

(Do not write above this line.)

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

kwiktag<sup>®</sup>

018 042 160



<p>Counsel For The State Bar</p> <p>Mark Hartman 180 Howard Street San Francisco, California 94105 Telephone: (415) 538-2558</p> <p>Bar # 114925</p>	<p>Case Number(s):</p> <p>11-O-12864</p>	<p>For Court use only</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b> <i>ADS</i></p> <p>OCT 13 2011</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Charles M. Barrett Dreyer Babich et al LLP 20 Bicentennial Circle Sacramento, California 95826 Telephone: (559) 268-4175</p> <p>Bar # 94800</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>In the Matter of: Charles M. Barrett</p> <p>Bar # 94800</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 December 16, 1980.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 15 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(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: (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 92-O-13806
  - (b)  Date prior discipline effective January 21, 1994
  - (c)  Rules of Professional Conduct/ State Bar Act violations: Rules 3-110(A) and 3-700(A)(2)
  - (d)  Degree of prior discipline Private reproof
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- Altogether, respondent has four (4) prior records of discipline. See pages 12 and 13.
- (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. See page 13.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(Do not write 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. See page 13.
- (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. See page 14.
- (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. See page 14.
- (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:**

Respondent dealt with severe health issues of a close family member and severe financial problems.

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of four (4) 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 five (5) 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 fourteen (14) 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.

(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

(Do not write above this line.)

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 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 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.**

(Do not write above this line.)

---

- 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 TO FACTS,  
CONCLUSIONS OF LAW, AND DISCIPLINE**

In the Matter of:       **Charles M. Barrett**

Membership No.:       **94800**

State Bar Case No.:   **11-O-12864**

**RESOLUTION OF THE CURRENT CASE**

The State Bar of California (“the State Bar”) and respondent Charles M. Barrett (“respondent”) enter into this Stipulation As to Facts, Conclusions of Law, and Discipline (“Stipulation”) in order to resolve case number 11-O-12864 (“the current case”).

**FACTS**

Respondent admits that the following facts are true:

1. On September 22, 2008, the California Supreme Court filed a disciplinary order in State Bar Court case number 03-O-00177 et alia (Supreme Court Case Number S164738).
2. The order became effective on October 22, 2008 (California Rules of Court, rule 9.18(a)), and at all times subsequent has remained in full force and effect, except as set forth below (with respect to the modification of the restitution condition).
3. Notice of the disciplinary order was properly served upon respondent (California Rule of Court 9.18(b)), and he received the notice.
4. The September 22, 2008, disciplinary order placed respondent on disciplinary probation for three years, beginning on the date the disciplinary order became effective, and required him to comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on April 24, 2008.

5. At all times subsequent to October 22, 2008, respondent has remained on disciplinary probation; and the probation conditions mentioned above have remained in full force and effect, except as provided below (with respect to the modification of the restitution condition).

**6. QUARTERLY REPORTING CONDITION.**

(a) One of the conditions of probation provided as follows:

“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. If the first report will cover less than thirty (30) days, that report must be submitted on the next following 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 probation period and no later than the last day of the probation period;”

(b). Respondent violated this condition of probation because did not file the following quarterly reports in a timely manner:

<u>Date Report Was Due</u>	<u>Date Report Was Filed</u>
January 10, 2009	June 24, 2009
January 10, 2010	January 15, 2010
July 10, 2010	September 8, 2010
October 10, 2010	October 11, 2010
January 10, 2011	January 13, 2011
April 10, 2011	September 22, 2011

**9. RESTITUTION CONDITION.**

(a) One of the conditions of probation originally provided as follows:

“During the period of probation, respondent must make restitution to the following individuals in the indicated amounts:

“(a) To **Scott and Lorraine Seidenstricker** in the amount of \$25,078.68, plus 10% interest per annum from January 1, 1998 (or to the Client Security Fund to the extent of any payment from the fund to Scott and Lorraine Seidenstricker, plus

interest and costs, in accordance with Business and Professions Code section 6140.5), and furnish satisfactory proof of such restitution to the State Bar's Office of Probation; FN 4

