

**State Bar Court of California  
Hearing Department  
Los Angeles**

<p>Counsel For The State Bar</p> <p><b>Geri von Freymann</b> 1149 S. Hill Street 8<sup>th</sup> Fl Los Angeles, Ca. 90015</p> <p>Bar # <b>97937</b></p>	<p>Case Number (s) <b>08-J-11151</b></p>	<p>(for Court's use)</p> <p><b>FILED</b></p> <p><b>NOV 12 2008</b> <i>YJC</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p><b>PUBLIC MATTER</b></p>
<p>In Pro Per Respondent</p> <p><b>W. Iain Elder Levie</b> The Stables Westertown Rothienorman Inverurie, Aberdeenshire AB51, 8 US Scotland</p>	<p>Submitted to:</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>Bar # <b>152175</b></p> <p>In the Matter Of: <b>W. Iain Elder Levie</b></p> <p>Bar # <b>152175</b></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 **May 10, 1991**.
- (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 **12** 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 **06-J-12385**
  - (b)  Date prior discipline effective **February 22, 2008**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **RPC 4-100(A), B & P 6103, 6106**
  - (d)  Degree of prior discipline **1 year actual suspension**
  - (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. **By commingling personal funds in his client trust account, and using the account for personal expenses, Respondent put client funds at risk.**
- (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 \$            on            in restitution to            without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **two years**.

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

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of **two 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 **12 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: **Respondent to comply with conditions of probation, ethics requirements, in case no. 06-J-12385 effective February 22, 2008.**
- (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
  - Law Office Management Conditions
  - Medical 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 321(a)(1) & (c), Rules of Procedure.**
  - No MPRE recommended. Reason: **see page 6.**
- (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:**

**State Bar Ethics School Substitution**

Respondent resides outside the United States and is unable to personally attend State Bar Ethics School. As an alternative to Respondent personally attending Ethics School, the parties agree that pursuant to the 'conditions' language in the Stipulation in case no. 06-J-12385, Respondent shall study the "Ethics School Workbook" and complete the examination administered to the attendees, within six months of the effective date of the Supreme Court order [S158720] in case no. 08-J-12385. The completed test shall be provided to the Office of Probation with his Quarterly Report covering the annual quarter in which he completed the test. To facilitate reporting in the current matter, Respondent shall provide a copy of the examination and Quarterly Report previously submitted to the Probation Deputy in case 08-J-12385 to the assigned Probation Deputy in case no. 08-J-11151. There shall be no MCLE credit awarded to completion of this condition.

**Client Trust Account Class Substitution**

Respondent resides outside the United States and is unable to personally attend the State Bar's Client Trust Account Class. As an alternative to Respondent personally attending Client Trust Account Class, the parties agree that pursuant to the 'conditions' language in the Stipulation in case no. 08-J-12385, Respondent shall study the "Handbook on Client Trust Accounting for California Attorneys" and shall complete the examination administered to the attendees within six months of the effective date of the Supreme Court order [S158720] in case 08-J-12385. The completed test shall be provided to the Office of Probation with his Quarterly Report covering the annual quarter in which he completed the test. To facilitate reporting in the current matter, Respondent shall provide a copy of the examination and Quarterly Report previously submitted to the Probation Deputy in case no. 08-J-12385 to the assigned Probation Deputy in case no. 08-J-11151. There shall be no MCLE credit awarded to completion of this condition.

**MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION**

It is recommended that Respondent not be required to take the Multistate Professional Responsibility Examination ("MPRE") as he resides outside the United States. The protection of the public and the interests of the Respondent do not require passage of the MPRE in this case. See In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181.

In lieu of taking and passing the MPRE, Respondent shall complete six (6) hours of MCLE courses in legal ethics, specifically in law office management in addition to the 25 credits required during his reporting compliance period. Proof of passage shall be provided to the Office of Probation with Respondent's Quarterly Report(s) in the annual quarter in which he completed the course(s).

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Attachment language begins here (if any):

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: W. IAIN ELDER LEVIE  
CASE NUMBER: 08-J-11151

PENDING PROCEEDINGS.

The disclosure date referred to on page one, paragraph A.(7) was on September 10, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 12, 2008, the costs to be assessed in this matter are approximately \$1,983.00. Respondent further acknowledges that should this stipulation be rejected or should relief from this stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AGREEMENTS AND WAIVERS PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6049.1

1. Respondent's culpability determined in the disciplinary proceedings in the State of Oregon would warrant the imposition of discipline in the State of California under the laws or rules in effect in this State at the time the misconduct was committed; and
2. The proceedings in the above jurisdiction provided Respondent with fundamental constitutional protection.

