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State Bar Court of California Hearing Department Los Angeles		
Counsel For The State Bar Charles T. Calix 1149 S. Hill Street Los Angeles, CA 90015-2299 (213) 765-1255 Bar # 146853	Case Number (s) 07-O-10742- 07-O-11041, 07-O-12507, 07-O-12535, 07-O-13400, & 08-O-11478	(for Court's use) <div style="text-align: center;"> <p>FILED</p> <p>NOV -5 2010 <i>YJC</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p> </div>
In Pro Per Respondent Kevin Scott Nitzel P.O. Box 15039 San Luis Obispo, CA 93406 (805) 229-6048 Bar # 196113	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Kevin Scott Nitzel Bar # 196113 A Member of the State Bar of California (Respondent)		

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 16, 1998**.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **(16)** 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):
- Costs to be awarded to the State Bar
 - Costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - Costs entirely waived
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 220(c).

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**
- (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. **Respondent's abandonment of his clients harmed them and 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. **Respondent's abandonment of six (6) clients evidences multiple acts of wrongdoing and 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. **By entering into this stipulated disbarment, Respondent is displaying candor and cooperation with the State Bar during the disciplinary proceeding.**
- (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. **By entering into this stipulated disbarment, Respondent is taking an objective step to demonstrate his remorse and recognition of his wrongdoing, and his atonement for the consequences of his misconduct.**
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Respondent has no prior record of discipline since being admitted June 16, 1998.

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.

- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.

- (3) **Client Security Fund Reimbursement:** Respondent must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and such payment obligation is enforceable as provided under Business and Professions Code section 6140.5.

- (4) **Other:**

Clarification of E. (1) - Respondent is required to comply with this provision. There is no box because compliance is mandatory.

See Financial Conditions re Restitution on page 5.

In the Matter of
Kevin Scott Nitzel

A Member of the State Bar

Case number(s):
07-O-10742 (Fetscher), 07-O-11041 (DePauw), 07-O-12507 (Hicks), 07-O-12535 (Bales), 07-O-13400 (Jacksons), and 08-O-11478 (Draper)

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
Nancy Fetscher	\$5,685.45	July 12, 2006
Mark DePaux	\$6,750.00	March 2, 2005
Kim Hicks	\$3,500.00	April 25, 2006
Bill & Reyna Jackson	\$500.00	May 5, 2006

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **October 31, 2011**.

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 reprobation), 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
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Case number(s):
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O-12507 (Hicks), 07-O-12535 (Bales), 07-O-13400
(Jacksons), and 08-O-11478 (Draper)

A Member of the State Bar

NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a Notice of Disciplinary Charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) **Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admission required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.) (emphasis supplied)**

Rule 133, Rules of Procedure of the State Bar of California **STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

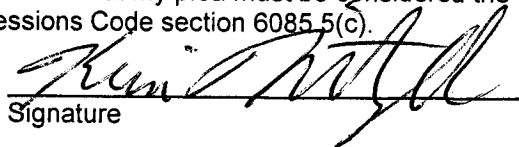
(a) A proposed stipulation as to facts, conclusions of law, and disposition must set forth each of the following:

- (5) a statement that Respondent either
 - (i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or
 - (ii) **pleads nolo contendere to those facts and violations. If the Respondent pleads nolo contendere, the stipulation shall include each of the following:**
 - (a) **an acknowledgement that the Respondent completely understands that the plea of nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified in the stipulation; and**
 - (b) **if requested by the Court, a statement by the Deputy Trial Counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter (emphasis supplied)**

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code § 6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea must be considered the same as an admission of culpability except as state in Business and Professions Code section 6085.5(c).

October 22, 2010
Date

Signature



Kevin Scott Nitzel
Print Name

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Kevin Scott Nitzel

**CASE NUMBERS: 07-O-10742 (Fetscher), 07-O-11041 (DePauw), 07-O-12507
 (Hicks), 07-O-12535 (Bales), 07-O-13400 (Jacksons), and
 08-O-11478 (Draper)**

Kevin Scott Nitzel ("Respondent") pleads nolo contendere as set forth in the attached Nolo Contendere Plea to Stipulation as to Facts, Conclusions of Law and Disposition.

FACTS AND CONCLUSIONS OF LAW.

A. Facts re Case No. 07-O-10742 (Fetscher)

1. On or about April 7, 2004, Nancy Fetscher ("Fetscher") employed Respondent to represent her in a personal injury matter against two separate defendants. The retainer agreement signed by Fetscher and Respondent on that date allowed Respondent to keep a contingency fee of one-third of any settlement. The remainder of the settlement was to be utilized to pay Fetscher's medical providers and Fetscher.

