

1 **II. THE STATE BAR'S DISCIPLINE RECOMMENDATION MAY CHANGE**

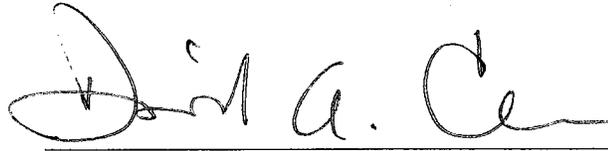
2 The parties understand that, based on the new matter which forms the basis of this
3 Addendum, the discipline recommended by the State Bar may change. If necessary, the State Bar
4 shall lodge a Supplemental Discipline Brief, supplementing the discipline brief it previously
5 submitted in this matter.

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7 **RESPECTFULLY SUBMITTED,**

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9 Date: Feb 12, 2007~~8~~

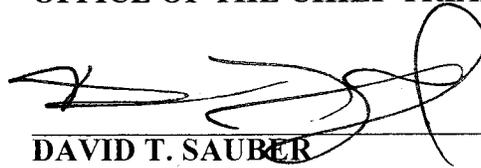
10 
11 **Jerald Scott Bennett**
12 Respondent

13 Date: 2/14, 2007

14 
15 **David Clare**
16 Counsel for Respondent

17 **THE STATE BAR OF CALIFORNIA**
18 **OFFICE OF THE CHIEF TRIAL COUNSEL**

19 Date: 2-21, 2007

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21 **DAVID T. SAUBER**
22 Deputy Trial Counsel
23 Office of Chief Trial Counsel
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ADDENDUM TO STIPULATED FACTS and CONCLUSIONS OF LAW
STATE BAR ALTERNATIVE DISCIPLINE PROGRAM

IN THE MATTER OF: **JERALD SCOTT BENNETT**

MEMBER # **123450**

CASE NUMBER(s): **06-C-10047**

STIPULATED FACTS AND CONCLUSIONS OF LAW

Prior Stipulation Incorporated Herein

1. This addendum is intended to supplement the Stipulation re: Facts and Conclusions of Law in case nos. 00-O-14412 et al., which the parties lodged with the Alternative Discipline Program ("ADP") Court on July 15, 2005 (the "Prior Stipulation"). The Prior Stipulation is also incorporated as if fully set forth herein.

2. The case described herein was filed subsequent to the Prior Stipulation being entered with the Court. Respondent is currently a participant in the Alternative Discipline Program.

Facts for Case No. 06-C-10047

3. In August 2003, Steven Eisenbeiss ("Eisenbeiss"), who is a paraplegic and suffers from Parkinson's disease, and ~~Becky~~ ^{Severly} Kimmel ("Kimmel") contracted with Respondent to ~~prepare a trust.~~ ^{prepare a}

4. In September 2003, Eisenbeiss and Kimmel gave Respondent \$190,000 to hold, ^{member and assist the closing of the} ~~pending the fund of their trusts.~~ ^{Billie Eisenbeiss Trust}

5. In December 2003, Eisenbeiss requested a partial return of funds from Bennett. ^{and Estate} Bennett gave them \$30,000 and an additional \$50,000 in January 2004. ^{In December 2003,} ~~Eisenbeiss and Kimmel contracted with Respondent to prepare 2 trusts~~

6. In March 2004, Eisenbeiss and Kimmel received trust documents from Bennett and requested the return of the \$110,000 in outstanding funds that Bennett was to be holding for them. Bennett did not return the funds to them and began failing to return phone calls or, when he did communicate with them, provided excuses as to why he had not returned the funds.

7. In September 2004, Eisenbeiss and Kimmel hired a private detective ("PI") regarding the funds Respondent was to be holding for them. The PI interviewed Respondent who stated that he was in possession of the money belonging to Eisenbeiss and Kimmel. Respondent also admitted that he knew they wanted the money returned and agreed to meet with them for that purpose. Following this interview with the PI, Respondent did not appear for all arranged appointments and eventually closed his office.

8. During this period of time, Eisenbeiss and Kimmel became aware of the fact that Respondent was not entitled to practice law. Bennett had never informed them of his inactive status.

(Do Not Write Above This Line)

9. In March 2005, Respondent was contacted by a Riverside County Sheriff's detective. Respondent admitted that he had not told Eisenbeiss and Kimmel of his inactive bar status. Respondent told the detective that the Eisenbeiss and Kimmel money was available. Respondent stated that he had had money stolen from his bank account during the time he was to be holding the Eisenbeiss and Kimmel funds. Respondent stated that he would have the funds together and would get a check to Eisenbeiss and Kimmel by the end of the day on March 30, 2005.

