

State Bar Court of California
Hearing Department
Los Angeles

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<p>Counsel For The State Bar</p> <p>William F. Stralka Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2299 (213) 765-1091</p> <p>Bar # 56147</p>	<p>Case Number (s) 07-J-10059</p> <p>PUBLIC MATTER</p>	<p>(for Court's use)</p> <p>FILED</p> <p>MAY 07 2007</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>THOMAS WOJCIECH NAWALANY 5714 SE Powell Blvd., #B Portland, OR 97206 (503) 788-8186</p> <p>Bar # 156420</p>	<p>Submitted to: Assigned Judge</p>	
<p>In the Matter Of: THOMAS WOJCIECH NAWALANY</p> <p>Bar # 156420</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>PUBLIC REPROVAL</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 16, 1991**.
- (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 **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".
- (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 added to membership fee for calendar year following effective date of discipline (public reproof)
 - case ineligible for costs (private reproof)
 - costs to be paid in equal amounts for the following membership years:
(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
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior 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.
- (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.
- (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. **Respondent has been a member of the California State Bar since December 16, 1991 and has no prior record of formal discipline.**
- (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) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).
- or
- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproval:

- (1) Respondent must comply with the conditions attached to the reproval for a period of **one year**.
- (2) During the condition period attached to the reproval, 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 condition period attached to the reproval. 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 the reproval during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

- (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 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 monitor.
- (7) 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 conditions attached to the reproof.
- (8) 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) 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 within one year of the effective date of the reproof.
- No MPRE recommended. Reason: _____
- (11) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

If Respondent cannot attend the Ethics School given by the State Bar, he may substitute six hours of live ethics course(s) of approved continuing legal education, and provide the Office of Probation with satisfactory proof of attendance within six months of the effective date of the reproof.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: THOMAS WOJCIECH NAWALANY

CASE NUMBER(S): 07-J-10059

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was March 21, 2007

**AGREEMENTS AND WAIVERS PURSUANT TO BUSINESS AND PROFESSIONS
CODE SECTION 6049.1.**

1. Respondent's culpability determined in the disciplinary proceeding in Oregon would warrant the imposition of discipline in the State of California under the laws or rules in effect in this State at the time the misconduct was committed; and

2. The proceeding in the above jurisdiction provided respondent with fundamental constitutional protection.

STIPULATION AS TO 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, or has otherwise committed acts of misconduct warranting discipline:

CASE NO. 07-J-10059:

Exhibits:

1. Copy Order Approving Stipulation for Discipline of Supreme Court of Oregon, Case no. 06-93, (1 page);
2. Copy of Stipulation for Discipline, case no. 06-93, (Oregon), (7 pages):

3. Copy of the Oregon Code of Professional Responsibility, (applicable to these proceedings), (2 pages).

Facts:

1. Lucy Wright (hereinafter "Wright") was a Ukrainian immigrant who came to the United States in the 1940's. In 2001, Wright was about 93 years old. Wright received services from the Mid Willamette Valley Senior Services Department (hereinafter, "Senior Services"). Since about 1998, Wright demonstrated deterioration in her mental health, including paranoia and dementia, but continued to be able to reside in her own home.
2. On or about August 27, 2001, Wright was suffering from arterial fibrillation and congestive heart failure and was admitted to the hospital. On August 30, 2001, Wright was released from the Hospital. Senior Services placed Wright temporarily in an adult foster home operated by Ivan and Tamara Lemesko (hereinafter, collectively "Lemeskos") until such time as Wright gained sufficient strength to return home.
3. On September 7, 2001, Tamara Lemesko contacted the Respondent's Portland law office and spoke with the Respondent's assistant. Tamara Lemesko told the Respondent's assistant that she needed someone to draft a will; that the testator wanted to leave her house to Tamara; and that time was of the essence. Tamara Lemesko did not disclose to the Respondent or his assistant that she was operating a care facility. The Respondent traveled from Portland to Salem that evening to meet with Wright. The Respondent had no previous relationship with and did not know either Wright or the Lemeskos.
4. The Respondent met with Wright the evening of September 7, 2001. The same evening, the Respondent prepared and Wright signed a will in which Wright bequeathed all of her possessions, including her home, to Tamara Lemesko. The Lemeskos 19 year old son was named in the will as the personal representative of Wright's estate. The Respondent also prepared and Wright signed a durable general power of attorney in which the Lemeskos son was named Wright's agent and attorney-in-fact.
5. The Respondent failed to make sufficient inquiry and to devote sufficient time with Wright to determine her mental state, the extent of her affairs, her relationships with the Lemeskos and their son, and living arrangements, before preparing and presenting the will and power of attorney to Wright and obtaining her signature on the documents. In addition, foster care providers were prohibited

from accepting gifts from those persons in their care. The Respondent failed to use the requisite thoroughness and preparation reasonably necessary for the representation of Wright.

