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**State Bar Court of California
Hearing Department
Los Angeles
STAYED SUSPENSION**

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Erin McKeown Joyce Deputy Trial Counsel State Bar of California 1149 South Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1356 Facsimile: (213) 765-1319</p> <p>Bar # 149946</p>	<p>Case Number(s): 08-O-11025 08-O-14151</p>	<p>For Court use only</p> <p>FILED </p> <p>JUN 23 2011</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Alexander John Pecel 23734 Valencia Boulevard, Suite 206 Valencia, California 91355 Telephone: (661) 799-0040</p> <p>Bar # 167229</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of:</p> <p>ALEXANDER JOHN PECCEL</p> <p>Bar # 167229</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 13, 1993.
- (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.



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- (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 11 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 are added to membership fee for calendar year following effective date of discipline.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2012 and 2013. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are 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 02-O-10197
 - (b) Date prior discipline effective March 4, 2003
 - (c) Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code section 6068(m)
 - (d) Degree of prior discipline private reproof
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."

Respondent's second imposition of discipline was in Case Nos. 04-O-10905 and 04-O-14194 (consolidated). The effective date of the six month stayed suspension and 3 year probation order issued on October 18, 2005, was November 17, 2005. In Case No. 04-O-10905, Respondent stipulated to violating Rule of Professional Conduct 3-110(A), and in Case No. 04-O-14194, Respondent stipulated to violating Rule of Professional Conduct 3-110(A).
- (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.
- (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. Respondent met with the State Bar and entered this comprehensive stipulation resolving all of his State Bar matters.
- (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.

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- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's 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

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D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of two (2) 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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of three (3) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

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- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) 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.
- (9) 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:

- (1) **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 within one year. **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 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**

The Attachment to the Stipulation Re Facts, Conclusions of Law, and Disposition comprises pages 7 through 10.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

In the Matter of Alexander John Pecel

Case Nos. 08-O-11025 and 08-O-14151

PENDING PROCEEDINGS:

The disclosure date referred to on page two, paragraph A.(7), was June 7, 2011.

Respondent admits that the following facts are true and that she is culpable of violations of the specified Rules of Professional Conduct and Business and Professions Code sections as set forth below:

Case No. 08-O-11025

FACTS

1. In April 2006, Margaret Routhieaux hired Respondent to handle several probate matters related to a piece of property in California. Routhieaux was a resident of Georgia. Routhieaux engaged Respondent to transfer title to the property in her deceased husband's name to Routhieaux and to collect on a life insurance policy maintained by her deceased husband. Routhieaux paid Respondent \$2,500 in advanced fees.
2. In April 2006, Respondent sent a letter to the life insurance company requesting a complete copy of the policy maintained by Routhieaux's deceased husband.
3. On June 27, 2006, Respondent filed a petition to have Routhieaux appointed the administrator.
4. On August 9, 2006, the court approved the petition to appoint Routhieaux the administrator of her deceased husband's estate.
5. In August 2006, Respondent notified Routhieaux of the order appointing her administrator and requested Routhieaux to pay the cost of the bond. Routhieaux paid the costs as requested.
6. Respondent filed an initial inventory and appraisal on October 17, 2006.
7. On January 5, 2007, Respondent filed a final accounting and distribution. The hearing on the accounting was set for February 7, 2007.
8. At the February 7, 2007 hearing, the court found several discrepancies in the final accounting filed by Respondent and requested specific additional information be filed with the court. Respondent received notice of the court's order continuing the hearing on the final accounting to March 21, 2007. Respondent did not obtain the requested additional information and did not file the additional requested information with the court.
9. At the March 21, 2007 hearing, the court identified the same discrepancies in the final accounting listed in its February 7, 2007 order. The court continued the hearing until

April 18, 2007, for Respondent to provide the additional requested information. Respondent received notice of the March 21, 2007 order but did not obtain the additional information and did not file the requested additional information with the court.

10. At the hearing on April 18, 2007, the court took the final accounting off calendar because Respondent failed to file the additional requested information. Respondent requested that the matter be taken off calendar.

11. Thereafter, Respondent undertook no additional substantive legal work for Routhieaux in her legal matters.

12. On November 27, 2007, the court sent a letter to Routhieaux which was copied to Respondent requesting the appropriate report or petition be filed within 60 days or an Order to Show Cause and citation would issue. Respondent received this letter.

13. Respondent failed to file the requested report or petition within 60 days of the court's November 27, 2007 letter.

14. During 2007 up to her receipt of the letter from the court, Routhieaux made multiple calls to Respondent's office in which she left detailed messages requesting a status report on her legal matters. Despite his receipt of Routhieaux's messages, Respondent failed to return Routhieaux's calls.

15. On February 5, 2008, Routhieaux sent a letter to Respondent terminating his services and requesting him to release the file to her new attorney, Wilbank Roche.

16. Respondent received the February 5, 2008 letter. Respondent did not release the file to either Routhieaux or her new attorney.

17. Routhieaux's new counsel, Roche, sent five letters to Respondent requesting Respondent to sign a substitution of attorney form and to release the file. Despite his receipt of these letters, Respondent did not release the file to Roche.

