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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>DISBARMENT</b>		
<p>Counsel For The State Bar</p> <p>Kim Kasreliovich Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213)765-1378</p> <p>Bar # 261766</p>	<p>Case Number(s): 12-O-12429 - DFM 12-O-12430</p>	<p>For Court use only</p> <p style="text-align: center;"><b>FILED</b></p> <p style="text-align: center;">OCT 22 2012 <i>YJC</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p style="text-align: center;"><b>PUBLIC MATTER</b></p>
<p>In Pro Per Respondent</p> <p>Stephen Curtis Downey 22388 Alguas Road Woodland Hills, CA 91364 (323) 870-3311</p> <p>Bar # 70689</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p><b>DISBARMENT</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Stephen Curtis Downey</p> <p>Bar # 70689</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 22, 1976.
- (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 (10) pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)



Disbarment

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- (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 90-O-10616
  - (b)  Date prior discipline effective July 2, 1993
  - (c)  Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct rule 3-110(A) [former rule 6-101(A)(2)] and Business and Professions code section 6106.
  - (d)  Degree of prior discipline One (1) year of suspension, stayed, with three (3) years of probation and four (4) months actual suspension.
  - (e)  If respondent has two or more incidents of prior discipline, use space provided below:  
  
See the Attachement to the Stipulation for additional discussion of Prior Record of Discipline.
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

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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 the Attachment to the Stipulation for a further discussion of Multiple/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.
- (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.

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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:**

See the Attachment to the Stipulation for a further discussion of 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**

<b>IN THE MATTER OF:</b>	<b>STEPHEN CURTIS DOWNEY</b>
<b>CASE NUMBER(S):</b>	<b>12-O-12429; 12-O-12430 - DFM</b>

**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. 12-O-12429

**FACTS:**

1. On October 20, 2009, the Review Department of the State Bar Court issued an Opinion on Review ("Review Department Decision") in Case No. 05-O-04653 recommending that Respondent be suspended from the practice of law for two (2) years, execution of the suspension to be stayed, that Respondent be placed on probation for two (2) years and that Respondent be actually suspended for the first one-hundred and fifty (150) days of probation.
2. On February 22, 2010, the California Supreme Court filed an Order in Case No. 178386 (State Bar Court Case No. 05-O-04653) ordering the discipline recommended in the Review Department Decision ("Disciplinary Order").
3. Pursuant to the Disciplinary Order, Respondent was ordered to submit to the Office of Probation written quarterly reports each January 10, April 10, July 10, and October 10 of each year or part thereof during which the probation is in effect, certifying under penalty of perjury whether he has complied with all provisions of the State Bar Act and the Rules of Professional Conduct and all terms of probation during the preceding calendar quarter or part thereof covered by the report and to file a final report no earlier than twenty (20) days prior to the expiration of the probation period and no later than the last day of said period.
4. The Disciplinary Order became effective on March 24, 2010.
5. Respondent did not file his fourth through eighth quarterly reports, covering the period of April 10, 2011 through March 24, 2012, by their respective due dates or anytime thereafter.

CONCLUSIONS OF LAW:

6. By failing to file with the Office of Probation his fourth through eighth quarterly reports, Respondent willfully failed to comply with all conditions attached to his probation in violation of Business and Professions code section 6068(k).

Case No. 12-O-12430

FACTS:

7. On April 6, 2011, Respondent entered into a Stipulation Re Facts, Conclusions of Law and Disposition ("Stipulation") with the State Bar of California in Case Nos. 08-O-13851 and 10-O-09616

8. On August 25, 2011, the California Supreme Court filed an Order in Case No. S194062 (State Bar Court Case Nos. 08-O-13851 and 10-O-09616) that Respondent be suspended from the practice of law for three (3) years, that execution of the suspension be stayed, and that Respondent be placed on probation for three (3) years subject to the conditions of probation set forth in the Stipulation, including the condition that the Respondent be actually suspended for two (2) years and remain suspended until he pays restitution in full and provides proof to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the law ("Disciplinary Order").

9. Pursuant to the Disciplinary Order, Respondent was ordered to comply with the following terms and conditions of probation, among others:

- a. Contact the Office of Probation and schedule a meeting with the assigned Probation Deputy within thirty (30) days from the effective date of the discipline; and
- b. Submit to the Office of Probation written quarterly reports each January 10, April 10, July 10, and October 10 of each year or part thereof during which the probation is in effect, certifying under penalty of perjury whether he has complied with all provisions of the State Bar Act and the Rules of Professional Conduct and all terms of probation during the preceding calendar quarter or part thereof covered by the report and to file a final report no earlier than twenty (20) days prior to the expiration of the probation period and no later than the last day of said period.

10. The Disciplinary Order became effective on September 24, 2011.

11. Respondent did not contact Probation to schedule the required meeting with his assigned probation deputy by the due date of October 24, 2011 or any time thereafter.