CONCLUSIONS OF LAW:

The Oregon Order approving Stipulation concluded that aforesaid conduct constituted a violation of DR 6-101(A) [failure to provide competent representation] of the Oregon Code of Professional Responsibility.

Had Respondent's misconduct occurred in California, his misconduct would have been a violation of Rules of Professional Conduct, rule 3-110(A).

AUTHORITIES SUPPORTING DISCIPLINE:

STANDARDS FOR ATTORNEY SANCTIONS

To determine the appropriate level of discipline, the standards provide guidance. *Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Sampson*, (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 134. A disciplinary recommendation must be consistent with the discipline in similar proceedings. See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311. Also, the recommended discipline must rest upon a balanced consideration of relevant factors. *In the Matter of Sampson*, (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 135.

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the protection of public confidence in the legal profession.

Standard 2.4(b) calls for reproof or suspension for failing to perform services in an individual matter not demonstrating a pattern of misconduct, depending on the extent of the misconduct and the degree of harm to the client.

Standard 2.10 provides for reproof or suspension for violations of Business and Professions Code that are otherwise unspecified in the Standards (such as rule 3-110(A)).

In the Matter of Kaufman, (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213. In a proceeding under section 6049.1, the appropriate degree of discipline is not presumed by the other state's discipline, but is open for determination in this state. (§6049.1, subd. (b) (1); *In the Matter of Jenkins* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157, 164.)

Where the extent of the misconduct is relatively small, and Respondent fully cooperated with the State Bar's investigation, imposition of a reproof is warranted. *In the matter of Respondent G* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175 (private reproof imposed where violation was deemed minor incident of failure to perform services with competence which was followed by the respondent's candor and cooperation). In this case the imposition of a public reproof complies with the standards and adequately protects the public and the profession.

COSTS OF DISCIPLINARY PROCEEDINGS:

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 13, 2006, the estimated prosecution costs in this matter are approximately \$1,983.00. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

nawalany 07.j.10059 stipattchmt\@PFDesktop\::ODMA/PCDOCS/SB1/76842/1

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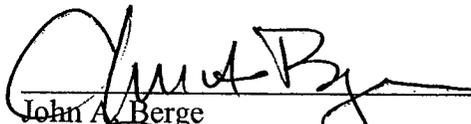
1 IN THE SUPREME COURT
2 OF THE STATE OF OREGON

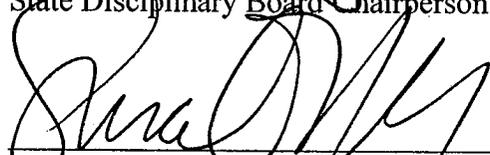
3 In re:)
4 Complaint as to the Conduct of) Case No. 06-93
5 THOMAS W. NAWALANY,) ORDER APPROVING STIPULATION
6 Accused.) FOR DISCIPLINE
7 _____)

8 This matter having been heard upon the Stipulation for Discipline entered into by
9 Thomas W. Nawalany (hereinafter, "Accused") and the Oregon State Bar, and good cause
10 appearing, it is hereby

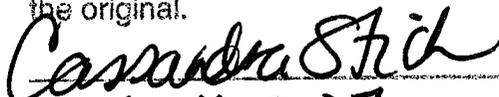
11 ORDERED that the stipulation between the parties is approved. The Accused is publicly
12 reprimanded for violation of DR 6-101(A) of the Code of Professional Responsibility.

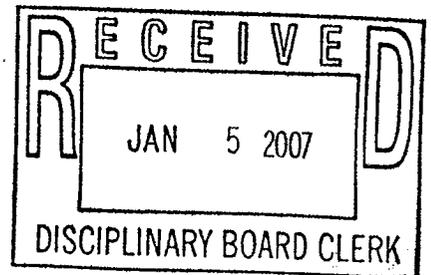
13 DATED this 31 day of DEC, 2006.