CONCLUSIONS OF LAW

By failing to undertake any legal services for Routhieaux after the hearing on the final accounting was taken off calendar in April 2007, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

By failing to return Routhieaux's telephone calls and failing to provide a status report to Routhieaux concerning her legal matters in any other manner, Respondent failed to respond promptly to reasonable status inquiries of a client, in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code Section 6068(m).

By failing to turn over Routhieaux's file to Routhieaux or her new counsel, Respondent failed to promptly release to his client, at the request of the client, all the client papers and property in wilful violation of Rule of Professional Conduct 3-700(D)(1).

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; *In the Matter of Sampson*, 3 Cal. State Bar Ct. Rptr. 119. A disciplinary recommendation must be consistent with the discipline in similar proceedings. See *Snyder v. State Bar* (1990) 49 Cal.3d 1302. Moreover, the recommended discipline must rest upon a balanced consideration of relevant factors. *In the Matter of Sampson*, 3 Cal. State Bar Ct. Rptr. 119.

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 preservation of public confidence in the legal profession. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

Pursuant to Standard 1.5 of the Standards for Attorney Sanctions for Professional Misconduct:

Reasonable duties or conditions fairly related to the acts of professional misconduct and surrounding circumstances found or acknowledged by the member may be added to a recommendation or suspension or, pursuant to rule 9.19, California Rules of Court, to a reproof. Said duties may include, but are not limited to, any of the following:

1.5(b): a requirement that the member take and pass an examination in professional responsibility;

1.5(d): a requirement that the member undertake educational or rehabilitative work at his or her own expense regarding one or more fields of substantive law or law office management;

1.5(f): any other duty or condition consistent with the purposes of imposing a sanction for professional misconduct as set forth in standard 1.3.

Pursuant to Standard 2.4(b) of the Standards for Attorney Sanctions for Professional Misconduct:

Culpability of a member of willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of willfully failing to communicate with a client shall result in reproof or suspension depending on the extent of the misconduct and the degree of harm to the client.

Pursuant to Standard 2.10 of the Standards for Attorney Sanctions for Professional Misconduct:

Culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or of a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension according to the gravity of the offense or

harm, if any to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

The stipulated discipline in this matter of a two year stayed suspension with a three-year probation, is appropriate. Here, despite his prior record of discipline for similar misconduct, Respondent has failed to take steps to ensure that he appropriately communicated with clients, performed competently in their legal matters, and turned over a file to subsequent counsel. The stipulated discipline should be sufficient to ensure Respondent conforms to his ethical responsibilities to clients in the future.

DISMISSALS

The parties respectfully request that the court dismiss Count Four and Count Five with prejudice in the interests of justice.

WAIVER OF VARIANCE BETWEEN NDC AND STIPULATION

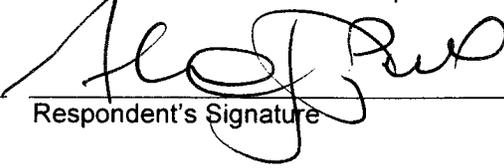
The parties agree to waive any variance between the allegations in the NDC and this stipulation.

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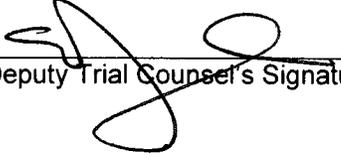
In the Matter of: Alexander John Pecel	Case number(s): 08-O-11025 and 08-O-14151
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SIGNATURE OF THE PARTIES

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

6/7/11  Alexander John Pecel
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name

6-7-11  Erin McKeown Joyce
Date Deputy Trial Counsel's Signature Print Name

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In the Matter of: Alexander John Pecel	Case Number(s): 08-O-11025 and 08-O-14151
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STAYED SUSPENSION ORDER

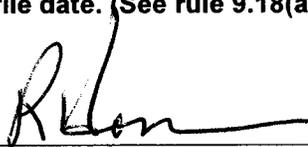
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

6-22-11

Date



Judge of the State Bar Court

RICHARD A. HONN

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 23, 2011, 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:

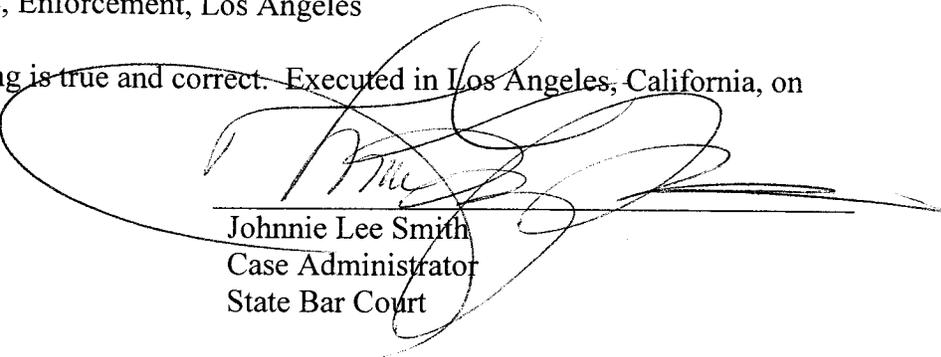
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ALEXANDER JOHN PECEL
LAW OFC ALEXANDER J PECEL
23734 VALENCIA BLVD #206
VALENCIA, CA 91355

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

Erin M. Joyce, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 23, 2011.



Johnnie Lee Smith
Case Administrator
State Bar Court