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

<p>Counsel For The State Bar</p> <p>Manuel Jimenez State Bar of California 180 Howard Street San Francisco, CA 94105 (415) 538-2288</p> <p>Bar # 218234</p>	<p>Case Number(s): 07-O-11606 07-O-14061 09-O-16604 10-O-07557</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED <i>eff</i></p> <p>APR 11 2011</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Donald D. Beury 423 F. Street Davis, CA 95616 (530) 757-7125</p> <p>Bar # 141733</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Donald D. Beury</p> <p>Bar # 141733</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted September 29, 1989.
- (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 15 pages, not including the order.



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- (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 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2012, 2013, and 2014.. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are 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.

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- (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. The instant misconduct involves 11 counts of professional misconduct, affecting four clients.
- (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. Respondent has been licensed to practice law since 1989. He has been discipline-free during the entire time. The first charged misconduct started in 2005.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities. Respondent's mother passed away in 2007.
- (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.

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- (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's conduct is mitigated by the fact that he contacted and conferred with the Ethics Hotline provided by the State Bar. He was given a published decision, *Epstein v. Abrams*, 57 Cal.App.4th 1159, which he relied on as authorization for the his conduct in the 07-O-14601 (Noblet) matter.

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 three (3) 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 Sixty (60) days.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

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- (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 the 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:
 - Substance Abuse Conditions
 - Medical Conditions
 - Law Office Management Conditions
 - 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 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Donald D. Beury

CASE NUMBER: 07-O-11606 [07-O-14061; 09-O-16604; 10-O-07557]

FACTS AND CONCLUSIONS OF LAW

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 07-O-11606 (Blanchard Matter)

Kirk and Carolyn Blanchard ("Blanchards") hired respondent in July, 2006 to obtain legal guardianship of their minor grandchildren. They paid him \$1,500 as advanced fees. Respondent also represented the Blanchard's daughter, Angelita Griffin ("Griffin"), to handle her divorce. Griffin is the mother of the Blanchard's grandchildren related to the guardianship. The interests of the Blanchards and Angelita Griffin potentially conflicted. Respondent did not obtain the informed written consent of the Blanchards, and/or Angelita Griffin, to the potential conflict.

On July 20, 2006, respondent filed for dissolution on behalf of Angelita Griffin, in case entitled, *Angelita Griffin v. Michael Griffin*, case number 06FL05374, filed in Superior Court, County of Sacramento. On this date, respondent also filed a Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act. Respondent subsequently took a default judgment in the matter. In November, 2006, respondent filed a judgment in the matter, which included a proposed order to award custody of Anelita Griffin's children to the Blanchards. The court rejected the judgment, informing respondent that it did not have the authority to award custody to a non-parent through a divorce proceeding. Respondent informed the Blanchards that they would need to for guardianship.

On December 14, 2006, respondent sent the Blanchards a Petition for Appointment of Guardian of Minor, and directed them to sign the documents and return them to him. On December 25, 2006, the Blanchards signed the documents and returned them to respondent.

The Blanchard spoke to respondent in January, 2007, and respondent assured them that the matter would be filed promptly. Thereafter, respondent took no action to complete the guardianship. The Blanchards terminated respondent's services on March 6, 2007. Respondent failed to complete the Guardianship on behalf of the Blanchards.

Conclusions of Law

By failing to complete the guardianship on behalf of the Blanchards, respondent failed to perform with competence, in willful, reckless and repeated violation of Rules of Professional Conduct, rule 3-110(A).

By failing to obtain the informed written consent of the Blanchards and Angelita Griffin to the potential conflict, respondent willfully violated Rules of Professional Conduct, rule 3-310(C)(1).

By failing to refund the \$1,180 to the Blanchards, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 07-O-14601 (Noblet Matter)

In April, 2005, Kathleen Noblet (hereinafter, "Noblet") hired respondent to negotiate her shares of ownership of Professional Dynamics Company, which was then also her employer. In April, 2005, the parties executed a fee agreement for an hourly fee of \$200. Respondent filed suit on her behalf, entitled *Noblet v. Anders, Professional Dynamics, Inc.*, case no. 06AS00005, filed in Superior Court, County of Sacramento.

In July, 2007, Noblet and respondent attended a settlement conference. He had filed no settlement conference statement and was unprepared for the conference. The on that date there was a proposed settlement for \$200,000, payable to Noblet, solely. Noblet was unhappy with the settlement, feeling it was compromise because of respondent's negligence. From the date of the proposed settlement until October 4, 2007, Noblet continued negotiating the details of the proposed settlement.

On August 10, 2007, Noblet emailed respondent and told him not to file any documents or enter into any agreements with the opposing side without first consulting with her and her other attorney James Hodges. On August 30, 2007, Noblet emailed respondent in which she stated, in part, "...I am instructing you not to file any motion or pleading with the court on my behalf. Later that same day, Noblet sent respondent another email, instructing him that he was no longer authorized to act or represent her. On September 4, 2007, Noblet sent respondent a correspondence dismissing him as her attorney.