- “(b) To **Doug and Linda Wilkinson** in the principal amount of \$20,000, plus 10% interest per annum from January 1, 2003 (or to the Client Security Fund to the extent of any payment from the fund to Doug and Linda Wilkinson, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnish satisfactory proof of such restitution to the State Bar's Office of Probation;
- “(c) To **Charles Justice** in the amount of \$21,700, plus 10% interest per annum from January 1, 1998 (or to the Client Security Fund to the extent of any payment from the fund to Charles Justice, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnish satisfactory proof of such restitution to the State Bar's Office of Probation;
- “(d) To **Ashley Williams** in the amount of \$750, plus 10% interest per annum from May 1, 2001 (or to the Client Security Fund to the extent of any payment from the fund to Ashley Williams, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnish satisfactory proof of such restitution to the State Bar's Office of Probation; and
- “(e) To **Ola Barrett** in the amount of \$1,500, plus 10% interest per annum from August 1, 2001 (or to the Client Security Fund to the extent of any payment from the fund to Ola Barrett, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnish satisfactory proof of such restitution to the State Bar's Office of Probation.FN5

“Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d);

“FN4: It should be noted that respondent has made substantial, if not all, restitution to the Client Security Fund. However, this court is unclear as to how much is still owing. The Office of Probation and the Client Security Fund must re-calculate how much restitution is still owed.

“FN5: As part of his participation in the ADP, respondent was required to make quarterly restitution payments to satisfy these obligations and he so did. Accordingly, the amounts owed must be recalculated by the Office of Probation.”

(Bolding original.)

(b) As of the effective date of discipline, respondent still owed a total of about \$26,089.16 in principle, plus years of accrued interest. Thereafter, until late September 2011, respondent (1) provided

the Office of Probation with no proof that he made any payments on this obligation and (2) made no payments on this obligation.

(c) On July 20, 2010, the Office of Probation notified respondent that he owed a total of \$41,749.31 pursuant to the restitution order. Respondent received this notification shortly thereafter.

(d) On October 12, 2010, the Office of Probation filed a motion asking the State Bar Court to modify the conditions of probation to require respondent to make periodic payments on the obligation.

(e) On October 15, 2010, respondent filed a response promising to pay the entire amount owing by January 15, 2011, and to provide proof of such payment by January 29, 2011.

(f) On or about November 8, 2010, the State Bar Court filed the following order modifying the above-quoted condition of probation:

“On October 12, 2010, the Office of Probation of the State Bar of California, represented by supervising attorney Terrie Goldade (Office of Probation), asked that a probation condition of respondent Charles Martin Barrett be modified - requiring him to make monthly restitution payments. (Supreme Court order No. S164738.)

“On October 18, 2010, in response to the Office of Probation’s request, respondent proposed to pay the entire amounts due to all of the individuals (and the State Bar’s Client Security Fund, if owed) on or before January 15, 2011, and to provide proof of payment to the Office of Probation on or before January 29, 2011. (Currently, respondent’s proof for full payment is not due until October 22, 2011.)

“GOOD CAUSE APPEARING, the court finds respondent’s proposed restitution payment plan reasonable and hereby ORDERS that the probation condition of restitution be modified, such that **respondent must pay the entire amounts of restitution (principal and interest)** due to all of the individuals (or reimburse the Client Security Fund, to the extent of any payment from the fund to those individuals, in accordance with Business and Professions Code section 6140.5) **on or before January 15, 2011**, and furnish proof to the State Bar’s Office of Probation on or before January 31, 2011.

“IT IS SO ORDERED.”

(Bolding original.)

(g) At all times thereafter, the November 8, 2010, order remained in full force and effect.

(h) On November 8, 2010, the State Bar Court served respondent with a copy of the order of November 8, 2010. Respondent received the order shortly thereafter.

