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State Bar Court of California
Hearing Department

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Hugh G. Radigan Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 213-765-1206</p> <p>Bar # 94251</p>	<p>Case Number (s) 06-O-13915, 07-O-12771 and 08-O-10232 RAP</p>	<p>(for Court's use)</p> <p align="center">FILED</p> <p align="center">DEC 08 2008</p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Michael Philip Richter 6950 Friars Road, Suite 205 San Diego, California 92108 619-543-1744</p> <p>Bar # 54408</p>	<p>Submitted to:</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: Michael Philip Richter</p> <p>Bar # 54408</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 14, 1972**.
- (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 entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **23** 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".
- (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.

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- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **two billing cycles following the effective date of the Supreme Court order imposed as a result of this stipulation**
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

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** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case **96-O-08734 CEV**
 - (b) Date prior discipline effective **April 19, 2000**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code section 6068(I) and Rules of Professional Conduct, rule 3-110(A) and rule 3-700(D)(2)**
 - (d) Degree of prior discipline **Public Reproval**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

State Bar Court case # 00-O-10431-EEB; effective date of prior discipline March 27, 2001; violation of Business and Professions Code sections 6068(i) and 6068(m) and Rules of Professional Conduct, rule 3-110(A) resulting in a six month stayed suspension, one year probation.
- (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. **Respondent's clients, both Bingham and Kizil, were required to retain replacement counsel to implement the objective each had retained Respondent to achieve, which objective Respondent failed to secure in timely fashion after having received advanced attorneys fees and costs while failing to refund any of these same unearned fees.**
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (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. **In three separate client matters, Respondent committed multiple acts 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.
- (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:

- (1) **Stayed Suspension:**
 - (a) Respondent must be suspended from the practice of law for a period of **two years**
 - i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
 - ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
 - iii. and until Respondent does the following:
 - (b) The above-referenced suspension is stayed.
- (2) **Probation:**

Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) **Actual Suspension:**
 - (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **one year**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

- (7) x Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) x Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) x The following conditions are attached hereto and incorporated:
- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions x Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) x **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) x **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.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she 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 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) X **Other Conditions: Respondent agrees to submit to binding arbitration the unearned fee dispute with Ozgur Kizil-Kucukdmli in the amount of \$2,645.00; Respondent further agrees to submit**

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competent proof that the offer of binding arbitration was received and acknowledged by Kizil no later than 30 days following the effective date of the Supreme Court order imposed as a result of this stipulation. The binding arbitration to be completed no later than 120 days following the effective date of the Supreme Court disciplinary order imposed as a result of this stipulation.

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Attachment language begins here (if any):

In the Matter of
Michael Philip Richter

Case number(s):
06-O-13915, 07-O-12771 and 08-O-10232 RAP

A Member of the State Bar

Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Morgan Bingham	\$1,325.00	May 5, 2006
Terry D. Hart	\$2,000.00	December 11, 2006

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 90 days after the Supreme Court disciplinary order imposed as a result of this stipulation.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reproval), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

- b. Respondent has kept and maintained the following:
- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Michael Philip Richter

CASE NUMBER(S): 06-O-13915, 07-O-12771 and 08-O-10232 RAP

FACTS AND CONCLUSIONS OF LAW.

Respondent admits the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 06-O-13915 Kizil matter

1. On or about June 13, 2005, Ozgur Kizil-Kucukdumlu ("Kizil") married United States citizen, Amy Beth Deluca, in San Diego, California.
2. On or about June 28, 2005, the U. S. Department of Justice, Immigration and Naturalization Service, ("USCIS") issued a Notice to Appear for removal proceedings to Kizil in case no. XSD0506000208.
3. The Notice to Appear stated that on or about July 29, 2000, Kizil entered the United States on a non-immigrant student visa to attend the University of Arkansas but that Kizil had not attended the University of Arkansas from August 25, 2003 to the issuing date of the Notice to Appear.
4. On or about July 18, 2005, the immigration court issued a Notice of Hearing in Removal Proceedings ordering Kizil to appear before the Immigration Court on September 2, 2005.
5. On or about August 16, 2005, Kizil employed Respondent to represent him in the pending immigration proceedings. Specifically, Kizil employed Respondent to obtain a visa and a adjustment of status to permanent resident for Kizil. On or about August 18, 2005, Kizil paid Respondent \$1,500 in advanced legal fees to handle his immigration matter.
6. Pursuant to the retainer agreement, Respondent was also hired to appear at the September 2, 2005 immigration hearing. Kizil agreed to pay Respondent an additional \$500 in attorney fees for the September 2, 2005 appearance
7. On or about September 2, 2005, Respondent and Kizil appeared at the immigration hearing. During the September 2, 2005 hearing, Kizil, through Respondent, admitted to the allegations in

the Notice to Appear and requested relief from removal. The immigration court ordered Respondent to file a permanent resident visa petition by September 12, 2005 on behalf of Kizil. The immigration judge continued the hearing to December 1, 2005.