FACTS AND CONCLUSION OF LAW

Background:

The instant proceeding is brought before the State Bar Court pursuant to Business and Professions Code section 6049.1, having arisen out of a disciplinary action brought against Respondent in the State of Oregon.

Respondent admits that the following facts are true and that he is culpable of the violation(s) of the specified statutes and Rules of Professional Conduct.

Respondent was admitted to the practice of law in the State of Oregon in 1991. By order of the Supreme Court of Oregon, Respondent was actually suspended from the practice of law in the State of Oregon for a period of six months, effective, May 7, 2008.

On February 21, 2008, Respondent entered into a Stipulation for Discipline pursuant to rule 3.6 (c) of the Oregon State Bar Rules of Procedure with the Oregon State Bar through Disciplinary Counsel, Linn D. Davis in case nos. 07-23, 07-24.

**Rule 3.6 Discipline by Consent**

(c) Stipulation for discipline. A stipulation for discipline shall be verified by the accused and shall include:

- i A statement that the stipulation has been freely and voluntarily made by the accused;
- ii A statement that explains the particular facts and violations to which the Bar and the accused are stipulating;
- iii A statement that the accused agrees to accept a designated form of discipline in exchange for the stipulation;
- iv A statement of the accused's prior record of reprimand, suspension or disbarment, or absence of such a record.

On March 13, 2007, a Formal Complaint was filed against the accused by the Oregon Bar Disciplinary Office alleging violation of RPC 1.15-1(b) and RPC 8.4(a)(3).

**RPC 1.15-1(b) Safekeeping Property**

A lawyer may deposit the lawyer's own funds in a lawyer trust account for the sole purpose of paying bank service charges or meeting minimum balance requirements on that account, but only in an Amount necessary for those purposes.

**RPC 8.4 (a)(3)**

- (a) It is unprofessional conduct for a lawyer to:
  - (3) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation that reflects adversely on the lawyer's fitness to practice law.

The Respondent and the Oregon Bar stipulated that from 2003 through on or about April 16, 2006, Respondent deposited his own funds into his client trust account and paid his personal or business obligations from that account. Respondent maintained his personal funds in the trust account to avoid known creditors. By maintaining the funds in the trust account, he was representing that the funds belonged to others.

In reviewing the rules and codes governing attorney conduct in California, the parties agree that rule 4-100(A)(1) and B & P code section 6106 are comparable to the Oregon rules.

**Conclusions of Law:**

1. By maintaining personal funds in a client trust account from 2003 through April 16, 2006 Respondent willfully violated rule 4-100(A)(1) of the Rules of Professional Conduct.
2. By representing that funds belonging to him, belonged to others by maintaining those funds in his client trust account, Respondent engaged in an act of dishonesty in willful violation of Business and professions Code section 6106.

## AUTHORITIES SUPPORTING DISCIPLINE

Standard 2.2 (b) of the Standards for Attorney Sanctions for Professional Misconduct (Standards) provides culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of Rule 4-100, Rules of Professional conduct, none of which offenses result in the willful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

Standard 1.7 (a) If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2 (f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

In the Matter of Sklar (Review Dept. 1993) 2 Cal. State Bar Court Rptr. 602. Prior discipline is always a proper factor in aggravation. However, because part of the rationale for considering it is indicative of a recidivist attorney's inability to conform to ethical norms the aggravating force of prior discipline is diminished if the misconduct occurred during the same period as the misconduct in the prior matter. In this circumstance, it is appropriate to consider what the discipline would have been if all the charged misconduct during the time period had been brought as one case.

In the instant case, although the misconduct charged by the Oregon Bar had ceased in April 2006, one year prior to the filing of charges in the prior discipline, the matter was not charged until one year later, in March 2007. The Oregon Bar imposed the sanction of 6 months actual suspension, although the prior imposition of discipline had resulted in a one year actual suspension.



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In the Matter Of <b>W. IAIN LEVIE</b>	Case Number(s): <b>08-J-11151</b>
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**ORDER**

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- NO  The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

- The stipulation consists of 11 pages, not including the order. (cf. page 1.)
- The many references to case no. 08-J-12385 on page 4 of the stipulation are amended to refer to case no. 06-J-12585.

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.)**

11/3/08  
Date

  
\_\_\_\_\_  
Judge of the State Bar Court  
**DONALD F. MILES**

**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 12, 2008, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION**

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:

W. IAIN ELDER LEVIE  
THE STABLES WESTERTOWN  
ROTHIENORMAN  
INVERURIE, ABEROEEESHIRE  
AB51 8US, SCOTLAND

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

GERI VON FREYMANN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 12, 2008.



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Tammy Cleaver  
Case Administrator  
State Bar Court