

ORIGINAL

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State Bar Court of California Hearing Department San Francisco DISBARMENT		
Counsel For The State Bar CYDNEY BATCHELOR Deputy Trial Counsel State Bar of California 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204 Bar # 114637	Case Number(s): 11-O-16069	For Court use only PUBLIC MATTER FILED <i>R</i> DEC 29 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent JOHN E. LINNEBALL 1859 Powell St., #109 San Francisco, CA 94133 Tele: 415/986-7355 Bar # 181795		Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT
In the Matter of: JOHN E. LINNEBALL Bar # 181795 A Member of the State Bar of California (Respondent)		DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED

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 March 18, 1996.
- (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 (11) pages, not including the order.

(Effective January 1, 2011)



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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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:

See attached.
- (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.

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- (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. See attached.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

None

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 attached
- (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 attached
- (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. see attached
- (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.

(Effective January 1, 2011)

Disbarment

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(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:

None

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 \$ n/a plus 10 percent interest per year from n/a. If the Client Security Fund has reimbursed n/a 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 n/a days from the effective date of the Supreme Court order in this case.
- (3) **Other:** Attached

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISBARMENT

IN THE MATTER OF: **JOHN E. LINNEBALL**

CASE NUMBERS: **11-O-16069**

FACTS AND CONCLUSIONS OF LAW.

A. Statement of Facts:

1. On July 2, 2002, the California Supreme Court filed a disciplinary order in case number S106171 (State Bar Case No. 99-O-12579). The Supreme Court order became effective on or about August 1, 2002, and thereafter remained in full force and effect, except that the State Bar Court issued the following modification orders:

<u>Date Filed</u>	<u>Modification</u>
October 7, 2002	Extended deadline for compliance with former rule 955 (now Rule 9.20), California Rules of Court.
November 12, 2002	Modified restitution requirements.
February 17, 2004	Modified restitution requirements.
August 11, 2005	Extended probation for additional five years. Modified restitution requirements. Deleted probation monitor requirement. Deleted Alcoholics Anonymous condition. Added Lawyer's Assistance Program requirement.
May 17, 2006	Modified restitution requirements.

At all times pertinent hereto, respondent had notice of and was aware of the July 2, 2002 Supreme Court order and each of the modification orders mentioned above. Respondent remained on probation at all times from August 1, 2002 to August 1, 2010.

2. DRUG/ALCOHOL SCREENING

(a) One of the conditions of probation required respondent to comply with the following requirement:¹

"Respondent shall select a licensed medical laboratory approved by the Probation Unit. Respondent shall furnish to the laboratory blood and/or urine samples as may be required to show that respondent has abstained from alcohol and/or drugs. The samples shall be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent shall cause the laboratory to provide to the Probation Unit, at respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of respondent's blood and or/urine obtained not more than ten (10) days previously."

(b) Respondent violated this condition of his probation by submitting proof late on eight occasions (late reports due: November 10, 2007; December 10, 2007; January 10, 2008; February 10, 2008; March 10, 2008; April 10, 2008; May 10, 2008; June 10, 2008).

(c) Respondent also violated this condition of his probation by failing to submit proof at all on four occasions (unfiled reports due: July 10, 2008; August 10, 2008; September 10, 2008; October 10, 2008).

3. LAWYER ASSISTANCE PROGRAM ("LAP") PARTICIPATION.

(a) The August 11, 2005 modification order required:

"Respondent shall participate with the [LAP] and comply with the conditions of his participation agreement. Respondent shall provide monthly LAP compliance reports to the [Office of Probation], with each quarterly report, and execute any necessary waivers with LAP to comply with these terms."

(b) Respondent violated this condition of his probation by failing to submit the monthly LAP compliance reports to the Office of Probation with each quarterly report on four occasions (unfiled reports due: January 10, 2008; April 10, 2008; July 10, 2008; October 10, 2008).

¹This condition was not modified by any of the State Bar Court orders mentioned above.

4. RESTITUTION.

(a) The original restitution condition (effective August 1, 2002, to November 12, 2002), provided as follows:

"Within three years from the effective date of discipline in this matter, Respondent must make restitution in the principal amounts set forth herein to Catherine Dombrowski (\$1,386.00), Edwina Terry (\$9,575.00), Joan Van de Weil (\$5,475.00), Donald Willis (\$8,000.00), Maxine Webb (\$2,237.00), Co Van Lu (\$2,500), Frank Darby (\$12,062.66), Lawrence Lynch (\$1,000.00) and Antonio Victa (\$2,500.00) or the Client Security Fund if it has paid plus interest at the rate of 10% per annum from April 30, 2001 in no fewer than equal quarterly installments until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him during that reporting period."

(b) By order filed May 17, 2006, based upon respondent's motion, the State Bar Court set respondent's future restitution payments at a minimum of \$1,200.00 per calendar quarter. This order remained in effect from May 17, 2006 until August 1, 2010 when respondent's probation ended.

(c) Respondent violated this condition of his probation by failing to provide proof that he paid a minimum of \$1,200.00 per calendar quarter on four occasions (missing proof for: January 10, 2008; April 10, 2008; July 10, 2008; October 10, 2008).