8. On or about September 12, 2005, Respondent submitted a Petition for Alien Relative ("I-130 petition") and an Application to Register Permanent Residence or Adjust Status ("I-485 application") to USCIS on Kizil's behalf.

9. On or about September 20, 2005, Kizil issued a check to Respondent for \$745. The memo section of the check contained the notation "INS fees (attorney)."

10. On or about December 1, 2005, Respondent and Kizil appeared for the immigration hearing, and the matter was continued to allow for the processing of the I-130 petition. The next hearing was set for March 2, 2006.

11. On or about February 8, 2006, Kizil paid Respondent an additional \$400.

12. On or about March 2, 2006, Respondent and Kizil appeared for the immigration hearing. During the March 2, 2006 hearing, the Court asked counsel for the Department of Homeland Security to retrieve the I-485 application Respondent had submitted to USCIS and provide it to the Court for review. The Court directed Respondent to review the I-485 application to ensure that a completed I-485 application, including up-to-date medical records and proof of fingerprints, was filed with the immigration court by May 5, 2006. The next hearing was set for September 11, 2006.

13. On or about March 3, 2006, the Assistant Chief for USCIS filed a motion to correct the A-number that was printed incorrectly on the Notice to Appear issued to Kizil. The USCIS also attached the I-485 application submitted by Respondent in September 2005. The USCIS properly served Respondent with a copy of the motion containing the corrected A-number for Kizil.

14. As of May 5, 2006, Respondent had not submitted an updated and completed I-485 application. Therefore, on or about May 11, 2006, the immigration court issued an Interim Order. In the May 11, 2006 order, the Court noted that Respondent had not filed the completed I-485 application by May 5, 2006 as directed by the Court. In the May 11, 2006 order, the immigration court ordered Kizil to complete his adjustment of status application no later than June 30, 2006. The court order stated that if Kizil failed to respond by the deadline, the Court would deem the application for relief waived and deny Kizil's I-485 application as abandoned. The court's order was properly served on Respondent at his address of record. Respondent received the court's May 11, 2006 order but did not file an updated I-485 application on behalf of Kizil.

15. On or about May 18, 2006, Respondent reported his new office address to the membership records department of the State Bar of California, as follows: 4025 Camino Del Rio S # 346, San Diego, CA 92108. Respondent maintained the same telephone number. Respondent did not provide his new address to Kizil, USCIS or the immigration court.
16. As of July 10, 2006, Respondent had not filed a complete I-485 application on Kizil's behalf. Therefore, on or about July 10, 2006, the immigration court deemed Kizil's application for adjustment of status abandoned and issued an order of removal. The court granted Kizil the privilege of voluntarily departing by August 9, 2006. The court took the September 11, 2006 hearing off calendar. Because Respondent had not updated his address with the immigration court, the July 10, 2006 Notice of Order was served on Respondent at his former address.
17. On or about July 25, 2006, Kizil left a message with Respondent inquiring about the status of his immigration matter.
18. On or about August 1, 2006, Respondent met with Kizil regarding his failure to file the required documents by the court's deadline. Respondent told Kizil that as a result of his not filing the requested documents, the immigration court entered a removal order on July 10, 2006.
19. On or about August 1, 2006, Respondent wrote a letter regarding his representation of Kizil in the immigration proceedings. In the August 1, 2006 letter, Respondent admitted that he failed to follow up with Kizil's matter and as a result, the court entered an order of removal.
20. On or about August 7, 2006, attorney Leah W. Hurwitz, Esq., new counsel for Kizil, filed a "Motion to Reopen and Motion for Stay of Voluntary Departure" on behalf of Kizil. The motions were based on the ineffective assistance of former counsel.
21. On or about August 8, 2006, attorney Hurwitz filed an amendment to reflect that she was requesting a stay of removal rather than a stay of voluntary departure.
22. On or about August 8, 2006, Respondent had a conversation with Kizil in which Respondent admitted that he "screwed up the case" and stated that he would provide a full refund of fees to Kizil within two weeks.
23. On or about August 9, 2006, the Department of Homeland Security filed a response to the Motion to Reopen stating that it did not oppose the reopening.
24. On or about August 22, 2006, the immigration court filed an Order granting the Motion to Reopen filed by Hurwitz on behalf of Kizil.
25. On or about November 14, 2006, Hurwitz filed a "Motion to Dismiss Removal Proceedings

Without Prejudice” on behalf of Kizil.

