


(Do not write above this line.)

<b>State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION</b>		
<p>Counsel For The State Bar</p> <p>Robert A. Henderson Deputy Trial Counsel 180 Howard St. San Francisco, CA 94105 (415) 538-2385</p> <p>Bar # 173205</p>	<p>Case Number(s):</p> <p>09-O-17390; 10-O-03276; 10-O-07140; 10-O-09824; 10-O-11310</p>	<p>For Court use only</p> <p style="text-align: center;"><b>PUBLIC MATTER</b></p> <p style="text-align: center;"><b>FILED</b> </p> <p style="text-align: center;">NOV 07 2011</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Duane L. Tucker P.O. Box 43061 Oakland, CA 94624 (510) 670-0668</p> <p>Bar # 88199</p>	<p>Submitted to: <b>Assigned Judge</b></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>In the Matter of: Tucker</p> <p>Bar # 88199</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 November 29, 1979.
- (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 14 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."

(Effective January 1, 2011)



(Do not write above this line.)

- (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: 2013, 2014, and 2015. (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 90-O-15673
  - (b)  Date prior discipline effective November 2, 1992
  - (c)  Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code section 6068(b), 6068(o)(3), and 6103.
  - (d)  Degree of prior discipline Public Reprimand
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.  
  
95-H-10009 (S056070) Violation of the conditions of the Public Reprimand (California Rules of Professional Conduct, rule 1-110; and violation of Business and Professions Code section 6103 in failing to pay the court ordered sanction which was a part of the earlier Public Reprimand. Level of discipline 90-days stayed, no actual suspension, three-years probation and other conditions.
- (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.

(Do not write above this line.)

---

- (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:**

**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.

---

(Effective January 1, 2011)

(Do not write above this line.)

- (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-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-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 six-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 the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

(Do not write above this line.)

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

(Effective January 1, 2011)

Actual Suspension

(Do not write above this line.)

---

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: Duane L. Tucker

CASE NUMBER(S): 09-O-17390; 10-O-03276; 10-O-07140; 10-O-09824; 10-O-11310

**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. 09-O-17390 (Complainant: John and Carmencita Daly)

**FACTS:**

1. On April 2, 2008, John and Carmencita Daly ("the Dalys") hired respondent to represent them in a Chapter 11 Bankruptcy. The Dalys paid respondent \$10,000 in advanced fees.
2. In a Chapter 11 Bankruptcy there is a required process governed by 11 U.S.C. sections 327-330, regarding compensation of the attorney for the debtor.
3. Respondent in order to represent the debtor needed to be employed by an order of the bankruptcy court. (11 U.S.C. sections 327, and 1103.) Respondent in order to be paid was required to prepare, file and notice for hearing, an application for compensation, with the bankruptcy court. The code thereafter authorizes an award for reasonable compensation for actual, necessary services rendered and reimbursement of actual, necessary expenses. (11 U.S.C. section 327, and 1103.)
4. Respondent failed to obtain an order of the court employing him as the attorney for the debtor.
5. On October 8, 2009, counsel for the trustee in the Dalys bankruptcy filed a motion for disgorgement of the \$10,000 paid to respondent. On December 11, 2009, the bankruptcy court ordered the disgorgement of the \$10,000 in advanced fees.
6. As of October 17, 2011, respondent had disgorged \$6,500 of the advanced fees.

**CONCLUSIONS OF LAW:**

7. By failing to obtain court approval as counsel for the debtor and by failing to obtain an award for compensation as counsel for the debtor, respondent collected an illegal fee in willful violation of Rules of Professional Conduct, rule 4-200(A).
8. By failing to disgorge the full \$10,000 in advanced fees as ordered by the court on December 11, 2009, respondent failed to obey an order of the court in willful violation of Business and Professions Code section 6103.

Case No. 10-O-03276 (Complainant: Silvia M. Herrera)

FACTS:

9. On or about August 1, 2009, Silvia Herrera ("Herrera") hired respondent for a Bankruptcy. At this time Herrera paid respondent a total of \$4,000 in advanced fees and \$274 in advanced costs.

10. Thereafter respondent failed to file a Bankruptcy on behalf of Herrera.

11. On December 28, 2009, Herrera demanded a refund of the \$4,000 in advanced fees and \$274 in advanced costs from respondent. Respondent received this demand, but did not refund the money.