2. On or about July 12, 2006, Respondent received and deposited check #41162623 from USAA on behalf of Fetscher in the amount of \$25,000 from one of the two defendants, Douglas DePalma. Respondent was entitled to keep \$8,334 of the funds as his contingency fees per the retainer agreement. Respondent was to use the remaining funds to finance the cost of the litigation against the second defendant.

3. Between on or about March 5, 2005 and on or about July 27, 2006, Respondent paid out \$10,980.55 on behalf of Fetscher to one of her health care providers and in costs to finance the litigation against the second defendant. After paying his contingency fee of \$8,334 and the \$10,980.55 on behalf of Fetscher, Respondent was required to hold the sum of \$5,685.45 in trust for Fetscher.

4. Between in or about July 2006 and in or about early February 2007, Fetscher called Respondent's office telephone number on several occasions. She was unable to speak with Respondent and left messages on his answering machine stating her name, telephone number and request that he call her to provide a status report. Respondent received the messages, but did not return any of Fetscher's phone calls.

5. On or about February 9, 2007, Fetscher visited Respondent's office at 200 D Street, Cayucos, California. Respondent's office space had been vacated and his telephone line had been disconnected. No forwarding address or telephone number was provided at the office.

6. Respondent did not provide Fetscher with a forwarding address or telephone number, has not contacted her since July 2006, and has not paid out the sum of \$5,685.45 he was to hold in trust for Fetscher.

7. By vacating his office, disconnecting his telephone number, failing to inform Fetscher of his forwarding address and telephone number, and failing to return Fetscher's messages requesting status reports between in or about July 2006, Respondent constructively abandoned Fetscher effective July 2006.

8. On or about April 9, 2007 and May 3, 2007, State Bar Investigator Agnes Mina (the "Investigator") mailed letters to Respondent requesting a written response to the allegations of Fetscher. The letters were mailed to Respondent's membership records address and were sent to him by first class mail. Respondent received the letters, but failed to provide a written response or comply with the requests for cooperation and participation in the disciplinary investigation.

B. Conclusions of Law re Case No. 07-O-10742 (Fetscher)

9. By abandoning Fetscher effective July 2006, Respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct ("rule").

10. By failing to pay out the \$5,685.45 in trust for Fetscher since July 2006, Respondent failed to pay promptly, as requested by a client, funds in Respondent's possession which the client was entitled to receive in willful violation of rule 4-100(B)(4).

11. By failing to respond to the Investigator's letters requesting a written response and cooperating in the State Bar's investigation, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code section 6068(i).

C. Facts re Case No. 07-O-11041 (DePauw)

12. On or about March 2, 2005, Mark DePauw ("DePauw") employed Respondent to represent him in his divorce and custody matter. DePauw paid Respondent \$6,750 in advanced fees for the legal services.

13. Respondent told DePauw at the time he was hired that he would get a mental health evaluation done on DePauw's ex-wife to establish her inability to care for their daughter, make arrangements to obtain DePauw's personal belongings from his ex-wife, and have DePauw's child support order amended to lower the monthly payments.

14. Between on or about March 2, 2005 and in or about August 2005, DePauw was able to communicate with Respondent. However, Respondent has not contacted DePauw since August 2005.

15. Between on or about August 31, 2005 and on or about February 12, 2007, DePauw called Respondent's office telephone number on several occasions. DePauw was unable to speak with Respondent and left messages on Respondent's answering machine stating his name, telephone number and request that Respondent call him to provide a status report. Respondent received the messages, but did not return any of DePauw's phone calls.

16. Between on or about August 31, 2005 and on or about February 12, 2007, DePauw sent several email and letters to Respondent. The email and letters identified DePauw and requested that Respondent provide a status report. The email and letters were not returned as undeliverable. Respondent did not provide a status report in response to the email and letters.

17. In or about February 2007, Respondent vacated his law office and left no forwarding address or phone number. Respondent did not provide DePauw with a forwarding address or telephone number, and has not contacted him since in or about August 2005.

18. By vacating his office, disconnecting his telephone number, failing to inform DePauw of his forwarding address and telephone number, and failing to return DePauw messages, email and letters requesting status reports between in or about August 2005 and in or about February 2007, Respondent abandoned DePauw effective August 2005.