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15 
16 _____
17 John A. Berge
18 State Disciplinary Board Chairperson

19 
20 _____
21 Susan G. Bischoff, Region 5
22 Disciplinary Board Chairperson

23 Certified to be a true copy of
24 the original.

25 
OSB # 1-11-2007



1 IN THE SUPREME COURT
2 OF THE STATE OF OREGON

3 In re:)
4 Complaint as to the Conduct of) Case No. 06-93
5 THOMAS W. NAWALANY,) STIPULATION FOR
6 Accused.) DISCIPLINE
7 _____)

8 Thomas W. Nawalany, attorney at law, (hereinafter, "Accused") and the Oregon State
9 Bar (hereinafter, "Bar"), hereby stipulate to the following matters pursuant to Oregon State Bar
10 Rule of Procedure 3.6(c).

11 1.

12 The Bar was created and exists by virtue of the laws of the State of Oregon and is, and at
13 all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating
14 to the discipline of attorneys.

15 2.

16 The Accused was admitted by the Oregon Supreme Court to the practice of law in
17 Oregon on April 23, 1993, and has been a member of the Oregon State Bar continuously since
18 that time, having his office and place of business in Multnomah County, Oregon.

19 3.

20 The Accused enters into this Stipulation for Discipline freely, voluntarily, and with the
21 advice of counsel. This Stipulation for Discipline is made under the restrictions of Bar Rule of
22 Procedure 3.6(h).

23 4.

24 On August 18, 2006, the State Professional Responsibility Board authorized a formal
25 disciplinary proceeding against the Accused for alleged violation of DR 6-101(A) of the Code of

1 Professional Responsibility. The parties intend that this stipulation set forth all relevant facts,
2 violations and the agreed-upon sanction as a final disposition of this proceeding.

3 **FACTS AND VIOLATION**

4 5.

5 Lucy Wright (hereinafter "Wright") was a Ukrainian immigrant who came to the United
6 States in the 1940's. In 2001, Wright was about 93 years old. Wright received services from the
7 Mid Willamette Valley Senior Services Department (hereinafter, "Senior Services"). Since about
8 1998, Wright demonstrated deterioration in her mental health, including paranoia and dementia,
9 but continued to be able to reside in her own home.

10 6.

11 On or about August 27, 2001, Wright was suffering from arterial fibrillation and
12 congestive heart failure and was admitted to the hospital. On August 30, 2001, Wright was
13 released from the hospital. Senior Services placed Wright temporarily in an adult foster home
14 operated by Ivan and Tamara Lemesko (hereinafter, collectively "Lemeskos") until such time as
15 Wright gained sufficient strength to return home.

16 7.

17 On September 7, 2001, Tamara Lemesko contacted the Accused's Portland law office
18 and spoke with the Accused's assistant. Tamara Lemesko told the Accused's assistant that she
19 needed someone to draft a will; that the testator wanted to leave her house to Tamara; and that
20 time was of the essence. Tamara Lemesko did not disclose to the Accused or his assistant that
21 she was operating a care facility. The Accused traveled from Portland to Salem that evening to
22 meet with Wright. The Accused had no previous relationship with and did not know either
23 Wright or the Lemeskos.

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The Accused met with Wright the evening of September 7, 2001. The same evening, the Accused prepared and Wright signed a will in which Wright bequeathed all of her possessions, including her home, to Tamara Lemesko. Tamara Lemesko's 19 year old son was named in the will as the personal representative of Wright's estate. The Accused also prepared and Wright signed a durable general power of attorney in which the son was named Wright's agent and attorney-in-fact.

9.

The Accused failed to make sufficient inquiry and to devote sufficient time with Wright to determine her mental state, the extent of her affairs, her relationships with the Lemeskos and their son, and living arrangements before preparing and presenting the will and power of attorney to Wright and obtaining her signature on the documents. In addition, foster care providers were prohibited from accepting gifts from those persons in their care. The Accused failed to use the requisite thoroughness and preparation reasonably necessary for the representation.

10.

The Accused admits that the aforesaid conduct constituted violation of DR 6-101(A) [failure to provide competent representation] of the Code of Professional Responsibility.

