGELES, CA 90067 - 0682**

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

SHERRIE MCLETCHIE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **April 24, 2008**.



Bernadette C. O. Molina
Case Administrator
State Bar Court