12. On January 21, 2010, Herrera filed a complaint with the State Bar regarding respondent's failure. As of no later than January 21, 2010, the attorney client relationship was terminated between Herrera and respondent.

13. At no time during respondent's representation of Herrera did respondent file a Bankruptcy on behalf of Herrera.

14. At no time since the advanced fees and costs were paid has respondent refunded the unearned fees and costs.

CONCLUSIONS OF LAW:

15. By failing to refund the \$4,000 in advanced fees, respondent failed to promptly refund unearned fees in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

16. By failing to pay the \$274 in advanced costs, respondent failed to promptly pay or deliver client funds to which the client is entitled in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

Case No. 10-O-07140 (Complainant: Cliff Helmer)

FACTS:

17. In August 2009, Cliff Helmer ("Helmer") hired respondent for representation in a matter involving the lender's lien on real property. Respondent filed case no. 2:09-cv-2977 in U.S. District Court for Eastern California. The case was dismissed on May 12, 2010.

18. Respondent and Helmer agreed in December 2010, that respondent owed a refund of \$1,500 in advanced fees. To date respondent has refunded \$300 of the advanced fees.



CONCLUSIONS OF LAW:

19. By failing to refund the \$1,500 in advanced fees to Helmer when the case was dismissed and by failing to refund the remaining \$1,200 of advanced fees after agreeing that the amount was owed, respondent willfully failed to promptly refund unearned fees in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 10-O-09824 (Complainant: Sharon Tatmon)

FACTS:

20. On January 22, 2009 Sharon Tatmon ("Tatmon") hired respondent to file a Bankruptcy on her behalf. Tatmon paid \$3,500 in advanced fees to respondent.

21. On March 14, 2009, Tatmon completed the credit counseling course required by the Bankruptcy code. Tatmon provided respondent with the certificate shortly after completing the course.

22. Respondent filed a Chapter 13 Bankruptcy, on behalf of Tatmon in May 2009. This petition was dismissed in June 2009 for failure to file required documents.

23. Respondent filed once again on behalf of Tatmon on July 8, 2009, case no. 09-46089 LT13. In this filing some of the schedules were deficient.

24. On September 15, 2009, the Bankruptcy Trustee, file a Motion for Review of Fees, seeking disgorgement of \$2,500 of the advanced fees. On October 17, 2009, Tatmon wrote a letter to the Bankruptcy Trustee, supporting the request for disgorgement of \$2,500 in advanced fees.

25. On December 2, 2009, the court ordered respondent to disgorge \$1,500 in advanced fees to his client Tatmon, \$500 per month. On January 12, 2010, respondent made one \$500 payment to Tatmon. On March 16, 2010, Tatmon notified the Bankruptcy Trustee that respondent had failed to disgorge \$1,000 in advanced fees. On March 29, 2010, the Bankruptcy Trustee filed a Motion to Show Cause as to why respondent should not be found in Civil Contempt for failing to follow the court's order to disgorge fees. On April 12, 2010, respondent disgorged the remaining \$1,000 in advanced fees.

26. Respondent's Bankruptcy filed on behalf of Tatmon was confirmed on December 8, 2009

CONCLUSIONS OF LAW:

27. By failing to disgorge the \$1,000 to Tatmon until April 12, 2010, respondent failed to promptly refund unearned fees in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

28. By failing to disgorge the \$1,000 to Tatmon until April 12, 2010, respondent failed to comply with an order of the court which required him to do or forbear an act connected with his profession, which he ought in good faith to do or forbear in willful violation of Business and Professions Code section 6103.

Case No. 10-O-11310 (Complainant: Ricardo Solis)

FACTS:

29. On December 16, 2008, Ricardo Solis ("Solis") hired respondent for a Bankruptcy matter. On this date Solis paid respondent \$2,799 in advanced fees.

30. On December 20, 2008, Solis completed the credit counseling course required by the Bankruptcy code. Solis provided respondent with the certificate shortly after completing the course.

31. Between December 16, 2008 and October 23, 2009, Solis would contact respondent's office approximately once every two to three months to check on the status of the Bankruptcy. Solis never spoke with respondent. All communication was with respondent's secretary. Solis was never informed that the Bankruptcy had not been filed.

32. In October 2009, Solis was informed that the credit counseling certificate had expired. On October 23, 2009, Solis once again attended a credit counseling course. Solis provided respondent with the certificate shortly after completing the course.

