



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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 29, 2000.
- (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 (13) pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."

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(Do	not writ	e above this line.)		
(5)	Co Lav	nclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of w."		
(6)	The "Su	e parties must include supporting authority for the recommended level of discipline under the heading apporting Authority."		
(7)		more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any adding investigation/proceeding not resolved by this stipulation, except for criminal investigations.		
(8)		yment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 40.7. (Check one option only):		
		Costs to be awarded to the State Bar. Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs". Costs are entirely waived.		
(9)	The unc	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 5.111(D)(1).		
	Prof	ravating Circumstances [for definition, see Standards for Attorney Sanctions for essional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances equired.		
(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. Respondent failed to account and failed to promptly pay \$6,847 to the client in case no 08-0-12656.		
(4)		Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.		
(5)		Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.		

(Do n	ot write	e above this line.)
(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.
Add	itiona	al aggravating circumstances:
		ating Circumstances [see standard 1.2(e)]. Facts supporting mitigating imstances 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)	\boxtimes	Candor/Cooperation: Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Respondent cooperated with the State Bar during the disciplinary proceeding by entering into this stipulation.
(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.

(Do not write above this line.)
(13) No mitigating circumstances are involved.
Additional mitigating circumstances:

(Do not write above this line.)

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)	\boxtimes	Restitution: Respondent must make restitution to Teresa Moore or the Trustee of the Vivian F.
		Webber Trust in the amount of \$ 6,847 plus 10 percent interest per year from July 27, 2004. If the Client
		Security Fund has reimbursed Teresa Moore or the Trustee of the Vivian F. Webber Trust 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 180/ days from the effective date of the Supreme Court order in this case.

(3) **Other:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

MICHAEL JOHANN SCHUNK

CASE NUMBERS:

08-O-10597, 08-O-11145, and 08-O-12656

Michael Johann Schunk ("Respondent") pleads *nolo contendere* to the following facts and violations. Respondent completely understands that the plea for *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 herein.

FACTS AND CONCLUSIONS OF LAW.

Facts re Case No. 08-O-10597.

- 1. On or about December 10, 2004, Mark Putnam ("Putnam") filed a civil action in the San Diego County Superior Court entitled *Putnam v. Marquardt, et al.*, case no. GIN041224 ("Putnam case").
- 2. In or about March 2005, Mark Putnam employed Respondent to represent him in the Putnam case. On or about March 18, 2005, Respondent filed a substitution of attorney to become counsel of record for Putnam in the Putnam case.
- 3. On or about August 5, 2005, the court held a case management conference in the Putnam case. Respondent did not appear for the case management conference. At that time, the court issued an order to show cause set for on or about September 16, 2009, why the case should not be dismissed and continued the case management conference to that same date.
- 4. On or about September 16, 2005, the court held a case management conference and the order to show cause hearing in the Putnam case. Respondent sent another attorney to appear on his behalf for the case management conference. The court continued the case management conference to on or about September 30, 2005, and the court set a second order to show cause hearing for that same date, directing Respondent to .appear on that date or else the Putnam case would be dismissed.
- 5. On or about September 23, 2005, Respondent appeared for a demurrer and motion to strike in the Putnam case. At that time, Respondent filed an unsigned declaration stating that he had requested to make a telephonic appearance at the case management conference on or about August 5, 2005, but that his calls to the court were not answered.
- 6. On or about September 30, 2005, the court held a case management conference and order to show cause hearing in the Putnam case. Respondent did not appear for the case management conference or order to show cause hearing. At that time, the court dismissed the Putnam case without prejudice. Thereafter, Respondent took no action to request that the dismissal be set aside.

- 7. Respondent did not inform Putnam that he had not appeared for the case management conference and order to show cause hearing in the Putnam case and that the court had dismissed the Putnam case.
- 8. In or about January 2006, Putnam spoke to Respondent by telephone and asked Respondent for the status of the Putnam case. At that time, Respondent told Putnam that it was on track and that a case management conference was set for in or about February 2006. Respondent also told Putnam that he would call Putnam later to inform him of the date of the case management conference. Thereafter, Respondent did not contact Putnam regarding the Putnam case.
- 9. When Respondent informed Putnam that the Putnam case was on track and set for a case management conference, Respondent knew, or was grossly negligent in not knowing, that the Putnam case had been dismissed.
- 10. In or about March 2006, Putnam contacted the court clerk and learned that the Putnam case had been dismissed in or about September 2005.
- 11. In or about March 2006, Putnam contacted the court clerk and learned that the Putnam case had been dismissed in or about September 2005.
- 12. During the years 2006 and 2007, Putnam repeatedly called Respondent seeking to obtain assistance in getting the Putnam case reopened or obtaining his client files from Respondent. Finally, on or about November 19, 2007, Putnam mailed a letter to Respondent requesting that he release Putnam's case file. Respondent received the letter. Respondent did not release the file to Putnam or otherwise respond to Putnam's request for the file.