26. On or about November 29, 2006, the immigration court terminated Kizil’s removal proceedings without prejudice.

Case No. 07-O-12771 Bingham matter

27. On or about June 8, 1978, Morgan Everette Bingham (“Bingham”) pled guilty to possession of a controlled substance. According to terms of Bingham’s plea agreement, the conviction would be reduced to a misdemeanor if Bingham successfully completed probation. Respondent represented Bingham in the 1978 criminal matter. Bingham successfully completed probation.

28. In early 2006, Bingham learned that his conviction had not been commuted to a misdemeanor. As a result, Bingham could not obtain a liquor license in Mississippi.

29. In February 2006, Bingham contacted Respondent regarding correcting the status of his criminal conviction.

30. On or about February 25, 2006, Respondent wrote Bingham informing him that it appeared Bingham was eligible to have his conviction set aside. In the February 25, 2006 letter, Respondent told Bingham that once Bingham paid \$1,200 in advanced fees and signed the retainer agreement, Respondent would “expedite the conviction set aside.”

31. On or about May 5, 2006, Bingham sent an executed retainer agreement to Respondent with a check for \$1,325 representing \$1,200 in advanced fees and \$125 in advanced costs.

32. In July 2006, Bingham telephoned Respondent inquiring about the status of his matter. During the July 2006 telephone conversation, Respondent told Bingham that he had not filed the petition yet but it would be filed shortly. Thereafter, Respondent failed to perform any legal services on behalf of Bingham. At no time did Respondent file a Petition to set aside Bingham’s 1978 conviction.

33. On or about August 22, 2006, Michael Piazza, Bingham’s Mississippi attorney, contacted Respondent’s office twice to ascertain the status of Bingham’s petition. During the first telephone call, Piazza left a message with Respondent’s secretary requesting Respondent to return Piazza’s call. During the second telephone call, Piazza left a message requesting Respondent to return his call. Respondent received the messages but did not respond to Piazza’s August 22, 2006 telephone calls.

34. On or about August 28, 2006, Piazza again contacted Respondent’s office twice inquiring about the status of Bingham’s petition. During both calls, Piazza left a message with

Respondent's secretary asking for Respondent to call him back. Respondent did not respond to Piazza's August 28, 2006 telephone calls.

35. On or about May 1, 2007, Piazza wrote Respondent on behalf of Bingham. In the May 1, 2007 letter, Piazza asked Respondent about his failure to respond to Bingham's calls. Piazza stated that he also had tried to contact Respondent, but Respondent had not responded. In the May 1, 2007 letter, Piazza requested copies of documents from Bingham's file and an accounting of all funds Bingham paid to Respondent. Piazza sent the May 1, 2007 letter to Respondent via certified mail. Respondent received Piazza's letter on May 7, 2007 but did not respond.

36. In or about 2008, Bingham asked attorney Jane Gilbert to file a petition for relief on his behalf regarding his criminal conviction.

37. In or about 2008, Gilbert filed a petition for relief on behalf of Bingham with San Diego Superior Court asking that his conviction be set aside.

38. On or about February 27, 2008, the court granted Bingham's petition, setting aside his 1978 conviction and dismissing the criminal charges.

39. On or about July 18, 2007, the State Bar opened an investigation, case no. 07-O-12771 concerning Respondent's representation of Morgan Everette Bingham (the "Bingham matter").

40. On or about August 2, 2007, a State Bar Investigator wrote Respondent regarding the Bingham matter. The investigator's letter was placed in a sealed envelope addressed to Respondent at his State Bar of California membership records address. The letter was mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason.

41. The investigator's August 2, 2007 letter requested that Respondent respond in writing to specific allegations of misconduct being investigated by the State Bar in the Bingham matter. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator.

