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**State Bar Court of California
Hearing Department
San Francisco
DISBARMENT**

<p>Counsel For The State Bar</p> <p>Christine Souhrada Deputy Trial Counsel Office of the Chief Trial Counsel 180 Howard Street, 7th fl. San Francisco, CA 94105 (415) 538-2183</p> <p>Bar # 228256</p>	<p>Case Number(s): 11-O-14967</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED</p> <p>NOV 23 2011</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>John Franklin Morken 760 Market St Ste 938 San Francisco, CA 94102 (415) 391-6140</p> <p>Bar # 153979</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: John Franklin Morken</p> <p>Bar # 153979</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 September 12, 1991.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (8) pages, not including the order.



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- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs to be awarded to the State Bar.
- Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
- Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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**
- (a) State Bar Court case # of prior case 03-C-03937
- (b) Date prior discipline effective July 13, 2005
- (c) Rules of Professional Conduct/ State Bar Act violations: violation of Vehicle Code section 23152(a) [driving under the influence of alcohol or drugs], which did not involve moral turpitude, but did involve other misconduct warranting discipline
- (d) Degree of prior discipline Public Reprimand
- (e) If respondent has two or more incidents of prior discipline, use space provided below:

Case no. 06-H-10814

Discipline effective: October 26, 2006

Violations: Business and Professions Code, sections 6077 and 6078, and California Rules of Court, rule 956

Degree of Discipline: One year suspension, stayed

Case no. 05-C-04451 and 06-O-13422

Discipline effective: February 25, 2009

Violations: Business and Professions Code, section 6068(a) by way of Penal Code section 242 [battery], which did not involve moral turpitude, but which did involve other misconduct warranting discipline; Rules of Professional Conduct, rule 4-100(A) [failure to maintain client funds in

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trust]; Rules of Professional Conduct, rule 4-100(A) [commingling]; and Business and Professions Code, section 6106 [moral turpitude - misappropriation].

Degree of Discipline: Two years suspension

Case no. 11-O-12262

Discipline effective: Not yet effective (stipulation filed on June 20, 2011)

Violations: Business and Professions Code, section 6068(k) [failure to comply with probation]

Degree of Discipline: Three years suspension

- (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:

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.

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- (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: Disbarment.

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) **Other:**

Attachment to Stipulation Re Facts, Conclusions of Law and Disposition
in the Matter of John Franklin Morken

Case no. 11-O-14967

I. Facts

1. On January 26, 2009, the California Supreme Court filed a disciplinary order in State Bar Court case number 05-C-04451 et alia (Supreme Court Case Number S168129).

2. The order became effective on February 25, 2009 (California Rules of Court, rule 9.18(a)), and at all times subsequent has remained in full force and effect.

3. Notice of the disciplinary order was properly served upon respondent (California Rule of Court 9.18(b)).

4. The order placed respondent on disciplinary probation for five 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 Order Approving Stipulation filed on August 26, 2008.

5. At all times subsequent to February 25, 2009, respondent has remained on disciplinary probation and the probation conditions mentioned above have remained in full force and effect.

6. One of the conditions of respondent's probation provided as follows:

"Respondent shall be evaluated by the Lawyer's Assistance Program ("LAP"). Respondent shall enter into the LAP by signing all required documents, including but not limited to a contract, participation plan and waiver. Respondent shall thereafter comply with all provisions and conditions of his participation plan with the State Bar LAP, and all modifications thereto, until such time as he graduates from LAP or until the expiration of this Stipulation, whichever is sooner. Within 14 calendar days from the effective date of this Stipulation, Respondent shall provide the Office of Probation with a copy of the waiver which he has signed with LAP that authorizes the LAP to provide Probation with information regarding his compliance with LAP. Revocation of this written waiver would be a violation of this Stipulation. In addition, each quarter and before the due date of his final report, Respondent shall request and obtain from LAP written proof of his compliance with LAP, and provide the original of the LAP compliance report to the Office of Probation with his written report. The written LAP compliance

report shall be dated not sooner than 10 calendar days prior to the date Respondent submits his required written reports to the Office of Probation.”

7. Respondent violated the above-quoted condition by voluntarily withdrawing from the Lawyers Assistance Program on or about May 31, 2011. At all times thereafter, respondent has failed and refused to comply with any of the conditions of his LAP participation agreement.

II. Conclusions of Law

8. By violating the Lawyers Assistance Program condition, Respondent failed to comply with all conditions attached to any disciplinary probation in wilful violation of Business and Professions Code, section 6068(k).

III. Supporting Authority

Given respondent’s record of more than two prior instances of discipline, under standard 1.7(b), disbarment is required.

IV. Estimate Of Costs Of Disciplinary Proceedings

Respondent has submitted a financial declaration showing financial hardship. As such, the State Bar has waived costs pursuant to Business and Professions Code, section 6086.10.

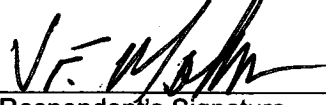
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SIGNATURE OF THE PARTIES

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

11/7/2011
Date


Respondent's Signature

John Franklin Morken
Print Name

Date

Respondent's Counsel Signature

Print Name

11/7/11
Date


Deputy Trial Counsel's Signature

Christine Souhrada
Print Name

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In the Matter of: John Franklin Morken	Case Number(s): 11-O-14967
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DISBARMENT ORDER

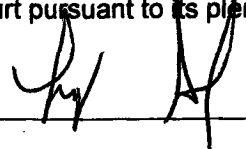
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.)**

Respondent John Franklin Morken is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date Nov 22, 2011



Judge of the State Bar Court

LUCY ARMENDARIZ

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 23, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

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

JOHN F. MORKEN
ATTORNEY AT LAW
760 MARKET ST STE 938
SAN FRANCISCO, CA 94102

- 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:

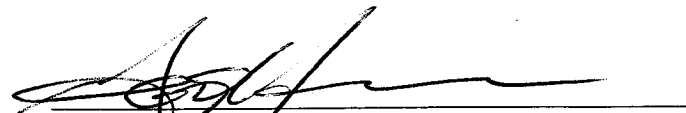
- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- 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:

Christine Souhrada, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 23, 2011.



George Hue
Case Administrator
State Bar Court