19. Between on or about March 2, 2005 and in or about February 2007, Respondent failed to complete any of the aforementioned services he represented to DePauw he would accomplish. By failing to complete any of the aforementioned services, Respondent provided no services of actual value to DePauw and therefore earned none of the advanced fees paid by DePauw, because *inter alia* DePauw was required to hire another attorney to provide those same services. At no time did Respondent refund any portion of the \$6,750 in advanced fees.

20. On or about April 12, 2007 and May 23, 2007, the Investigator mailed letters to Respondent requesting a written response to the allegations of DePauw. The letters were mailed to Respondent's membership records address and were sent to him by first class mail. Respondent received the letters, but failed to provide a written response or comply with the requests for cooperation and participation in the disciplinary investigation.

D. Conclusions of Law re Case No. 07-O-11041 (DePauw)

21. By abandoning DePauw effective August 2005, Respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of rule 3-700(A)(2).

22. By not refunding the \$6,950 in advanced fees to DePauw, Respondent failed to refund unearned fees in willful violation of rule 3-700(D)(2).

23. By failing to respond to the Investigator's letters requesting a written response and cooperating in the State Bar's investigation, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code section 6068(i).

E. Facts re Case No. 07-O-12057 (Hicks)

24. On or about April 25, 2006, Kim Hicks ("Hicks") met with Respondent and paid him \$3,500 in advanced fees to represent her in her dissolution of marriage. His services were to include filing dissolution papers in order to obtain a divorce and resolve property settlement disputes with her husband.

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25. Between June 2006 and June 2008, Hicks sent numerous letters, e-mails and faxes to Respondent that identified Hicks and requested that Respondent provide a status report or refund the advanced fees Hicks paid to Respondent. The letters, email and faxes were not returned as undeliverable. Respondent did not provide a status report or refund any portion of the \$3,500 paid to him in advanced fees.

26. On or about February 2007, Respondent vacated his law office and left no forwarding address or phone number. Respondent did not provide Hicks with a forwarding address or telephone number, and has not contacted her since on or about May 1, 2006.

27. By vacating his office, disconnecting his telephone number, failing to inform Hicks of his forwarding address and telephone number, and failing to return Hicks letters, email and faxes requesting status reports between in or about June 2006 and in or about June 2008, Respondent abandoned Hicks June 2006.

28. Between on or about April 25, 2006 and in or about February 2007, Respondent failed to complete any of the aforementioned services he represented to Hicks he would accomplish. By failing to complete any of the aforementioned services, Respondent provided no services of actual value to Hicks and therefore earned none of the advanced fees paid by Hicks. At no time did Respondent refund any portion of the \$3,500 in advanced fees.

29. On or about August 16, 2007 and February 27, 2008, the Investigator mailed letters to Respondent requesting a written response to the allegations of Hicks. The letters were mailed to Respondent's membership records address and were sent to him by first class mail. Respondent received the letters, but failed to provide a written response or comply with the requests for cooperation and participation in the disciplinary investigation.

F. Conclusions of Law re Case No. 07-O-12057 (Hicks)

30. By abandoning Hicks effective May 2006, Respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of rule 3-700(A)(2).

31. By not refunding the \$3,500 in advanced fees to Hicks, Respondent failed to refund unearned fees in willful violation of rule 3-700(D)(2).

32. By failing to respond to the Investigator's letters requesting a written response and cooperating in the State Bar's investigation, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code section 6068(i).

G. Facts re Case No. Case No. 07-O-12535 (Bales)

33. On or about February 15, 2006, Meta Bales ("Bales") hired Respondent on a contingency fee basis to represent her in three personal injury cases against Taco Bell, the Estate of Bernard Taylor and Killion Industries, Inc.

34. Respondent failed to pay the filing fees for Bales' civil complaint against Taco Bell resulting in the voiding of the filing by the court. He took no further action in that matter.



35. In Bales' matter against the Estate of Bernard Taylor, Respondent failed to appear in court on several occasions and failed to comply with discovery as ordered by the court. The case was dismissed by the Court due to Respondent's failure to respond to discovery.

36. In Bales' civil complaint against Killion Industries, Inc., Respondent failed to serve the defendant with the complaint which resulted in the case being dismissed. Respondent took no further action to prosecute the matter.

37. On or about February 27, 2008 and July 17, 2008, the Investigator mailed letters to Respondent requesting a written response to the allegations of Bales. The letters were mailed to Respondent's membership records address and were sent to him by first class mail. Respondent received the letters, but failed to provide a written response or comply with the requests for cooperation and participation in the disciplinary investigation.