33. At the end of November 2009, Solis lost his home due to foreclosure.

34. Between October 23, 2009 and February 2010, Solis attempted to communicate with respondent to learn what was happening in the Bankruptcy matter. Solis left multiple messages with respondent's answering machine, but never received any information from respondent.

35. In February 2010, respondent's answering machine was no longer available to Solis, as it was disconnected. Thereafter Solis began to receive letters and calls from bill collectors. Solis attempted to confirm that a Bankruptcy had been filed on his behalf by going to the court in Oakland. No Bankruptcy had been filed by respondent on behalf of Solis.

36. Between December 16, 2008 and October 2010, when Solis filed a complaint with the State Bar, respondent failed to file a Bankruptcy on behalf of Solis.

37. Respondent's services were so deficient so as to be worthless to Solis.

38. As of October 18, 2011, respondent has failed to refund the \$2,799 in advanced fees to Solis.

CONCLUSIONS OF LAW:

39. By failing to file a Bankruptcy on behalf of Solis from December 16, 2008, through October 2010, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

40. By failing to respond to Solis's messages and by failing to inform Solis that he had not filed the Bankruptcy, respondent failed to promptly respond to reasonable status inquiries and failed to keep a client reasonably informed of significant developments relating to his case in willful violation of Business and Professions Code section 6068(m).

41. By failing to refund the \$2,799 in advanced fees, respondent failed to promptly refund unearned fees 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 October 18, 2011.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

##### Standards

1.7(b) – 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 two prior impositions of discipline as defined by Standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.

2.4(b) – Culpability of a member of willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of willfully 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.

##### Case Law

*In the Matter of Phillips* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315 – Phillips had no prior record of discipline. He was found to culpable in five client matters and two non-client matters, of twelve counts, including among others: 1) charging an illegal fee, 2) failing to release to clients their papers and property, 3) sharing fees with a non-lawyer, 4) forming a partnership with a non-lawyer and 5) failing to refund unearned fees. Phillips was disbarred.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 31, 2011, the prosecution costs in this matter are \$6,365. 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.

(Do not write above this line.)

In the Matter of: Duane L. Tucker	Case Number(s): 09-O-17390; 10-O-03276; 10-O-07140; 10-O-09824; 10-O-11310
--------------------------------------	--

**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
Silvia Herrera	\$4,274	December 28, 2009
Ricardo Solis	\$2,799	October 10, 2010
Cliff Helmer	\$1,200	December 28, 2010

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the end of probation.

**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
Silvia Herrera	\$150	Monthly
Ricardo Solis	\$100	Monthly
Cliff Helmer	\$50	Monthly

- 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:
  - a. 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.

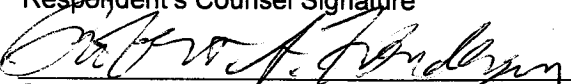
(Do not write above this line.)

In the Matter of: Duane L. Tucker	Case number(s): 09-O-17390; 10-O-03276; 10-O-07140; 10-O-09824; 10-O-11310
--------------------------------------	--

**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.

October 27, 2011            Duane L. Tucker  
Date                      Respondent's Signature                      Print Name

10/25/11            Robert A. Henderson  
Date                      Deputy Trial Counsel's Signature                      Print Name

(Do not write above this line.)

In the Matter of: Duane L. Tucker	Case Number(s): 09-O-17390; 10-O-03276; 10-O-07140; 10-O-09824; 10-O-11310
--------------------------------------	--

### ACTUAL SUSPENSION ORDER

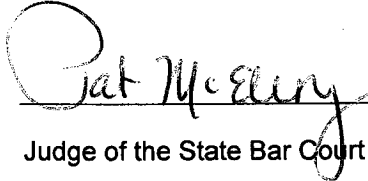
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

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.)**

Date

Nov 7, 2011

  
Judge of the State Bar Court

## 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 November 7, 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:

DUANE LYNN TUCKER  
PO BOX 43061  
OAKLAND, CA 94624

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:

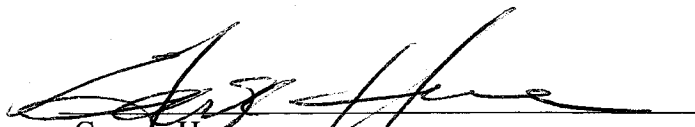
by fax transmission, at fax number . No error was reported by the fax machine that I used.

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:

Robert Henderson, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 7, 2011.

  
George Hue  
Case Administrator  
State Bar Court