10. Subsequently, Respondent reported to the detective that he could not find any documentation supporting his claim that funds had been stolen from his bank account.

11. On April 4, 2005, Respondent informed the detective that he had not delivered any funds to Eisenbeiss and Kimmel.

12. On April 5, 2005, Respondent delivered a check for \$100,000 to Eisenbeiss and Kimmel.

13. On December 14, 2005, a Felony Complaint was filed in Riverside Superior Court Case No. SWF014649 against Respondent. Respondent was charged with violating the following:

-Count One: Penal Code section 368(d): Embezzlement;

-Count Two: Penal Code section 487(a): Grand theft;

-Count Three: Business and Professions Code section 6126(b): Unlawful practice of law;

-Count Four: Penal Code section 487(a): Grand theft;

-Count Five: Business and Professions Code, section 6126(b): Unlawful practice of law.

14. On December 14, 2006, Respondent pled guilty to Counts one through five in Case No. SWF0145649. Pursuant to section 17(b)(4) of the Penal Code, the Court deemed each count a misdemeanor violation. Respondent was sentenced to 36 months summary probation and 90 days county jail.

Conclusion of Law for Case No. 06-C-10047

15. The facts and circumstances surrounding Respondent's convictions, including her wilful violation of Penal Code section 487(a): Grand theft, a misdemeanor, involve moral turpitude, pursuant to Business and Professions Code, sections 6101 and 6102 in wilful violation of Business and Professions Code, section 6068(a).

RULE 133 NOTICE OF PENDING PROCEEDINGS

Respondent was notified in writing of any pending investigations not included in this stipulation, pursuant to Rule 133(12), on February 8, 2007.

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POTENTIAL INCREASE IN DISCIPLINE

Respondent understands that the matters in this addendum, being additional misconduct, may result in the Office of Chief Trial Counsel seeking – and/or the State Bar Court recommending – additional ADP conditions or increased discipline in the underlying cases, up to and including disbarment. In addition, his length of participation in the court's Alternative Discipline Program may be extended.

OPPORTUNITY TO SEEK COUNSEL

Respondent acknowledges that he has had full opportunity to read and understand this agreement, and to seek counsel if necessary, prior to signing.

///END OF ATTACHMENT///

ORIGINAL

LODGED

CONFIDENTIAL

JUN 30 2008

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of)
JERALD S. BENNETT,)
Member No. 123450,)
A Member of the State Bar.)

Case No. 04-O-11788 – RAH; consol. with
05-N-00453;
06-C-10047

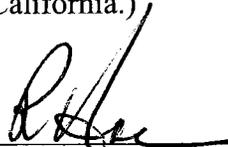
ORDER APPROVING ADDENDUM TO
STIPULATION, WITH MODIFICATIONS

Finding the addendum to the stipulation re: State Bar case no. 06-C-10047 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 addendum to the stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below:

1. On page 1, line 26, the reference to "06-O-10047" is changed to "06-C-10047";
2. On page 3, paragraph 1, the reference to "00-O-14412 et al." is changed to "04-O-11788, etc.";
3. On page 4, paragraph 15, line 1, "her" is changed to "his";
4. On page 4, paragraph 15, the last two lines commencing with the words "pursuant to" and ending with "section 6068(a)" are deleted.

The parties are bound by the addendum to the stipulation as approved unless: 1) a motion to withdraw or modify the addendum, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved addendum; or 3) respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure of the State Bar of California.)

Dated: 6/30/08


RICHARD A. HONN,
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; 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 July 11, 2008, I deposited a true copy of the following document(s):

AMENDED CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDER;

PARTIES' ADDENDUM TO STIPULATION RE: FACTS AND CONCLUSIONS OF LAW, REGARDING STATE BAR CASE NO. 06-C-10047; ORDER APPROVING ADDENDUM TO STIPULATION, WITH MODIFICATIONS; and,

AGREEMENT AND ORDER AMENDING CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S ALTERNATIVE DISCIPLINE PROGRAM; FURTHER ORDER

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

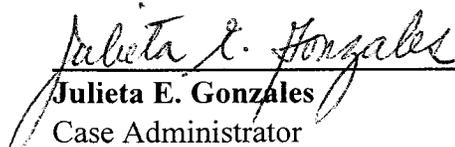
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**DAVID A CLARE ESQ
444 W OCEAN BLVD STE 800
LONG BEACH, CA 90802**

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

David T. Sauber, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **July 11, 2008**.



Julieta E. Gonzales
Case Administrator
State Bar Court