Conclusions of Law re Case No. 08-O-10597.

- 13. By not making court appearances on or about August 5, 2005, September 16, 2005, and September 30, 2005, and not taking any action to request that the resulting dismissal of the Putnam case be set aside, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct ("rule")
- 14. By not informing Putnam of the dismissal of the Putnam case, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code section 6068(m).
- 15. By misrepresenting to Putnam that the Putnam case was still pending when it had been dismissed, Respondent committed an act involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106.
- 16. By not releasing Putnam's client file to him upon request, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property in violation of rule 3-700(D)(1).

Facts re Case No. 08-O-11145.

- 17. On or about April 12, 2007, Humberto Bautista ("Bautista") and his wife, Estefany Aguilar-Bautista, met with Respondent and/or his staff to employ Respondent to represent Bautista in an immigration case after Bautista had received a notice to appear for removal proceedings. At that time, Bautista informed Respondent and/or his staff that Bautista had married a U.S. citizen, was the father of two children born in the U.S., and had resided in the U.S. for over 10 years. Thereafter, they paid the sum of \$2,500 plus costs of \$190 to Respondent and/or his staff, and they signed a fee agreement for Respondent to file an I-130 petition for an alien relative.
- 18. Between in or about May and July 2007, Bautista and his wife, Estefany Aguilar-Bautista, spoke to Respondent by telephone on several occasions. Each time, Respondent told them that Bautista should appear for the hearing and that Respondent would know more after the hearing.
 - 19. On or about May 31, 2007, a petition for alien relative was filed on behalf of Bautista.
- 20. On or about July 17, 2007, Respondent appeared with Bautista for a master calendar hearing on Bautista's removal case. At that time, Respondent informed the court that Bautista intended to seek relief from removal in the form of cancellation of removal allowed to certain nonpermanent residents who qualified for such relief. The court ordered that Bautista file an application for cancellation of removal and adjustment of status by on or about November 29, 2007, and the court set a further hearing for on or about April 30, 2008.
- 21. After the master calendar hearing, Bautista spoke to Respondent and asked what he should do. Respondent told Bautista that he did not need to do anything and that, after he received an approval, he would not need to appear again. Thereafter, whenever Bautista or his wife contacted Respondent by telephone, he told them to wait and do nothing.
- 22. In or about November 2007, Bautista received a notice of approval of the I-130 alien relative petition.
- 23. At no time did Respondent file a petition for cancellation of removal on behalf of Bautista or advise Bautista that Respondent would not be filing such a petition on his behalf.
- 24. On or about February 27, 2008, the court issued a written decision noting that Bautista, despite being represented by counsel, had failed to file an application for cancellation of removal and concluded that Bautista had abandoned his relief application. Therefore, the court ordered voluntary removal and vacated the hearing date previously set.

Conclusions of Law re Case No. 08-O-11145.

25. By not filing a petition for cancellation of removal on behalf of Bautista or otherwise failing to advise Bautista that Respondent would not be filing such a petition on his behalf, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with Competence in violation of rule 3-110(A).



- 26. On or about February 27, 2004, Teresa Moore ("Moore"), acting as Trustee of the Vivian F. Webber Trust, employed Respondent to manage certain residential rental property owned by the Webber Trust. Moore knew that Respondent was an attorney who had previously represented Moore's son in court. At that time, Moore signed a fee agreement agreeing to pay Respondent a percentage of the rent collected as compensation for his services. The fee agreement specifically provided that Respondent would deposit all funds received on behalf of the Webber Trust in an interest-bearing trust account.
- 27. Thereafter, Moore paid \$1,300 to Respondent as advanced fees and costs for repairs and other expenses which may be incurred by Respondent in managing the property. Respondent did not deposit those funds in a trust account.
- 28. On or about May 15, 2004, tenants moved into the property owned by the Webber Trust. During the period from May through July 2004, Respondent collected funds from the tenants including \$1,650 as a security deposit, \$300 as a "pet deposit," and a total of \$4,125 as rent for three and one-half months. Respondent did not deposit in a trust account the funds collected from the tenants in the total sum of \$6,075.
- 29. At no time did Respondent provide any accounting to Moore for the \$1,300 advanced by Moore or refund any of those funds to the Webber Trust.
- 30. At no time did Respondent provide an accounting to Moore for the \$6,075 received from the tenants in rent and deposits.
- 31. On or about July 6, 2004, Respondent opened a checking account at Bank of America in Respondent's name which was not designated as a trust account. On or about July 16, 2004, Respondent issued a check no. 101 drawn on the checking account at Bank of America and payable to Moore in the sum of \$1,936. When Moore attempted to deposit the check, it was returned by the bank due to insufficient funds on or about July 21, 2004. On or about July 27, 2004, Moore terminated Respondent's employment.
- 32. According to the agreement, Respondent was entitled to a fee of 20% of the first month's rent and 8% of the subsequent month's rent. Of the total sum of \$4,125 collected rent, Respondent was entitled to a fee of \$528. At no time did Respondent disburse to Moore on behalf of the Webber Trust the remaining \$3,597 collected in rent or the \$1,950 collected as security and "pet" deposits on behalf of the Webber Trust. At no time did Respondent refund any of the \$1,300 advanced by Moore to the Webber Trust.
- 33. Respondent failed to pay to the Moore or the Webber Trust any of the \$6,847, which he should have been maintaining in trust on behalf of the Webber Trust.
- 34. On or about February 28, 2006, Moore, as Trustee of the Webber Trust, obtained a judgment against Respondent for the sum of \$23,995.96 which included punitive damages. In or about August 2006, Respondent agreed to pay \$15,000 to satisfy the judgment against him with monthly payments of \$1,500 beginning in September 2006. Thereafter, Respondent did not make any payments as agreed.