SANCTION

11.

The Accused and the Bar agree that in fashioning an appropriate sanction, the ABA *Standards for Imposing Lawyer Sanctions* (hereinafter, "Standards") are considered. The *Standards* require that the Accused's conduct be analyzed by the following factors: (1) the ethical duty violated; (2) the attorney's mental state; (3) the actual or potential injury; and (4) the existence of aggravating and mitigating circumstances. *Standards*, §3.0.

///

- 1 a. **Duty violated.** In violating DR 6-101(A), the Accused violated his duty to
2 provide competent representation to his client. *Standards*, §4.5.
- 3 b. **Mental state.** "Negligence" is the failure of a lawyer to heed a substantial risk
4 that circumstances exist or that a result will follow, which failure is a deviation
5 from the standard of care that a reasonable lawyer would exercise in the situation.
6 *Standards*, p. 7. The Accused was negligent in failing to obtain adequate
7 information and failing to adequately assess the client's mental state, her
8 circumstances, and her relationship with the care providers.
- 9 c. **Injury.** The *Standards* define "injury" as harm to the client, the public, the legal
10 system or the profession that results from a lawyer's conduct. "Potential injury" is
11 harm to the client, the public, the legal system, or the profession that is reasonably
12 foreseeable at the time of the lawyer's conduct, and which, but for some
13 intervening factor or event, would probably have resulted from the lawyer's
14 misconduct. *Standards*, p. 7.

15 The Accused caused actual and potential injury to his client. The client
16 executed a will when she was not competent to do so, and in which she
17 bequeathed property to persons who had exercised undue influence and were not
18 permitted or entitled to receive any portion of her estate. After the documents
19 were signed, Senior Services learned about them. Wright's mental condition
20 coupled with the foster care rules prohibiting foster care providers from accepting
21 gifts from their clients led Senior Services to take action. Guardianship and
22 conservatorship proceedings were filed. However, Wright died prior to the
23 hearing in those proceedings. A will contest followed Wright's death. A Marion
24 County Circuit Court judge found that the Lemeskos had engaged in conduct
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13.

Oregon case law is in accord. *See, e.g., In re Magar*, 276 Or 799, 681 P2d 93 (1984) (reprimand for violation of former DR 6-101(A)); *In re Greene*, 276 Or 1117, 557 P2d 644 (1976), *rehearing den* 277 Or 89 (1977) (reprimand for failing to provide competent representation and conflict of interest).

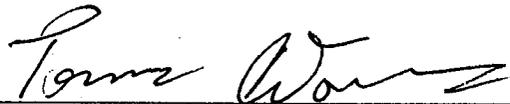
14.

Consistent with the *Standards* and case law, the Bar and the Accused agree that the Accused shall be reprimanded for violation of DR 6-101(A) of the Code of Professional Responsibility.

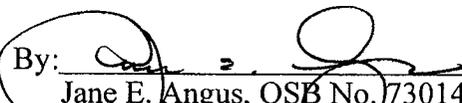
15.

This Stipulation for Discipline has been reviewed by the Disciplinary Counsel of the Oregon State Bar, the sanction was approved by the State Professional Responsibility Board, and this stipulation shall be submitted to the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

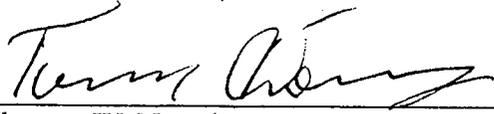
DATED this 5th day of December, 2006.


THOMAS W. NAWALANY, OSB No. 93083

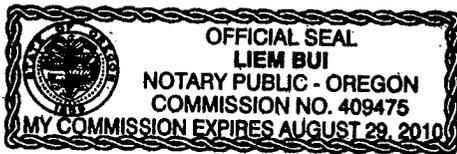
OREGON STATE BAR

By: 
Jane E. Angus, OSB No. 73014
Assistant Disciplinary Counsel

1 I, Thomas W. Nawalany, being first duly sworn, say that I am the Accused in the above-
2 entitled proceeding and that I attest that the statements contained in the stipulation are true and
3 correct as I verily believe.