H. Conclusions of Law re Case No. Case No. 07-O-12535 (Bales)

38. By failing to pay filing fees in Bales' case against Taco Bell, failing to appear in court and comply with discovery in Bales' case against the Estate of Bernard Taylor and by failing to serve the defendant in Bales' case against Killion Industries, Inc., Respondent repeatedly failed to competently perform services on behalf of Bales in willful violation of 3-110(A).

39. By failing to respond to the Investigator's letters requesting a written response and cooperating in the State Bar's investigation, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code section 6068(i).

I. Facts re Case No. Case No. 07-O-13400 (Jacksons)

40. On or about May 5, 2006, Bill and Reyna Jackson (the "Jacksons") hired Respondent to prepare two wills, a living trust, health care directives, and trust transfer deeds. The Jacksons paid Respondent \$500 in advanced fees for his legal services.

41. Between on or about May 7, 2006 and in or about February 2007, the Jackson called Respondent's office telephone number on several occasions. The Jacksons were unable to speak with Respondent and left messages on Respondent's answering machine stating their name, telephone number and request that Respondent call them to provide a status report. Respondent received the messages, but did not return any of the Jackson's phone calls.

42. Between on or about May 7, 2006 and in or about February 2007, the Jacksons sent several email to Respondent. The email identified the Jacksons and requested that Respondent provide a status report. The email were not returned as undeliverable. Respondent did not provide a status report in response to the email.

43. In or about February 2007, Respondent vacated his law office and left no forwarding address or phone number. Respondent did not provide the Jacksons with a forwarding address or telephone number, and has not contacted them since on or about May 6, 2006.

44. By vacating his office, disconnecting his telephone number, failing to inform the Jackson of his forwarding address and telephone number, and failing to return the Jacksons' telephone messages and email requesting status reports between in or about May 7, 2006 and in or about February 2007, Respondent abandoned Hicks effective May 7, 2006.

45. Between on or about May 5, 2006 and in or about February 2007, Respondent failed to complete any of the aforementioned services he represented to the Jacksons he would accomplish. By failing to complete any of the aforementioned services, Respondent provided no services of actual value to the Jacksons and therefore earned none of the advanced fees paid by the Jacksons. At no time did Respondent refund any portion of the \$500 in advanced fees.

46. On or about September 12, 2007 and July 17, 2008, the Investigator mailed letters to Respondent requesting a written response to the allegations of the Jacksons. The letters were mailed to Respondent's membership records address and were sent to him by first class mail. Respondent received the letters, but failed to provide a written response or comply with the requests for cooperation and participation in the disciplinary investigation.

J. Conclusions of Law re Case No. 07-O-13400 (Jacksons)

47. By abandoning the Jacksons effective May 7, 2006, Respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to his clients in willful violation of rule 3-700(A)(2).

48. By not refunding the \$500 in advanced fees to the Jackson, Respondent failed to refund unearned fees in willful violation of rule 3-700(D)(2).

49. By failing to respond to the Investigator's letters requesting a written response and cooperating in the State Bar's investigation, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code section 6068(i).

K. Facts re Case No. 08-O-11478 (Draper)

50. In or about August 2007, James Draper ("Draper") hired Respondent to represent Draper in his marital dissolution matter.

51. On or about October 15, 2007, Respondent filed a response on Draper's behalf to the petition for dissolution. Between in or about November 2007 and in or about late January 2008, Respondent represented Draper and appeared with Draper for several hearings concerning the marital dissolution matter.

52. Beginning in or about late January 2008, Respondent ceased communicating with Draper.

53. Between in or about early February 2008 and in or about May 2008, Draper called Respondent's home telephone number on several occasions. Draper was unable to speak with Respondent and left messages with Respondent's mother-in-law stating his name, telephone number and request that Respondent call him to provide a status report. Respondent received the messages, but did not return any of Draper's phone calls.

54. On or about February 2, 2008, March 4, 2008 and May 3, 2008, Draper sent emails to Respondent. The email identified Draper and requested that Respondent provide a status report. The emails were not returned as undeliverable. Respondent did not provide a status report in response to the emails.

55. By failing to continue representing Draper in the dissolution and failing to return Draper's telephone messages and emails requesting status reports, Respondent abandoned Hicks effective early February 2008.

56. On or about May 1, 2008 and July 17, 2008, the Investigator mailed letters to Respondent requesting a written response to the allegations of Draper. The letters were mailed to Respondent's membership records address and were sent to him by first class mail. Respondent received the letters, but failed to provide a written response or comply with the requests for cooperation and participation in the disciplinary investigation.

L. Conclusions of Law re Case No. 08-O-11478 (Draper)

57. By abandoning Draper effective early February 2008, Respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of rule 3-700(A)(2).