Conclusions of Law re Case No. 08-O-12656.

- 35. By not depositing in a trust account the \$1,300 received on behalf of the Webber Trust from Moore and the \$6,075 received from the tenants of the property owned by the Webber Trust, Respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in violation of rule 4-100(A).
- 36. By not accounting to the Webber Trust for the \$1,300 received from Moore or the \$6,075 received from the tenants, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in violation of rule 4-100(B)(3).
- 37. By not paying to the Moore or the Webber Trust any of the \$6,847 which he should have been maintained in trust on behalf of the Webber Trust, Respondent failed to promptly pay, as requested by a client, funds in Respondent's possession which the client was entitled to receive in violation of rule 4-100(B)(4).

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

The parties waive any variance between the Notice of Disciplinary Charges filed on November 10, 2010, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

DISMISSALS.

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

Case No.	Count	Alleged Violation
08-O-12656	NINE	Business and Professions Code section 6068(i)

PENDING PROCEEDINGS.

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

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 7, 2011, the prosecution costs in this matter are \$3,654. 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.

Standard 1.3 of the Standards For Attorney Sanctions For Professional Misconduct (the "Standards") provides that the primary purpose of discipline is the protection of the public, the courts and legal profession; maintenance of high professional standards; and the preservation of public confidence in the legal profession.

Standard 2.2(b) provides that culpability of a member of commingling entrusted funds or property with personal property or the commission of another violation of rule 4-100 not involving the misappropriation of client property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

Standard 2.3 provides that culpability of a member of an act of moral turpitude, fraud, intentional dishonesty, or concealment of a material fact shall result in actual suspension or disbarment depending upon the extent of harm, the magnitude of the misconduct, and how it relates to the member's practice of law.

Standard 2.4 provides that culpability of a member of willfully failing to perform services demonstrating the member's abandonment of cases in which he was retained shall result in disharment.

In the case of *In re Ronald Robert Silverton*, (2005) 36 Cal.4th 81, 92, the Supreme Court held that Standards are entitled to great weight and the State Bar Court should follow their guidance whenever possible.

The parties submit that disbarment pursuant to, *inter alia*, Standards 2.3 and 2.4 is the appropriate discipline in this matter.

STATE BAR ETHICS SCHOOL EXCLUSION.

It is recommended that Respondent not be required to attend State Bar Ethics School because he is stipulating to disbarment.

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.

It is recommended that Respondent not be required to take the Multistate Professional Responsibility Examination because he is stipulating to disbarment.



number(s):
-10597, 08-O-11145, and 08-O-12656
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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.

March 3	, 2011	Respondent's Signature	Michael J. Schunk
Date		Respondent's Signature	Print Name
Date		Respondent's Counsel Signature	Print Name
March	, 2011		Charles T. Calix
Date		Deputy Trial Counsel's Signature	Print Name

In the 9 0 - 44 - 11 - 5	
n the Matter of:	Case number(s):
Michael Johann Schunk	08-O-10597, 08-O-11145, and 08-O-12656

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.

March	, 2011		Michael J. Schunk
Date		Respondent's Signature	Print Name
Date	· · · · · · · · · · · · · · · · · · ·	Respondent's Counsel Signature	Print Name
March /	, 2011	Market Helley	Charles T. Calix
Date /		Deputy Trial Counsel's Signature	Print Name

n the Matter of:	Case Number(s):
Michael Johann Schunk	08-O-10597, 08-O-11145, and 08-O-12656

DISBARMENT 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:

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 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.)

Michael J. Schunk
Respondent 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 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

3/21/11

Date

Judge of the State Bar Court

DORALD F. MILES

[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 Los Angeles, on March 22, 2011, 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

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:

MICHAEL J. SCHUNK LAW OFC MICHAEL J SCHUNK 420 K ST #210 SAN DIEGO, CA 92101 - 6930

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

Charles T. Calix, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles California, on March 22, 2011.

Johnnie Lee Smith Case Administrator State Bar Court