(i) As of January 7, 2011, respondent owed the following approximate amounts to the following individuals covered by the restitution order:

<b>Payee</b>	<b>Amount owed (including interest to date)</b>
Charles Justice	\$37,220.15
The Wilkinsons	\$2,383.56
Ashley Williams	\$8.99
Ola Barrett	\$1,106.71
Client Security Fund (for payments made to Ola Barrett)	\$1,807.09
<b>Total</b>	<b>\$42,526.50</b>

(j) On January 7, 2011, the Office of Probation sent respondent a letter containing (1) a statement of the payments that respondent had made to date, (2) the amounts owed, and (3) copies of the Office of Probation's records concerning respondent's restitution payments. Respondent received this letter shortly thereafter, but did not promptly make restitution payments.

(i) Respondent has now made restitution payments and provided proof of restitution to the Office of Probation.

(k) Respondent violated the restitution condition of his probation by failing to complete restitution and provide proof of restitution until September 2011.

## **CONCLUSION OF LAW**

Respondent admits that the following conclusion of law is true:

Respondent willfully violated section 6068, subdivision (k) of the Business and Professions Code by failing to comply with the quarterly reporting and restitution conditions attached to the disciplinary probation in State Bar Court case numbers 03-O-00177 et al.

## **AGGRAVATION**

### **Prior Records of Discipline**

#### First Prior Record of Discipline

State Bar Court case number: 92-O-13806

Effective date of discipline: January 21, 1994

Ethical violations: Rules 3-110(A) and 3-700(A)(2) of the Rules of Professional  
Conduct

Degree of discipline: Private reproof

#### Second Prior Record of Discipline

State Bar Court case number: 92-O-13946

Effective date of discipline: August 9, 1995

Ethical violations: Rule 3-110(A) of the Rules of Professional Conduct and section  
6068(m) of the Business and Professions Code

Degree of discipline: Public reproof

#### Third Prior Record of Discipline

State Bar Court case numbers: 97-O-10268 et al.

Effective date of discipline: January 23, 1999

Ethical violations: Rule 3-110(A) of the Rules of Professional Conduct and section  
6068, subdivision (m) of the Business and Professions Code

Degree of discipline: Stayed suspension for two years and until respondent complies  
with standard 1.4(c)(ii) and probation for three years, conditioned  
on restitution and other requirements

#### Fourth Prior Record of Discipline

State Bar Court case numbers: 03-O-00177 et al.

Effective date of discipline: October 22, 2008

Ethical violations: Rules 3-110(A) and 3-700(D)(2) of the Rules of Professional Conduct and section 6068, subdivisions (k) and (m); section 6104; and section 6106 of the Business and Professions Code

Degree of discipline: Stayed suspension for three years and until respondent complies with standard 1.4(c)(ii) and probation for three years, conditioned on restitution, actual suspension for one year, and other requirements

#### **Harm**

Respondent's violations of quarterly reporting and restitution requirements harmed the administration of justice and the former clients to whom he owed restitution.

#### **Multiple Acts of Misconduct**

Respondent's misconduct involved multiple violations of quarterly reporting and restitution requirements.

#### **MITIGATION**

##### **Candor/Cooperation**

Respondent has displayed candor to, and cooperation with, the State Bar in resolving the current case by entering into this Stipulation.

##### **Physical Difficulties**

Respondent had very severe medical difficulties during his period of misconduct.

##### **Additional Mitigating Circumstances**

During the period of his misconduct, respondent had to deal with severe health issues of a close relative and with severe financial difficulties.

## **SUPPORTING AUTHORITY**

The misconduct in respondent's initial disciplinary matters occurred in the 1990's before his participation in the Alternative Discipline Program and involved no actual suspension. Because of very substantial mitigation in the current case, disbarment is not necessary. In compliance with standard 1.7(a) of the Standards for Attorney Sanctions for Professional Misconduct, the recommended discipline in the current case exceeds the discipline in State Bar Court case numbers 03-O-00177 et al.