On August 20, 2007 respondent sent a Motion to Confirm Settlement Agreement and Conditional Settlement Agreement to the opposing counsel, Mary Farrell, in contravention to his client's instructions of August 10, 2007;

October 4 2007, with no authority from Noblet, and subsequent to his termination, respondent filed an Opposition to Motion to Revise Settlement. In his motion, respondent sought an order that the settlement proceeds be paid to himself and Noblet, jointly. This motion contradicted the terms of the settlement because the July 10, 2007 settlement agreement specified that the settlement funds were to be paid to Noblet solely.

In his Opposition to Motion to Revise Settlement, filed on October 4, 2007, respondent included confidential attorney client information, including that Noblet was satisfied with the settlement; Noblet refused to pay her attorney's fees of \$22,445.00; Noblet refused to pay outstanding costs of \$4,962.44; and Noblet instructed respondent to prepare a motion which included instructions that the settlement checks would be payable directly to Noblet.

Conclusions of Law

By failing to abide by his client's instructions regarding communication to the opposing counsel; by interfering with his client's completion of the case by filing self-serving pleading in the case after he was terminated, respondent failed to perform with competence, in willful, reckless, and repeated violation of the Rules of Professional Conduct, rule 3-110(A).

By including, in his pleadings, information about the confidential attorney-client relationship between himself and Noblet, respondent failed to maintain inviolate the confidences of his client, in willful violation of Business and Professions Code, section 6068(e).

By filing pleadings in Noblet's case, attempting to re-negotiate the settlement to his own personal advantage, respondent violated his duty of loyalty to Noblet, and thereby failed to support the Constitution and laws of the United States and of this state, in willful violation of Business and Professions Code, section 6068(a).

Case No. 09-O-16604 (Turchyn Matter)

On May 30, 2008, Peter Turchyn (hereinafter, "Turchyn") hired respondent to represent him in his ongoing divorce matter, *Elizabeth Turchyn v. Peter Turchyn*, Case Number FL04-2398, filed in Superior Court, County of Yolo. The parties executed an Attorney Client Fee Agreement for an hourly rate and Turchyn paid respondent the sum of \$4,000 as an advanced fee. On July 24, 2008, respondent filed a Motion for Modification of Child Support on Turchyn's behalf. The matter came to hearing on October 10, 2008. On that date, the Court issued rulings on child support. Respondent was ordered by the Court to prepare and file the order after hearing (OAH). Respondent failed to complete and submit that order to the Court until April 15, 2009, a delay of six months.

On January 8, 2009, the matter again came to hearing on issues of child custody and child support. The Court issued its rulings and again ordered respondent to prepare the OAH. Respondent did not submit the OAH to the Court on the January 8, 2009 hearing until February 24, 2010, a delay of one year.

Conclusions of Law

By failing to submit the OAH's to the Court in a timely fashion, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

By failing to timely file the OAHs, respondent willfully disobeyed or violated orders of the Court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear, in willful violation of Business & Professions Code section 6103.

Case No. 10-O-07557 (Fields Matter)

On October 11, 2009, Van Fields ("Fields") hired respondent to represent him as the defendant in a divorce proceeding, *Fields v. Fields*, Case Number FL-09-0001860. Fields paid respondent \$1,000

as advanced fees. On October 12, 2010, respondent advised Fields that he would file a Response to the Divorce Petition on behalf of Fields and that he needed \$355 for the filing fee. Fields gave respondent a check for \$500.

Respondent did not file a Response to the divorce petition. On May 11, 2010, respondent submitted to the Court an At-Issue Memorandum, Request for Court Trial, and Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration. On May 13, 2010 the court clerk informed respondent that he needed to file a Response to the Divorce Petition for the court to accept the at-issue memorandum and other documents. Respondent took no further action in response to the court's notice. Respondent failed to inform Fields that no Response had been filed, and no \$355 cost had been incurred.

On May 10, 2010, respondent sent Fields a "Bill and Request to Replenish Retainer." The bill included a charge for \$355 for a filing fee. In fact, respondent had not filed any documents on behalf of Fields and had not incurred any filing fee. The representation that respondent had incurred a filing fee on behalf of Fields was false.

On June 3, 2010, the court clerk called respondent's office and again advised respondent to file a Response to the Divorce Petition. Respondent took no action to file a Response. On June 9, 2010, the Court struck the At-Issue Memorandum due to respondent's failure to file a Response to the divorce petition. On June 9, 2010, Fields terminated respondent and substituted in attorney Raquel M. Silva on his behalf. Respondent's work was of no value to Fields. Respondent did not refund either the unused filing fee or the unearned advanced fees.

Conclusions of Law

By failing to file a Response to the Divorce Petition so that the court would file his At-Issue Memorandum and Request for Trial, respondent willfully, recklessly, or repeatedly failed to perform, in violation of rule 3-110(A) of the Rules of Procedure of the State Bar.

By failing to advise Fields that he did not file a Response, and did not incur a \$355 filing fee, and by falsely representing to Fields that he had filed such a Response and incurred a filing fee, respondent failed to keep his client informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of Business & Professions Code § 6068(m).