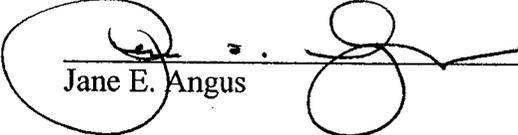
4 
5 _____
6 Thomas W. Nawalany

7 Subscribed and sworn to before me this 5th day of DECEMBER, 2006.



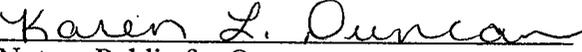
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12 
13 Notary Public for Oregon
14 My commission expires: AUG 29, 2010 ^{UB}

15 I, Jane E. Angus, being first duly sworn, say that I am Assistant Disciplinary Counsel for
16 the Oregon State Bar and that I attest that I have reviewed the foregoing Stipulation for
17 Discipline and that the sanction was approved by the SPRB for submission to the Disciplinary
18 Board on the 18th day of November, 2006.

19
20 
21 _____
22 Jane E. Angus

23 Subscribed and sworn to before me this 7th day of December, 2006.



26 
27 Notary Public for Oregon
28 My commission expires: 11/24/2010

29 Certified to be a true copy of
30 the original.

31 
32 _____
33 CSB # 1-11-2007

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Forms Library

Lawyer Services

Loan Repayment Assistance Program

LRS Registration

Online Resources

OSB Events

Oregon Law Foundation

Performance Standards

Pro Bono Information

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lawyer for the purpose of arousing or gratifying the sexual desire of either party.

(D) For purposes of DR 5-110 'lawyer' means any lawyer who assists in the representation of the client, but does not include other firm members who provide no such assistance.

Disciplinary Rule 6 Competence and Diligence

DR 6-101 Competence and Diligence

(A) A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

(B) A lawyer shall not neglect a legal matter entrusted to the lawyer.

DR 6-102 Limiting Liability to Client

(A) A lawyer shall not make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless permitted by law and the client is independently represented in making the agreement, or settle a claim for such liability with an unrepresented client or former client without first advising that person in writing that independent representation is appropriate in connection therewith.

(B) A lawyer shall not enter into any agreement with a client regarding arbitration of malpractice claims without full disclosure.

Disciplinary Rule 7 Zealously Representing Clients within the Bounds of the Law

DR 7-101 Representing a Client Zealously

(A) A lawyer shall not intentionally:

(1) Fail to seek the lawful objectives of the lawyer's client through reasonably available means permitted by law and these disciplinary rules except as provided by DR 7-101(B). A lawyer does not violate this Disciplinary Rule, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of the lawyer's client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(2) Fail to carry out a contract of employment entered into with a client for professional services but the lawyer may withdraw as permitted under DR 2-110, DR 5-102 and DR 5-105.

(3) Prejudice or damage the lawyer's client during the course of the professional relationship except as required under DR 7-102(B).

(B) In the lawyer's representation of a client, a lawyer may:

(1) Where permissible, exercise the lawyer's professional judgment to waive or fail to assert a right or position of the lawyer's client.

(Do not write above this line.)

In the Matter of THOMAS WOJCIECH NAWALANY	Case number(s): 07-J-10059
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SIGNATURE OF THE PARTIES

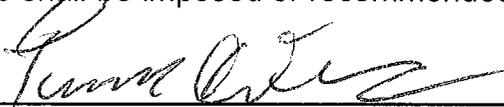
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

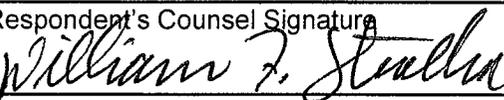
If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

9/10/07
Date


Respondent's Signature

THOMAS WOJCIECH NAWALANY
Print Name

4/16/07
Date

Respondent's Counsel Signature

Deputy Trial Counsel's Signature

Print Name
WILLIAM F. STRALKA
Print Name

(Do not write above this line.)

In the Matter Of THOMAS WOJCIECH NAWALANY	Case Number(s): 07-J-10059
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department 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 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

5/3/07
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 May 7, 2007, 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:

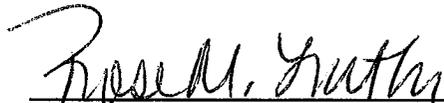
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

THOMAS W. NAWALANY, ESQ.
5714 SE POWELL BLVD #B
PORTLAND OR 97206

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

WILLIAM STRALKA, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 7, 2007**.



Rose M. Luthi
Case Administrator
State Bar Court