58. By failing to respond to the Investigator's letters requesting a written response and cooperating in the State Bar's investigation, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code section 6068(i).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was October 15, 2010.

DISMISSALS.

The parties respectfully request that the Court dismiss the following alleged violations in the interest of justice:

CASE NO.	COUNT	ALLEGED VIOLATION
07-O-10742 (Fetscher)	1	Rule 4-100(B)(4)
07-O-10742 (Fetscher)	3	Rule 3-110(A)
07-O-10742 (Fetscher)	5	Business & Professions Code 6068(m)
07-O-11041 (DePauw)	7	Rule 3-110(A)
07-O-11041 (DePauw)	8	Business & Professions Code 6068(m)
07-O-12507 (Hicks)	10	Rule 3-110(A)
07-O-12507 (Hicks)	12	Business & Professions Code 6106
07-O-13440 (Jacksons)	16	Rule 3-110(A)
07-O-13440 (Jacksons)	17	Business & Professions Code 6068(m)
08-O-11478 (Draper)	20	Rule 3-110(A)
08-O-11478 (Draper)	21	Business & Professions Code 6068(m)

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.

The parties waive any variance between the Notice of Disciplinary Charges (“NDC”) filed on June 29, 2010 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended NDC. The parties further waive the right to the filing of a NDC and to a formal hearing on any charge not included in the pending NDC.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct (“Standards”) provides that the purpose of the disciplinary system is, “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.”

Standard 2.2(a) provides as follows:

Culpability of a member of willful 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 2.4(a) provides as follows: “Culpability of a member of a pattern of willfully failing to perform services demonstrating the member’s abandonment of the causes in which he was retained shall result in disbarment.”

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 15, 2010, the prosecution costs in this matter are \$5,392. 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.

FINANCIAL CONDITIONS, RESTITUTION.

Respondent waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein.

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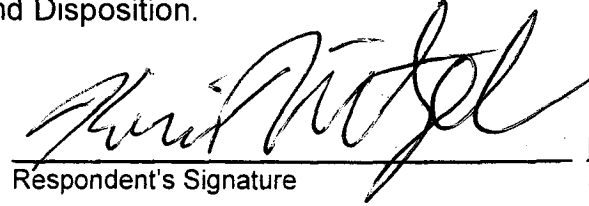
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In the Matter of Kevin Scott Nitzel	Case number(s): 07-O-10742 (Fetscher), 07-O-11041 (DePauw), 07-O-12507 (Hicks), 07-O-12535 (Bales), 07-O-13400 (Jacksons), and 08-O- 11478 (Draper)
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SIGNATURE OF 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.

10-22-10
Date


Respondent's Signature

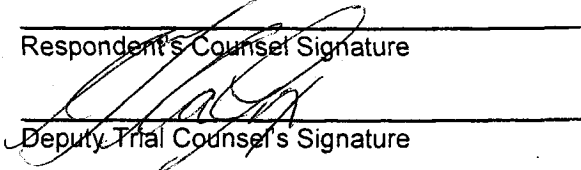
Kevin Scott Nitzel
Print Name

Date

Respondent's Counsel Signature

Print Name

10-28-10
Date


Deputy Trial Counsel's Signature

Charles T. Calix
Print Name

(Do not write above this line.)

In the Matter of
KEVIN SCOTT NITZEL
Member #153999

Case number(s):
07-O-10742 (Fetscher); 07-O-11041 (DePauw); 07-O-12507
(Hicks); 07-O-12535 (Bales); 07-O-13400 (Jacksons); and
08-O-11478 (Draper)

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.

1. On page 10 of the stipulation, in numbered paragraph 22, "\$6,950" is deleted, and in its place is inserted "\$6,750".
2. On page 13 of the stipulation, in numbered paragraph 44, "respondent abandoned Hicks" is deleted, and in its place is inserted "respondent abandoned the Jacksons".
3. On page 14 of the stipulation, in numbered paragraph 55, "respondent abandoned Hicks" is deleted, and in its place is inserted "respondent abandoned Draper".

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.)**

Respondent **KEVIN SCOTT NITZEL** is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 490(b) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

11/4/2010

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 Los Angeles, on November 5, 2010, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT; DISBARMENT

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:

**KEVIN S. NITZEL
LAW OFC KEVIN S NITZEL
PO BOX 15039
SAN LUIS OBISPO, CA 93406**

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

CHARLES CALIX, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 5, 2010.



Tammy Cleaver
Case Administrator
State Bar Court