By failing to refund the \$355 in costs which he never incurred, and by failing to refund the remaining \$1,145, upon the termination of his services, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A (7), was February 24, 2011.

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.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 24, 2011, the prosecution costs in this matter are \$ 5,182.00. This does not include other causes related to the prosecution of the instant matter. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards:

Standard 2.4(b) states, "Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6 states, "Culpability of a member of violation of of...[section 6068] of the Business and Professions Code 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 2.8 states, "Culpability of a member of a wilful violation of rule 3-300, Rules of Professional Conduct, shall result in suspension unless the extent of the member's misconduct and the harm to the client are minimal, in which case, the degree of discipline shall be reproof.

Standard 2.10 states, "culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or of a wilful violation of any Rule of Professional conduct not specified in these standards shall result in reproof 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"

Case Law:

Martin v. State Bar (1978) 20 Cal.3d 717; A respondent, with no prior discipline in 28 years of practice, was suspended for two years, stayed, one year, actual, for misconduct. In six separate matters, Respondent failed to perform, failed to communicate and knowingly misrepresented the status of the case to the client.

Lavin v. State Bar (1975) 15 Cal.3d 973; A respondent, with no prior discipline, was suspended for three months and until restitution was made. In four matters, respondent failed to pay out money he collected on behalf of a client, failed to keep advanced filing fees in trust, failed to refund unearned and unused advanced fees and costs, failed to communicate and failed to perform services.

Lester v. State Bar (1976) 17 Cal.3d 547; A respondent, with no prior discipline, was suspended for two years, stayed, six months actual for misconduct. Respondent wilfully failed to perform legal services in four matters in which he was retained, failed to communicate, made misrepresentations to his client,

and failed to refund all or any portion of the advanced fees until required to do so by either court order or the pendency of a disciplinary hearing.

Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498; An attorney's fiduciary duty to develop and maintain adequate management and accounting procedures for proper operation of his law office is fundamental to fulfillment of duties, including to competently perform legal services, adequately communicate with clients, protect client confidential information, and properly handle and account for client funds and other property.

Matter of Nees (Review Dept. 1996) 3 Cal. State. Ct. Bar Rptr. 459; A respondent, with no prior discipline, was actually suspended for six month and until he completed restitution. The Review Department focused on respondent's reckless and protracted failure to perform legal servies for an incarcerated client. The respondent failed to respond to reasonable status inquiries, failed to provide competent legal services, failed to turn over the client's file promptly and failed to refund unearned, advanced fees.

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In the Matter of: Donald D. Beury	Case Number(s): 07-O-11606 [07-O-14061; 09-O-16604; 10-O-07557]
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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
Kirk and Carolyn Blanchard	\$1180.00	July, 2006
Van Fields	\$1500.00	October, 2009

- 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 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

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

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

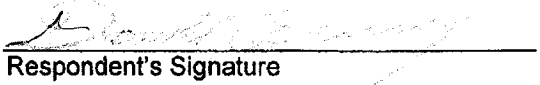
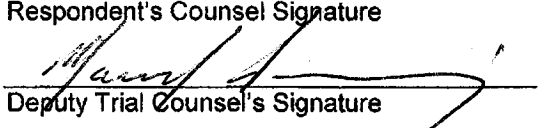
- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

(Do not write above this line.)

In the Matter of: Donald D. Beury	Case number(s): 07-O-11606 [07-O-14061; 09-O-16604; 10-O-07557]
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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 Facts, Conclusions of Law, and Disposition.

<u>March 21, 2011</u> Date	 Respondent's Signature	<u>Donald D. Beury</u> Print Name
<u>March 23, 2011</u> Date	 Deputy Trial Counsel's Signature	<u>Manuel Jimenez</u> Print Name

(Do not write above this line.)

In the Matter of: Donald D. Beury	Case Number(s): 07-O-11606 [07-O-14061; 09-O-16604; 10-O-07557]
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ACTUAL SUSPENSION 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:

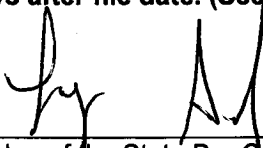
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

On page 4 of the stipulation, box (3)(a) box should be checked re 60 days actual suspension.

On page 13 of the stipulation, Dates re interests accrue, the exact date is missing. The dates should be July 1, 2006 and October 12, 2009.

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 5.58(E) & (F), 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.)**

Apr. 16, 2011
Date


Judge of the State Bar Court

LUCY ARMENDARIZ

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 11, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

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

DONALD D. BEURY
LAW OFFICES OF DONALD D BEURY
423 F ST STE 104
DAVIS, CA 95616

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

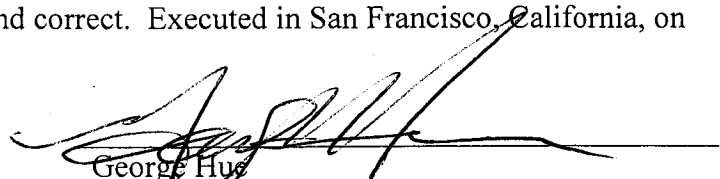
by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Manuel Jimenez, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 11, 2011.


George Hue
Case Administrator
State Bar Court