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State Bar Court of California Hearing Department		
PUBLIC MATTER		
<b>Counsel For The State Bar</b> <b>ELI D. MORGENSTERN</b> Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015-2299 Bar # 190560      Tel. (213) 765-1334	<b>Case Number (s)</b>  09-O-14108	<b>(for Court's use)</b>  <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-weight: bold;">JAN 07 2010</div> <div style="text-align: center; font-size: 0.8em;">             STATE BAR COURT              CLERK'S OFFICE              LOS ANGELES           </div>
<b>KENNETH P. FERIA</b> <b>FERIA &amp; CORONA</b> 10 Universal City Plaza, 10th Flr. Universal City, California 91608 Bar # 221685      Tel. (818) 905-0903	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter Of:</b> <b>KENNETH PETER FERIA</b>  Bar # 221685  A Member of the State Bar of California (Respondent)		

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

#### A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 3, 2002.
- (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 (10) 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.



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- (8) **Payment of Disciplinary Costs**—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- costs added to membership fee for calendar year following effective date of discipline.  
 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

\*\* three (3) billing cycles following the effective date of the Supreme Court Order.

**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 Case Nos. 05-O-00721, 05-O-00909, and 05-O-00911  
(Supreme Court Order S154335)
- (b)  Date prior discipline effective 10/05/07
- (c)  Rules of Professional Conduct/ State Bar Act violations: RPC 3-110 and B&P Code §6068(m)
- (d)  Degree of prior discipline (18) months suspension, stayed, (2) years probation w/ conditions
- (e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline.
- (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.
- (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**

(Do not write above this line.)

**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 one (1) year.

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- 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:

The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent is placed on probation for a period of one (1) year, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

**E. Additional Conditions of Probation:**

- (1)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  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.
- (3)  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.
- (4)  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.

- (5)  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.
- (6)  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.

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- (7)  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 State Bar Ethics School, and passage of the test given at the end of that session.

No Ethics School recommended. Reason: See Page 9 of Attachment to Stipulation.

- (8)  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.

- (9)  The following conditions are attached hereto and incorporated:

- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

**F. Other Conditions Negotiated by the Parties:**

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. 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 9 of Attachment to Stipulation.

- (2)  **Other Conditions:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

<b>IN THE MATTER OF:</b>	<b>KENNETH PETER FERIA</b>
<b>CASE NUMBER:</b>	09-O-14108

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violating the following statute.

**Facts**

1. On May 10, 2007, Respondent entered into a Stipulation Re: Facts, Conclusions of Law, and Discipline with the State Bar of California in Case Nos. 05-O-00721, 05-O-00909, and 05-O-00911 (the "Stipulation").
2. On May 17, 2007, the State Bar Court filed an Order approving the facts and disposition in the Stipulation and the State Bar Court recommended the discipline set forth in the Stipulation to the Supreme Court.
3. On September 5, 2007, in case number S154335, the Supreme Court of California issued an Order (the "Disciplinary Order") imposing on Respondent the discipline recommended by the State Bar Court in its May 17, 2007 Order. In the Disciplinary Order, the Supreme Court ordered that Respondent be suspended from the practice of law for 18 months, that imposition of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation recommended by the State Bar Court in its Order Approving the Stipulation for Case Nos. 05-O-00721, 05-O-00909, and 05-O-00911. Respondent was properly served with the Disciplinary Order. On October 5, 2007, the Disciplinary Order became effective.
4. Pursuant to the Disciplinary Order, the terms and conditions of probation imposed upon Respondent included the following:
  - Within thirty (30) days of October 5, 2007, or November 5, 2007, Respondent was required to contact the Office of Probation of the State Bar of California (the "Office of Probation") and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation; and
  - Submit quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation.

5. On September 28, 2007, a Probation Deputy with the Office of Probation sent a letter to Respondent enclosing, *inter alia*, a copy of the:

- Disciplinary Order;
- Conditions of probation; and
- Quarterly report form with instructions.

The quarterly report form instructions which were enclosed with the Probation Deputy's letter explained that the quarterly reports required Respondent's original signature in order to be filed with the Office of Probation. The Probation Deputy's letter also instructed Respondent to contact her within 30 days of the effective date of discipline, or October 5, 2007, in order to discuss the terms and conditions of the Disciplinary Order. Respondent received the Probation Deputy's letter.

6. Respondent did not contact the Probation Deputy before October 5, 2007; and Respondent did not meet with the Probation Deputy until January 17, 2008.

7. The Office of Probation did not receive the following quarterly reports on their respective due dates: the quarterly report due on January 10, 2008, was received January 17, 2008; the quarterly report due on October 10, 2008, was received October 14, 2008; the quarterly report due on July 10, 2009, was received July 13, 2009.