## **ESTIMATED PROSECUTION COST**

The estimated prosecution cost of the current cases is approximately \$6,779.00. This sum is only an estimate, and the final cost may differ from the estimated cost. If this Stipulation is rejected or if relief from this Stipulation is granted, the prosecution cost of the current case may increase because of the cost of further proceedings.

## **DATE OF DISCLOSURE OF ANY PENDING INVESTIGATION OR PROCEEDING**

On September 28, 2011, the State Bar sent a disclosure letter by e-mail to respondent. In this letter, the State Bar advised him of any pending investigations or proceedings against him other than the current case.

(Do not write above this line.)

In the Matter of:  CHARLES M. BARRETT	Case number(s):  11-O-12864
---	-----------------------------------

**SIGNATURE OF THE PARTIES**

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

<u>9/30/11</u> Date	 Respondent's Signature	<u>Charles M. Barrett</u> Print Name
<u>9/30/11</u> Date	<u>Mark Hartman</u> Respondent's Counsel Signature	<u>Mark Hartman</u> Print Name
<u>MH</u> Date	<u>Mark Hartman</u> Deputy Trial Counsel's Signature	<u>Mark Hartman</u> Print Name

(Do not write above this line.)

In the Matter of: CHARLES M. BARRETT	Case Number(s): 11-O-12864
---	-------------------------------

### 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.

1. On page 4, section D.(1)(a)(i) remove the "and until" std. 1.4(c)(ii) condition from the stayed suspension as unnecessary. (See, In the Matter of Luis (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 737.)
2. On p. 12, regarding the 3d disciplinary matter, add, after the State Bar Court case no.: Supreme Court no. S074111;
3. On p. 13, regarding the 4th disciplinary matter, add, after the State Bar Court case no.: Supreme Court no. S164738.
4. On p. 13, Respondent confirmed through sufficient and uncontradicted evidence the following facts in mitigation : In the fall of 2011, Respondent had a lesion removed from his hand and tests revealed Respondent had suffered a recurrence of malignant skin cancer, requiring a number of surgical procedures and nearly six months of chemotherapy. As a result of his health issues and the treatment for the cancer, Respondent suffered a number of documented debilitating side effects, including open sores and blisters throughout his body, fatigue, nausea and an involuntary 40 pound weight loss within a five week period. A needed and planned hip replacement surgery has been delayed because Respondent's health did not permit him to undergo such surgery. While undergoing chemotherapy, Respondent also suffered a recurrence of pre-existing abdominal disease, resulting in two medical procedures in addition to the surgeries and procedures required in treatment of his cancer. Also during 2010 and 2011, Respondent was the sole individual responsible for the care of a close family member who was suffering from a serious, chronic medical condition. During 2010 and 2011, Respondent suffered financial difficulties as a result of IRS and Franchise Tax Board levies seeking payment for business taxes from an office operated by Respondent in the 1990s. Despite levies against his account, Respondent has paid all sums due under the terms of the orders issued in the underlying matters, which totaled \$ 146,952.85 in restitution, \$6,788.22 in costs to the State Bar and \$13,854 for Respondent's mandated participation in the Lawyer's Assistance Program, which Respondent successfully completed in timely fashion. These amounts paid as restitution and to the State Bar are amounts in addition to sums Respondent collectively paid to the IRS and Franchise Tax Board for personal tax obligations arising in 1996 and 2003. During this period, Respondent continued to be

(Do not write above this line.)

employed and there are no other pending disciplinary matters other than the instant matter for failure to timely pay restitution (which was actually paid within the time specified within the original order) and the untimely or incorrect filings of mandated Quarterly Reports.

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.)**

October 13, 2011  
Date

Pat McElroy  
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 October 13, 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:

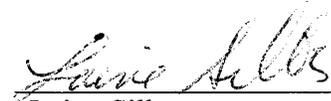
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

CHARLES MARTIN BARRETT  
DREYER BABICH ET AL LLP  
20 BICENTENNIAL CIR  
SACRAMENTO, CA 95826

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

MARK HARTMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 13, 2011.



---

Laine Silber  
Case Administrator  
State Bar Court