12. Respondent did not file his first quarterly report with Probation, covering the period of September 24 to December 31, 2011, by the due date of January 10, 2012 or any time thereafter.

13. Respondent did not file his second quarterly report with Probation, covering the period of January 1 to March 30, 2012, by the due date of April 10, 2012 or anytime thereafter.

#### CONCLUSIONS OF LAW:

14. By failing to contact Probation and schedule the required meeting by October 24, 202011 or anytime thereafter and by failing to file with Probation his first and second quarterly reports, Respondent willfully failed to comply with all conditions attached to his probation in violation of Business and Professions code section 6068(k).

#### ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline:** Case no. 05-O-04653, effective March 24, 2010. The State Bar Court determined that Respondent committed an act of moral turpitude by verifying an unlawful detainer complaint for his clients, who he assumed were out of the county. In fact they were not. Respondent also moved his law office but didn't update his records with the bar. In mitigation, no clients were harmed, Respondent cooperated with the State Bar's investigation and he presented witnesses who testified about his good character. The Court found that Respondent violated Business and Professions code sections 6106 and 6068(j) and imposed two (2) years suspension, stayed, with two (2) years of probation with an actual one-hundred and fifty (150) day suspension.

Case nos. 08-O-13851 and 10-O-09616, effective September 24, 2011. Respondent stipulated to four counts of misconduct, including failing to comply with the probation conditions of a 2010 disciplinary order. He did not submit two quarterly probation reports or attend ethics school. Respondent also shared legal fees with an eviction service company owned by a non-lawyer. In another matter Respondent didn't file a case management conference statement, respond to discovery or tell the clients about various rulings, nor did he tell them that a \$560 sanction was imposed against them. The court entered a judgment of \$72,779 against Respondent's clients. Respondent stipulated to violations of the Rules of Professional Conduct, rules 1-320 and 3-110(A), as well as Business and Professions code sections 6068(m) and 6068(k). Respondent stipulated to three (3) years suspension, stayed, with three (3) years of probation and a two (2) year actual suspension and until he makes restitution and proves his rehabilitation.

**Multiple/Pattern of Misconduct:** Respondent failed to submit multiple quarterly reports as required by two simultaneous terms of probation.

#### ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

**Additional Mitigating Circumstances:** Respondent has been cooperative and responsive to the State Bar at all stages of the proceedings and has agreed to enter into this stipulation. See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.

#### AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline

as announced by the Supreme Court.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.” (*In re Morse* (1995) 11 Cal.4<sup>th</sup> 184, 205; std 1.3.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4<sup>th</sup> 81, 92, quoting *In re Brown* (1995) 12 Cal.4<sup>th</sup> 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Standard 2.6 provides that a member’s culpability of violating Business and Professions Code section 6068 shall result in disbarment or suspension depending on the gravity of the offense or harm to the victim with due regard to the purposes of imposing discipline set forth in Standard 1.3.

Standard 1.7(b) states that 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 circumstances clearly mitigate.

The standards are clear that two prior impositions of discipline is worthy of disbarment; Respondent has three. The conduct in the present case would not, on its own, rise to such a level of discipline. It is Respondent’s many missteps over the course of his career and lack of mitigation in the instant matter, which necessitates the application of Standard 1.7(b). With such a lengthy discipline history the only appropriate sanction is disbarment.

## **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was September 11, 2012.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 11, 2012, the prosecution costs in this matter are \$6,222. 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.

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In the Matter of: <b>STEPHEN CURTIS DOWNEY</b> Member # 70689	Case number(s): <b>12-O-12429 - DFM</b> <b>12-O-12430</b>
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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>9/20</u>	2012	<u><i>Stephen C Downey</i></u>	<u>STEPHEN C. DOWNEY</u>
Date		Respondent's Signature	Print Name
	2012		
<u>9/25/12</u>	2012	<u><i>Ki Ki</i></u>	<u>KIM KASRELIOVICH</u>
Date		Trial Counsel's Signature	Print Name

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In the Matter of: <b>STEPHEN CURTIS DOWNEY</b> Member # 70689	Case number(s): <b>12-O-12429 - DFM</b> <b>12-O-12430</b>
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**DISBARMENT ORDER**

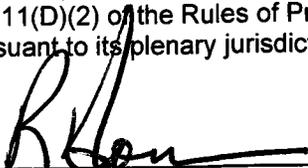
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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 **Stephen Curtis Downey** 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.

10/19/12  
Date

  
RICHARD A. HONN  
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 Los Angeles, on October 22, 2012, 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 - DISBARMENT**

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

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

**STEPHEN CURTIS DOWNEY  
22388 ALGUNAS RD  
WOODLAND HILLS, CA 91364**

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

**KIMBERLY KASRELIOVICH, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 22, 2012.



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Tammy Cleaver  
Case Administrator  
State Bar Court