42. On or about August 21, 2007, the State Bar investigator wrote Respondent again regarding the Bingham matter. The investigator's August 21, 2007 letter was placed in a sealed envelope addressed to Respondent at his State Bar of California membership records address. The letter was mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason.

43. The investigator's August 21, 2007 letter requested that Respondent respond in writing to specific allegations of misconduct being investigated by the State Bar in the Bingham matter. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator.

Case No. 08-0-10232 Hart Matter

45. On or about December 11, 1980, the Truman D. Hart and Ethel Fay Hart Family Trust was formed.

46. In or about December 2001, a Second Restated Trust Agreement for the Truman D. Hart and Ethel Fay Hart Family Trust was formed.

47. In or about February 2002, Truman D. Hart was appointed conservator over the person and estate of his adopted daughter, Terry Elizabeth Hart ("T. E. Hart").

48. On or about November 28, 2003, Truman D. Hart died. The death certificate listed Sandy Pfefferkorn as Truman D. Hart's daughter, although she allegedly had no such relationship to him, either by birth or by adoption.

49. On or about May 21, 2004, T. E. Hart's then attorney, Craig Gross, filed a Petition for Order Terminating the Conservatorship of Person and Estate.

50. On or about December 11, 2006, T. E. Hart employed Respondent to have Sandy Pfefferkorn removed from Truman D. Hart's death certificate. She also requested him to investigate the conduct of the trustee of the family trust. Although there was a written retainer agreement, T. E. Hart was not provided with it. T. E. Hart paid Respondent \$2,000.00 for which she received a receipt.

51. On or about February 23, 2007, Respondent met with T. E. Hart in his office. She was accompanied by a friend. They discussed, in part, the fact that Sandy Pfefferkorn was not cooperating and that they would have to sue her.

52. On or about April 9, 2007, T. E. Hart met again with Respondent to discuss the case.

53. On or about July 1, 2007, T. E. Hart and her cousin, Dr. John Hart ("J. Hart"), met with Respondent to discuss the case. In part, T. E. Hart expressed her concern that the matter was taking so long, and that she did not know how Sandy Pfefferkorn got onto the death certificate. Respondent advised that he would not be able to assist her with the trust issue, but that the matter

related to the death certificate would take some time, at least until the Fall. Respondent requested that T. E. Hart be patient.

54. On or about August 29, 2007, T. E. Hart spoke with Respondent who said that the death certificate matter would be done very shortly.

55. On or about September 1, 2007, T. E. Hart contacted Respondent's office by telephone. She was advised that Respondent was on vacation until on or about September 9, 2007. On or about September 9, 2007, T. E. Hart contacted Respondent again by telephone. She left a message requesting Respondent to call her regarding the status of the death certificate matter. Respondent received the message but did not call her back.

56. On or about October 1, 2007, T. E. Hart contacted Respondent's office again by telephone. Respondent advised her that he saw Sandy Pfefferkorn in court, but no further information was provided related to the status of the matter.

57. T. E. Hart made one further call to Respondent in or about October 2007, and Respondent advised her that the death certificate matter would be done shortly.

58. Thereafter, T. E. Hart heard nothing further from Respondent.

59. On or about November 7, 2007, T. E. Hart wrote to Respondent. The letter was placed in a sealed envelope properly addressed to Respondent at his membership records address at 6950 Friars Road, Suite 205, San Diego, California 92108. The letter was mailed via the United States Postal Service by certified mail, return receipt requested, postage prepaid. The letter was signed for by Elizabeth Talluto at that address. The November 7, 2007 letter advised:

- that it was December 11, 2006 that she had paid Respondent \$2,000.00 to get Pfefferkorn off of Truman D. Hart's death certificate;
 - that she had talked to another attorney in October, and he said that it should not be taking that long to get it done;
 - that when they talked on August 29, 2007, Respondent said it would be done very shortly;
 - that it was now November 7, 2007 and she did not know why he was taking so long just to get someone off of the death certificate; and
 - that she would like to see this happen before Christmas of 2007.
- The letter requested Respondent to "Please take care of this matter without further delay."

60. Although Respondent received the November 7, 2007 letter, Respondent did not respond to T. E. Hart, nor did he complete the work, nor did he provide any evidence of work on her behalf.

