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<b>State Bar Court of California Hearing Department San Francisco REPROVAL</b>		
<b>Counsel For The State Bar</b>  Sherrie B. McLetchie Senior Trial Counsel 180 Howard Street San Francisco, California 94105 (415) 538-2297  Bar # 85447	<b>Case Number(s):</b>  12-O-17447-PEM	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>[Signature]</i>  SEP 10 2013  <b>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</b>
<b>Counsel For Respondent</b>  William L. Coggshall, Esq. Archer Norris 2033 N. Main, Suite 800 Walnut Creek, California 94596 (925) 930-6600  Bar # 211731	<b>Submitted to: Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
<b>In the Matter of:</b> <b>GREGORY RALPH BEYER</b>  Bar # 155101  A Member of the State Bar of California (Respondent)	<b>PUBLIC REPROVAL</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted December 17, 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.

(Effective January 1, 2011)



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- (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 (public reproof).
  - Case ineligible for costs (private reproof).
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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.
- (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

(Effective January 1, 2011)

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- (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. See " Facts Supporting Aggravating Circumstances": in the Stipulation Attachment at page 8.
- (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. See " Facts Supporting Mitigating Circumstances": in the Stipulation Attachment at page 8.
- (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.

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(Effective January 1, 2011)

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- (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:**

See "Additional Facts Re Mitigating Circumstances": in the Stipulation Attachment at page 8.

**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.

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- (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 reprobation. 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 reprobation 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.

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 condition period and no later than the last day of the condition 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 reprobation.
- (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 reprobation.

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:**



9. Shortly after March 1, 2012, Edward, Donald, and David all received copies of a memo from Carol which stated that Respondent recommended that Donald buy the family home from the Trust.

10. Shortly thereafter, and prior to March 8, 2012, Donald received an e-mail from Carol stating in pertinent part: "Your trust will be ready for you to sign & pick up on Thursday, March 29, 2012 @ 3:00 p.m. in Greg Byer's office in Sacramento. I took the first appt. he had, because he has documents for me to sign if you buy the house and some other trust documents that can be signed at the same time. I'm emailing out a 4 page document that will lay out everything for Dave, Ed, & you as to the benefits of you purchasing the house from The Trust, as everything must be completed by April 21, 2012 to prevent an increase in property taxes."

11. On March 8, 2012, David met with Respondent and asked Respondent whether Respondent had recommended that Donald buy the family home, and that the property taxes on the family home would be reassessed higher if title to the home remained in the name of the Trust. During the March 8, 2012 meeting, David requested, and Respondent gave David, his legal opinions and advice.

12. On April 5, 2012, Donald mailed Respondent a letter pointing out the conflict of interest in Respondent's representation of both Carol and Donald at the February 23, 2012 meeting, cancelling any further work on his trust, and requesting a refund of the \$1,295 paid. This letter terminated Respondent's representation of Donald. Respondent received Donald's April 5, 2012 letter shortly after it was received.

13. Respondent continued to represent Carol at least through April 17, 2012.

14. At no time did Respondent receive informed written consent from Donald to allow for Respondent's concurrent representation of Carol and Donald, during the time Respondent represented Carol and Donald from February 23, 2012, until Respondent's receipt of Donald's April 5, 2012 letter.

15. At no time did Respondent receive informed written consent from David or Donald of Respondent's concurrent representation of Carol, Donald, and David, during the time Respondent represented Carol, Donald, and David from March 8, 2012, through Respondent's receipt of Donald's April 5, 2012 letter.

16. The interests of Carol, Donald, and David were in actual conflict.

#### CONCLUSION OF LAW:

17. By giving legal advice to Carol, then Donald, then David, regarding the Trust, the family home, and property taxes, Respondent accepted representation of more than one client in a matter in which the interests of the clients conflicted without the informed written consent of each client in wilful violation of Rules of Professional Conduct, rule 3-310(C)(2).

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## FACTS SUPPORTING AGGRAVATING CIRCUMSTANCE.

