



(Do not write above this line.)

<b>State Bar Court of California</b> Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco <b>PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES</b>		
Counsel for the State Bar Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/53802204  Bar # 114637	Case Number(s) <b>PUBLIC MATTER</b>  02-0-10193-PEM 04-0-12831  <b>FILED</b> AUG 21 2009 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO	(for Court use)  <del>CONFIDENTIAL</del>  <b>LODGED</b>  MAY 17 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per  Michael E. Wine, Esq. 301 N. Lake Ave., Suite 800 Pasadena, CA 91101 Tele: 626/796-6688  Bar # 58657	Submitted to Program Judge  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of  WILLIAM P. LUCKE Bar # 51030 A Member of the State Bar of California (Respondent)	Submitted to Program Judge  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</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 January 5, 1972  
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- (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, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 8 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts." See attached
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law." See attached

(Do not write above this line.)

- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§ 6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

**B. Aggravating Circumstances [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 Action violations \_\_\_\_\_
- (d)  Degree of prior discipline \_\_\_\_\_
- (e)  If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline" (above)
- (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. **See attached**
- (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 the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct.  
**See attached**
- (8)  **No aggravating circumstances are involved.**

**Additional aggravating circumstances:**

**None**

(Do not write above this line.)

**C. Mitigating Circumstances [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 to the ~~State Bar during disciplinary investigation and proceedings.~~ See attached
- (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 of 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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.  
See attached
- (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.  
See attached
- (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 attached

**ATTACHMENT TO**  
**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

IN THE MATTER OF:       **WILLIAM P. LUCKE**  
CASE NUMBER(S):       **02-O-10193; 04-O-12831**

**FACTS AND CONCLUSIONS OF LAW.**

**Case No. 02-O-10193: (Rae Castillo obo Danielle Dermier)**

Facts: On July 30, 1993, Danielle Dermier ("Danielle"), the daughter of Rae Castillo ("Ms. Castillo"), was molested by an adult while attending a camp. On August 12, 1993, Ms. Castillo employed Respondent to file a civil complaint on Danielle's behalf against the camp operator, and Respondent and Ms. Castillo agreed that Respondent would receive twenty-five percent of the gross recovery prior to the deduction of costs. On July 27, 1994, Respondent filed a complaint on Danielle's behalf.

Prior to December 1996, the case settled for \$81,000.00. On December 6, 1996, in its Order Approving Compromise of Minor's Claim, the Court requested that the plaintiff establish a Special Needs Trust fund under Probate Code section 3600. However, Respondent failed to deliver the settlement funds to fund the annuity until April 4, 2001, although he did maintain the funds in his client trust account as required the entire time. In addition, Respondent failed to tell Ms. Castillo that he had not funded the annuity until January 2001.

Conclusions of Law: By not establishing a Special Needs Trust Fund for Danielle for more than four years after receiving the settlement money and by failing to invest Danielle's settlement funds in a structured settlement annuity for more than four years as required by the Compromise Order, Respondent repeatedly and recklessly failed to perform legal services with competence in violation of Rule of Professional Conduct 3-110(A). By willfully failing to inform Ms. Castillo that he had not funded the annuity for an extensive period of time, Respondent failed to inform his client of a significant event in her daughter's case, in violation of Business and Professions Code section 6068(m).

**Case No. 04-O-12831: (Richard and Jeannie Hevener)**

Facts: In January 1998, Richard and Jeannie Hevener ("the Heveners") employed Respondent to represent them in a medical malpractice case related to an injury to Mr. Hevener, on a contingency basis. Respondent failed to prepare a written fee agreement as required. Respondent filed a lawsuit on Mr. Hevener's behalf. However, he failed to conduct any discovery, failed to prepare Mr. Hevener or his treating physicians for their

depositions, and failed to depose the defendants or any other witnesses. Over time, Mrs. Hevener paid Respondent \$10,000.00 in advanced costs. However, Respondent failed to deposit the costs into a client trust account.

Conclusions of Law: By failing to conduct any discovery, failing to prepare Mr. Hevener or his treating physicians for their depositions, failing to depose the defendants or any other witnesses, Respondent failed to perform competently the legal services for which he was employed, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to deposit the \$10,000.00 in advanced costs paid by Mrs. Hevener, Respondent failed to deposit funds held for the benefit of clients in a client trust account, in violation of Rule of Professional Conduct 4-110(A).

## **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was February 6, 2006.

## **AGGRAVATING CIRCUMSTANCES.**

### **Facts Supporting Aggravating Circumstances:**

Multiple Acts of Misconduct: The misconduct stipulated to herein involves multiple acts of misconduct to two different clients, and in a client trust account matter.

Significant harm: In Danielle Dermier's case, the lifetime monthly payment she would received from the annuity was reduced from \$390.00 to \$323.00 as a result of Respondent's delay in funding the annuity.

## **MITIGATING CIRCUMSTANCES.**

### **Facts Supporting Mitigating Circumstance:**

Physical problems: Regarding both cases memorialized herein, Respondent suffered a heart attack in 1999, which contributed to the delay in his management of both cases.

Good Character: Respondent has provided the names of numerous character references, all of whom have contested to his good character after the State Bar fully informed each of them of the extent of the misconduct stipulated to herein.

Cooperation with the State Bar: Respondent cooperated fully with the State Bar in resolving the referenced cases.

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

I am a Case Administrator of the State Bar Court. 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 May 17, 2006, I personally served a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW;  
CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND  
ORDERS (Rules Proc. of State Bar, rule 803(a));  
CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR  
COURT'S ALTERNATIVE DISCIPLINE PROGRAM**

by personal delivery and addressed as follows:

**WILLIAM P. LUCKE  
CYDNEY BATCHELOR  
180 HOWARD ST., 6TH FL.  
SAN FRANCISCO, CA 94105**

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

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 17, 2006.



**George Hue**  
Case Administrator  
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 November 17, 2009, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING CERTAIN DOCUMENTS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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 PAUL LUCKE  
LAW OFFICE WILLIAM P LUCKE  
536 MAGNOLIA AVE  
PIEDMONT, CA 94611

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

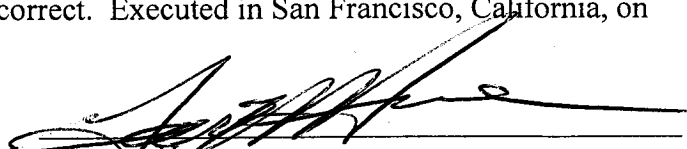
- by overnight mail at , California, addressed as follows:

- By 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:

Erica Dennings, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 17, 2009.

  
George Hue  
Case Administrator  
State Bar Court