61. On or about March 11, 2008, T. E. Hart called Respondent's office and left a message informing Respondent that she was terminating his services and that she wanted him to return her papers and documents. Respondent received the message.
62. On or about March 13, 2007, Respondent contacted T. E. Hart and advised her that he would return her paperwork in the next few days. He did not do so.
63. At no time did Respondent notify T. E. Hart that he would not perform the legal services for which he was hired or that she should seek new counsel. Nor did Respondent take any other steps to avoid prejudice to T. E. Hart's rights.
64. Although T. E. Hart requested the return of her papers and documents on or about March 11, 2008, to date, Respondent has not done so.
65. Although Respondent did not perform the work for which he was employed, he has failed to return any portion of the unearned fee to T. E. Hart.
66. On or about January 9, 2008, the State bar opened an investigation , case number 08-O-10232, based on a complaint against Respondent by T. E. Hart (the "Hart matter").
67. On or about March 14, 2008, a State Bar Investigator wrote to Respondent with regard to the Hart matter. The letter requested Respondent to respond in writing to specific allegations of misconduct being investigated in the Hart matter. The letter was placed in a sealed envelope properly addressed to Respondent at his State Bar membership records address at 6950 Friars Road, Suite 205, San Diego, California 92108. The letter was mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the Investigator's letter as undeliverable or for any other reason. Respondent did not respond to the letter nor otherwise communicate with the Investigator.
68. On or about April 2, 2008, a State Bar Investigator wrote to Respondent with regard to the Hart matter. The letter again requested Respondent to respond in writing to specified allegations of misconduct being investigated in that matter. The letter was placed in a sealed envelope properly addressed to Respondent at his State Bar of California membership records address. Enclosed with the letter was the previous March 14, 2008 letter to Respondent. The letter was mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the Investigator's letter as undeliverable or for any other reason. Respondent did not respond nor otherwise communicate with the Investigator.

CONCLUSIONS OF LAW

The parties stipulate that the facts and circumstances surrounding Respondent's failure to submit documents to the immigration court pursuant to court ordered deadlines and failure to advise his client and the court of his change of address during the pendency of the Kizil matter, constituted a wilful violation of Rules of Professional Conduct, rule 3-110(A), by failing to perform legal services with competence. Likewise, in the Bingham matter, Respondent's failure to file Bingham's petition and failure to perform any legal services on Bingham's behalf constituted an additional violation of this same rule. In the Hart matter, Respondent's failure to perform any legal services to secure the removal of the inaccurately named party from the death certificate constituted an additional violation of this same rule.

The parties further stipulate that the facts and circumstances surrounding Respondent's failure to return unearned fees in all three matters, Kizil, Bingham and Hart, constituted a wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

The parties also stipulate that the facts and circumstances surrounding Respondent's failure to cooperate in the State Bar investigations of both the Bingham and Hart matters, constituted wilful violations of Business and Professions Code section 6068(i).

The parties also stipulate that the facts and circumstances surrounding Respondent's failure to release the file materials to his client Hart after Hart had demanded their return, constituted a wilful violation of Rules of Professional Conduct, rule 3-700(D)(1). Also in the Hart matter, the parties stipulate that Respondent's failure to take reasonable steps to avoid prejudice to Hart by failing to advise her that he did not intend to perform and after termination, and failure to advise Hart to seek new counsel, constituted a wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was November 25, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 21, 2008, the costs in this matter are \$6,281.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.7(b) provides that where a member has a record of two impositions of discipline, the degree of discipline in the current proceeding shall be disbarment absent the most compelling mitigating circumstances. Standard 2.4(b) provides for reproof or suspension disbarment for culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern. Under Standard 2.6(a), disbarment or suspension, depending upon the gravity of the offense or harm to the victim, is appropriate for violations of section 6068 of the Business and Professions Code. Respondent's conduct in failing to refund fees runs afoul of Standard 2.10 which provides for reproof or suspension according to gravity of harm.

In *In The Matter of Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459, Respondent abandoned a habeus corpus petition of an incarcerated client after accepting a \$7,500.00 advance. Respondent additionally failed to respond to client inquiries, failed to perform competently, failed to return the file promptly upon request, failed to refund any of the unearned fees and failed to cooperate with the State Bar investigation resulting in a suspension for two years stayed, two years probation and a six month actual suspension.

In imposing discipline, the court should consider the appropriate discipline in light of the standards, but in so doing the court may consider any ground that may form a basis for an exception to application of the standards. *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal State Bar Ct. Rptr. 980. Inasmuch as the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. *Bates v. State Bar* (1990) 51 Cal.3rd 1056, 1061.

