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State Bar Court of California Hearing Department Los Angeles DISBARMENT		
Counsel For The State Bar Alex Hackert Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 213-765-1498 Bar # 267342	Case Number(s): 15-N-15281-YDR	For Court use only FILED MAY 26 2016 <i>R</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Andrew Fairmont Beach P.O. Box 1583 Westminster, CA 92684 Bar # 227333	PUBLIC MATTER	
In the Matter of: ANDREW FAIRMONT BEACH Bar # 227333 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT 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 **December 2, 2003**.
- (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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

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- (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case **09-0-16851, et al.**
 - (b) Date prior discipline effective **September 17, 2011**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 1-320(A), 1-320(B) and 3-110(A).**
 - (d) Degree of prior discipline **One-year stayed suspension with two years of probation.**
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:
See page 7.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7) **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.

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- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. 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 likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 with a good faith belief that was honestly held and objectively reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

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- (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 extraordinarily 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 subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pretrial Stipulation, see page 7.

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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:**

10. On September 25, 2015, the Office of Probation also sent respondent an e-mail with a copy of the September 25, 2015 letter. This e-mail was sent to respondent's membership records e-mail address and was successfully delivered per a confirmation notification.

11. After the Notice of Disciplinary Charges was filed in this matter on January 28, 2016, respondent filed a compliant rule 9.20 compliance affidavit on March 10, 2016.

CONCLUSIONS OF LAW:

12. By failing to file a declaration of compliance in conformity with the requirements of rule 9.20(c) with the Clerk of the State Bar Court by August 25, 2015, pursuant to California Supreme Court Order No. S225285, respondent willfully violated California Rules of Court, rule 9.20.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has two prior records of discipline.

Respondent's first record of discipline consisted of a one-year stayed suspension with two years of probation, which became effective on September 17, 2011. (State Bar Court Case Nos. 09-0-16851 and 10-O-04039.) Respondent stipulated to one count of violating Rules of Professional Conduct, rule 3-110(A) (failure to perform legal services), one count of violating Rules of Professional Conduct, rule 1-320(B) (compensating a person for an employment referral) and two counts of violating Rules of Professional Conduct, rule 1-320(A) (sharing fees with a non-lawyer). The misconduct in this case took place in 2009 and related to two client matters dealing with loan modification services. Respondent failed to supervise a non-attorney who made an improper solicitation of a client, improperly shared legal fees with the non-attorney and improperly compensated the non-attorney for an employment referral. There was a single aggravating factor for multiple acts of misconduct. Mitigating credit was given for entering into a pretrial stipulation and evidence of good character. As part of his terms of probation, respondent was required to join the Law Practice Management and Technology Section of the State Bar ("LPMTS"), pay the dues and costs of enrollment for two years, and furnish satisfactory evidence of membership in LPMTS to the Office of Probation with his first quarterly report.

Respondent's second record of discipline, the underlying matter in this case, consisted of one-year stayed suspension with one year of probation, to include a 90-day actual suspension. (State Bar Court Case Nos. 14-O-01551 and 14-O-03325.) This discipline became effective on July 16, 2015. Respondent stipulated to one count of violating Business and Professions Code, section 6106 (moral turpitude) for false reporting of MCLE compliance and one count of violating Business and Professions Code, section 6068(k) for failing to comply with terms of his probation from his first discipline. As to the latter count, respondent submitted three quarterly reports and his final report late and did not provide satisfactory evidence of membership in LPMTS. Aggravating factors in this case were a prior record of discipline, indifference to coming into compliance with his MCLE requirements, and multiple acts of misconduct. Respondent was given mitigating credit for entering into a pretrial stipulation.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent is entitled to mitigation for entering into this stipulation prior to trial, thereby preserving State Bar time and resources, as well as acknowledging and accepting responsibility for his misconduct. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the Standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this case, rule 9.20 itself suggests the range of discipline appropriate for a violation of the rule. Rule 9.20 supports disbarment, with subsection (d) stating, “... A suspended member’s willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime.” The fact non-compliance with rule 9.20 is considered a potential crime, as well as an act of professional misconduct, confirms the serious nature of rule 9.20 violations. Respondent did not file a rule 9.20 declaration until after disciplinary charges were filed in this case, despite the reminder letters from the Office of Probation. Accordingly, discipline at the high end of the range suggested by rule 9.20 is appropriate and respondent should be disbarred.

Further, Standard 1.8(b) indicates that disbarment is appropriate in the current proceeding because a 90-day period of actual suspension was ordered in respondent’s second disciplinary matter, and his prior record of discipline coupled with the current record, demonstrates an unwillingness or inability to conform to his ethical responsibilities. Respondent has previously violated the terms of disciplinary probation, failed to come into compliance with his MCLE requirements after being subject to an audit and has now failed to timely file a rule 9.20 declaration as ordered by the California Supreme Court. Since there are no “compelling mitigating circumstances [that] clearly predominate” the misconduct and aggravation present in this matter, the exception to Standard 1.8(b) does not apply. Pursuant to standard 1.8(b) the appropriate discipline in the instant matter is disbarment.

Case law on violations of rule 9.20 supports disbarment. (*See Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131 [“disbarment is generally appropriate sanction for a wilful violation of rule 955 [now rule 9.20]”).) In *In the Matter of Esau* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 131, the Review Department found that an attorney’s willful violation of a court order requiring compliance with rule 9.20 was sufficient grounds for disbarment where the evidence in mitigation was not compelling and the attorney’s prior record of discipline included reproof and probation violations, the latter resulting in a six-month actual suspension.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of May 10, 2016, the prosecution costs in this matter are \$2,610. 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: ANDREW FAIRMONT BEACH	Case Number(s): 15-N-15281-YDR
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DISBARMENT ORDER

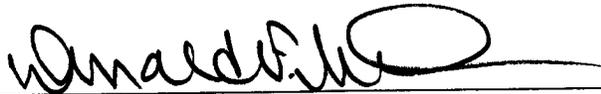
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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 Andrew Fairmont Beach 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.

5/26/16
Date


DONALD F. MILES
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 May 26, 2016, 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 ENROLMENT

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:

ANDREW F. BEACH
PO BOX 1583
WESTMINSTER, CA 92684

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

Alex J. Hackert, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in <select city>, California, on May 26, 2016.



Angela Carpenter
Case Administrator
State Bar Court