B. Conclusions of Law: By failing to provide proof that he had complied with the Drug/Alcohol testing requirement in a timely manner (eight times) or at all (four times); by failing to provide proof that he had participated in LAP at all (four times); and by failing to provide proof that he had paid a minimum of \$1,200.00 restitution per quarter (four times), respondent willfully violated the terms of his probation in violation of section 6068(k) of the Business and Professions Code.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was December 13, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards for Attorney Sanctions for Professional Misconduct 1.2(b)(i), 1.2(b)(ii), 1.2(e)(v), 1.7(b), and 2.6(a); *Barnum v. State Bar* (1990) 52 Cal.3d 104 and *Sorensen v. State Bar* (1991) 52 Cal.3d 1036.

AGGRAVATING CIRCUMSTANCES.

Prior Records of Discipline: Respondent has been disciplined two times, as follows:

99-O-12579: Effective 8/1/2002, 9 months actual suspension and until compliance with std. 1.4(c)(ii), 3 years stayed suspension and until restitution is paid, for violations of sections 6068(b) (1 count), 6068(m) (2 counts), 6103 (1 count), and 6106 (7 counts) of the Bus. and Prof. Code; and rules 3-110(A) (6 counts), 3-200(A) (1 count), 3-700(A)(2) (1 count), 3-700(D)(2) (2 counts), 4-100(A) (2 counts), and (4-100(B)(4) (9 counts) of the Rules of Prof. Conduct,

07-O-14038: Effective 10/31/2008, 3 years actual suspension and until restitution paid and until compliance with standard 1.4(c)(ii), 5 years stayed suspension, for multiple violations of section 6068(k) of the Bus. and Prof. Code.

Multiple Acts of Misconduct: The misconduct stipulated to herein represented multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Candor and cooperation: Respondent has been cooperative with the State Bar during the parties' resolution of this case. He attempted to submit his resignation with charges pending in January 2009. After the Supreme Court declined to accept the resignation in August 2011, respondent agreed to enter into this disbarment stipulation.

Emotional problems: Respondent's misconduct occurred from 2007-2008. Respondent has provided proof from the State Bar Lawyer Assistance Program that during that period of time, he was suffering from severe mental and emotional problems. According to LAP, these problems "are no longer a significant issue in his life."

Financial problems: During the period of time of the misconduct, respondent suffered from severe financial problems, including an employer not paying him for a substantial amount of work that respondent did for him.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 9, 2011, the estimated prosecution costs in this matter are approximately \$2,797.00. 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.

RESTITUTION.

Effective August 1, 2002, the California Supreme Court ordered respondent to pay restitution in case number S106171 (State Bar case 99-O-12579) in relevant part as follows:

“Within three years from the effective date of the discipline in this matter, respondent must make restitution in the principal amounts set forth herein to Catherine Dombrowski (\$1,386.00), Edwina Terry (\$9,575.00), Joan Van de Weil (\$5,475.00), Donald Willis (\$8,000.00), Maxine Webb (\$2,237.00), Co Van Lu (\$2,500.00), Frank Darby (\$12,062.66), Lawrence Lynch (\$1,000.00) and Antonio Victa (\$2,500.00) or the Client Security Fund if it has paid plus interest at the rate of 10% per annum from April 30, 2001. . . .”



Respondent understands that he remains under a continuing obligation to pay the restitution set forth above, as reduced by satisfactory proof provided to the Office of Probation of payments that he has made prior to or will make after the date he signs this stipulation.

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In the Matter of: JOHN E. LINNEBALL	Case number(s): 11-O-16069
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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.

<u>12/14/11</u> Date	 Respondent's Signature	<u>JOHN E. LINNEBALL</u> Print Name
<u> </u> Date	<u> </u> Respondent's Counsel Signature	<u>N/A</u> Print Name
<u>12/15/11</u> Date	 Deputy Trial Counsel's Signature	<u>CYDNEY BATCHELOR</u> Print Name

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In the Matter of: JOHN E. LINNEBALL	Case Number(s): 11-O-16069
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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.

On page 10 of the stipulation, under the heading "Restitution," after the second paragraph, which begins "Within three years . . .," the following two paragraphs are INSERTED:

On October 1, 2008, the Supreme Court filed an order in case number S165554 (State Bar Court case numbers 07 O 14038, etc.) in which it placed respondent on five years' stayed suspension and five years' probation with conditions, including a three-year (actual) suspension that will continue until respondent completes the restitution previously ordered in case number S106171 (State Bar Court case number 99 O 12579).

Respondent's three-year actual suspension under the Supreme Court's October 1, 2008 order in case number S165554 became effective on October 31, 2008. Since that time, respondent has been continuously suspended from practice because he has not completed the restitution originally ordered in S106171.

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.)**

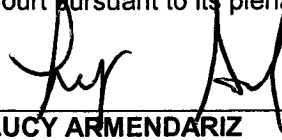
Respondent John E. Linneball is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3)

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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.

Dec. 29, 2011

Date



LUCY ARMENDARIZ
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 December 29, 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:

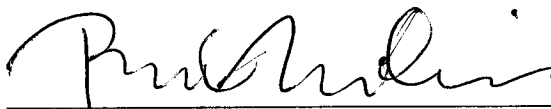
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JOHN E. LINNEBALL
1859 POWELL ST #109
SAN FRANCISCO, CA 94133

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

CYDNEY BATCHELOR, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 29, 2011.



Bernadette C.O. Molina
Case Administrator
State Bar Court