This disposition herein allows for a deviation from the strict application of the standards since disbarment would constitute too harsh a result and would be punitive in nature. Respondent's misconduct showed a repetitive pattern of indifference to his retained objectives in three separate matters, such that an actual suspension time of one year is both warranted and adequately serves to protect the public, courts and legal profession.

AGGRAVATING CIRCUMSTANCES.

PRIOR DISCIPLINE.

On April 4, 1990, a Stipulation re Facts, Conclusions of Law and Disposition and Order approving public reproof was filed with the State Bar Court. The public reproof arose from Respondent's failure to comply with the conditions of an agreement in lieu of discipline entered by Respondent on April 23, 1998. Respondent failed to timely take the MPRE exam and attend Ethics School as well as failed to timely make restitution of \$250.00 to a former client.

Respondent stipulated to culpability of a failure to perform competently and a failure to promptly return unearned fees in one matter.

On March 27, 2001, the California Supreme Court filed disciplinary order number S094561 (State Bar Court case number 00-O-10431) that Respondent be suspended from the practice of law for six months, that the execution of the suspension be stayed, and that he be placed on probation for one year. Respondent's prior discipline was based upon a stipulation filed October 13, 2000 in case number 00-O-10431 finding Respondent culpable of three counts of misconduct including failing to perform, failure to respond to client inquiries and failure to cooperate in a State Bar investigation in violation Business and Professions Code sections 6068(m), 6068(i) and Rules of Professional Conduct, rule 3-110(A).

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Respondent's record of prior discipline, and the demonstrated pattern of misconduct as evidenced by the Respondent's multiple acts of repeated wrongdoing in three separate matters of a comparable sort is clearly an aggravating circumstance. So too is the lack of cooperation to the State Bar with respect to both the Bingham and Hart matters an aggravating circumstance. Also, significant harm was visited upon the former clients and the effective administration of justice thwarted by forcing both Bingham and Kizil to retain replacement counsel to effectuate their respective retained objectives at greater cost and delay.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

FINANCIAL CONDITIONS, RESTITUTION.

Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him or her during that reporting period.

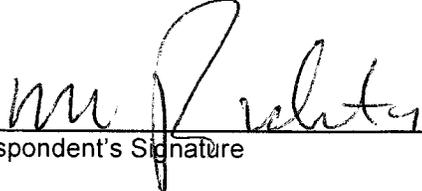
Respondent waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein.

(Do not write above this line.)

In the Matter of Michael Philip Richter	Case number(s): 06-O-13915, 07-O-12771 and 08-O-10232 RAP
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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 Fact, Conclusions of Law and Disposition.

November 27, 2008 Date	 Respondent's Signature	Michael Philip Richter Print Name
Date	Respondent's Counsel Signature	Print Name
December 3 November 3, 2008 Date	 Deputy Trial Counsel's Signature	Hugh G. Radigan Print Name

(Do not write above this line.)

In the Matter Of
Michael Philip Richter

Case Number(s):
06-O-13915, 07-O-12771, and 08-O-10232 RAP

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.

Respondent entered into an extensive stipulation of facts and conclusions of law, for which conduct respondent is entitled to some mitigation. (Std. 1.2(e)(v); In the matter of Gadda (Renew Sept. 2002) 4 Cal. State Bar Ct. Rptr. 416.)

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 135(b), 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.)**

12/4/08
Date


Judge of the State Bar Court

DONALD F. MILES

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 December 8, 2008, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

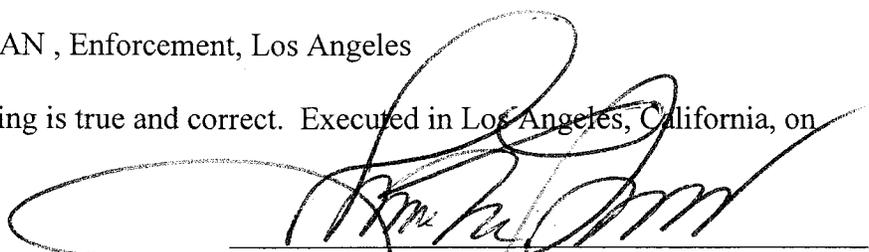
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL PHILIP RICHTER
6950 FRIARS RD STE 205
SAN DIEGO, CA 92108

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

HUGH RADIGAN , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 8, 2008.



Johnnie Lee Smith
Case Administrator
State Bar Court