**Indifference (Std. 1.2(b)(v)):** Because of the failure to obtain a waiver to the conflicts of interest, Respondent was not entitled to the fees he charged and collected from Donald. In *In the Matter of Fonte* (Review Department 1994) 2 Cal. State Bar Ct. Rptr. 752, 765, the Review Department found that Fonte had violated rule 3-310(B) by representing both parties to an agreement without obtaining written consent and unilaterally withdrawing \$2,500 from one client's bank account to which Fonte had access as payment for that representation. The Review Department stated "Restitution of the \$2,500 in fees to Mr. Loeloff or his estate is appropriate as well, since respondent's representation of the Loeloffs at the time he removed the funds was improper. (See *Goldstein v. Lees* (1975) 46 Cal. App.3d 614, 618.)" *Goldstein, ibid*, states: "An attorney may not recover for services rendered if those services are rendered in contradiction to the requirements of professional responsibility . . ." Respondent did not refund Donald's attorney's fees until December 10, 2012, eight months after Donald's April 5, 2012 letter which pointed out the conflict and requested the refund based on the conflict of interest. In addition, by letter dated 9, 2012, and drafted by counsel, Donald again pointed out the conflict and requested the refund. Further, prior to December 10, 2012, Respondent was twice contacted by the State Bar regarding the Browns' complaint. Thus, by delaying the refund for eight months after he was first placed on notice of the conflict between his representation of Carol and Donald, Respondent demonstrated indifference toward atonement for the consequences of his misconduct.

## FACTS SUPPORTING MITIGATING CIRCUMSTANCE.

**No Prior Discipline (Std. 1.2(e)(i)):** Respondent was admitted to practice on December 17, 1991, in the 20 years until the misconduct admitted herein commenced, he had no record of prior discipline.

## ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCE.

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a stipulation with the Office of the Chief Trial Counsel prior to trial, thereby saving the State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

## AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed 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." (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertan* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney

misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Standard 2.10 applies to Respondent's violation of rule 3-310(C)(2), and provides that: "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 the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3."

Here, Respondent gave legal advice to clients who had adverse interests without the required informed written consent of each client. Respondent's misconduct was short in duration- less than a month- and did not cause harm to his clients. Respondent's misconduct is aggravated by his failure to return \$2,500 in fees to Donald for eight months. However, Respondent is entitled to significant mitigation for practicing law for 20 years without discipline. He is also entitled to mitigation for entering into this stipulation. Balancing all of the factors, a disposition at the lower end of the standard is appropriate. A public reproof with a one-year period of compliance with probation conditions will serve the purposes of attorney discipline as set forth in standard 1.3.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of August 28, 2013, the prosecution costs in this matter are \$3,419. 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.

#### **EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION CREDIT**

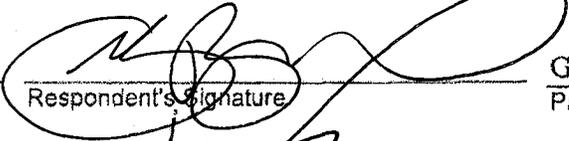
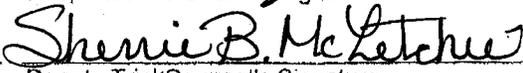
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School or the Multi-State Professional Responsibility Examination. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: GREGORY RALPH BEYER	Case number(s): 12-O-174447 - PEM
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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.

9-4-13		Gregory Ralph Beyer
Date	Respondent's Signature	Print Name
9-6-13		William L. Coggshall
Date	Respondent's Counsel Signature	Print Name
9-9-13		Sherrie B. McLetchie
Date	Deputy Trial Counsel's Signature	Print Name
	Senior	

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In the Matter of: GREGORY RALPH BEYER	Case Number(s): 12-O-17447 - PEM
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### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 5.58(E) & (F), 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 reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

Date

Sept. 10, 2013

  
LUCY ARMENDARIZ  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 10, 2013, 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 San Francisco, California, addressed as follows:

WILLIAM L. COGGSHALL  
ARCHER NORRIS  
2033 N MAIN ST #800  
WALNUT CREEK, CA 94596

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- by overnight mail at , California, addressed as follows:

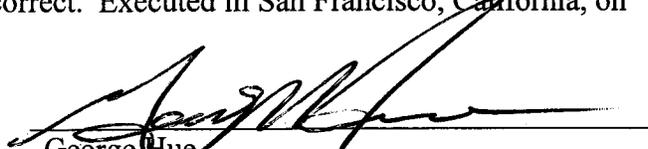
- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Sherrie McLetchie, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 10, 2013.

  
George Hue  
Case Administrator  
State Bar Court