8. Respondent did not timely submit to the Office of Probation the quarterly reports due on April 10, 2008, and July 10, 2008. Consequently, on September 30, 2008, a Probation Deputy sent Respondent a facsimile at his State Bar of California official membership facsimile number instructing him to submit said quarterly reports. On September 30, 2008, the Probation Deputy also sent Respondent an e-mail instructing him to submit the April 10, 2008, and July 10, 2008, quarterly reports. Respondent received the September 30, 2008, facsimile and e-mail.

9. On October 1, 2008, Respondent provided the Office of Probation with a facsimile copy of the April 10, 2008, and July 10, 2008, quarterly reports. Respondent did not provide the Office of Probation with the original April 10, 2008, quarterly report, or the original July 10, 2008 quarterly report. Consequently, on February 9, 2009, a Probation Deputy sent Respondent a letter advising him that the Office of Probation had not received the original quarterly reports due April 10, 2008, July 10, 2008, and January 10, 2009. Respondent received the Probation Deputy's letter.

10. On August 11, 2009, Respondent submitted the following quarterly reports to the Office of Probation:

- April 10, 2008 quarterly report;
- July 10, 2008 quarterly report;
- January 10, 2009 quarterly report; and
- April 10, 2009.

11. The period of probation imposed upon Respondent pursuant to the Disciplinary Order terminated on November 5, 2009.

### **Conclusion of Law**

By failing to meet with the Probation Deputy within 30 days of the effective date of the Disciplinary Order, and by failing to timely submit quarterly reports to the Office of Probation, Respondent failed to timely comply with the conditions of his probation in the Disciplinary Order issued by the Supreme Court of California in case number S154335, in violation of Business and Profession Code section 6068(k).

### **AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.6(a) of the Standards for Attorney Sanctions for Professional Misconduct ("Standard") applies to this case. Standard 2.6(a) provides that culpability of a member of a violation of Business and Professions Code section 6068 shall result in disbarment or suspension (which may be entirely stayed) depending upon 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 1.7(a) provides that discipline shall be progressive, *i.e.*, discipline imposed in a second proceeding shall be greater than the discipline imposed in a prior proceeding. Respondent has a prior record of discipline consisting of an 18 months stayed suspension. The discipline recommended in this Stipulation consists of a one year stayed suspension. However, the State Bar submits that given the facts and circumstances presented in this proceeding, the discipline recommended herein achieves the purposes of imposing discipline as set forth in Standard 1.3.

### **OTHER FACTORS IN CONSIDERATION.**

Respondent did not timely comply with the conditions of probation in the Disciplinary Order. However, during the investigation of this matter, Respondent responded promptly to all State Bar inquiries and willingly provided any and all documentation requested. In addition, at all times during the investigation of this matter, Respondent acknowledged to the State Bar that his conduct was in violation of the Disciplinary Order; and Respondent demonstrated his remorse.

Respondent recognizes that this matter constitutes the second time that discipline has been imposed upon him. Respondent acknowledges that should he be disciplined a third time, disbarment may be warranted pursuant to Standard 1.7(b).

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(6), was December 11, 2009.



### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of December 11, 2009, the prosecution costs in this matter are \$1,983. The costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order. Respondent 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.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 286.)

### **STATE BAR ETHICS SCHOOL EXCLUSION.**

It is not recommended that Respondent attend State Bar Ethics School since he attended Ethics School within the last two years on October 2, 2008, in connection with Case Nos. 05-O-00721, 05-O-00909, and 05-O-00911 (S154335).

### **MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.**


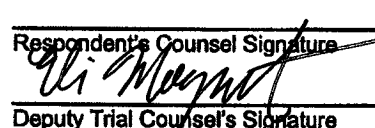
It is recommended that Respondent not be required to take the Multistate Professional Responsibility Examination, because he was ordered to take and pass the examination on September 5, 2007, in connection with Case Nos. 05-O-00721, 05-O-00909, 05-O-00911 (S154335). Respondent took and passed the examination on November 8, 2008.

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In the Matter of <b>KENNETH PETER FERIA</b> Member No. 221685	Case number(s): 09-O-14108
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**SIGNATURE OF THE PARTIES**

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

<u>12/21/09</u> Date	 Respondent's Signature	<u>KENNETH P. FERIA</u> Print Name
<u>1/09/09</u> Date	 Respondent's Counsel Signature Deputy Trial Counsel's Signature	<u>ELI D. MORGENSTERN</u> Print Name

(Do not write above this line.)

In the Matter Of <b>KENNETH PETER FERIA</b> Member No. 221685	Case Number(s): 09-O-14108
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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:

- 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 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.)

1-7-10  
Date

  
Judge Pro Tem  
George Scott

**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 January 7, 2010, 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:

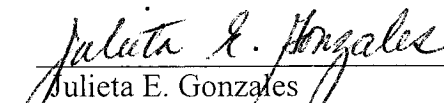
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KENNETH P FERIA ESQ  
FERIA & CORONA  
10 UNIVERSAL CITY PLZ 20TH FL  
UNIVERSAL CITY, CA 91608

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

Eli D. Morgenstern, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 7, 2010.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court