



(Do not write above this line.)

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

<p>Counsel For The State Bar</p> <p><b>Joseph R. Carlucci</b> Supervising Trial Counsel State Bar of California 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1000</p> <p>Bar # <b>172309</b></p>	<p>Case Number (s) <b>02-O-10849</b></p>	<p>(for Court's use)</p> <p><b>FILED</b> SEP 15 2008 <i>SPC</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p><b>PUBLIC MATTER</b></p>
<p>Counsel For Respondent</p> <p><b>Michael E. Wine</b> 301 North Lake Ave., Ste. 800 Pasadena, CA 91101 (626) 796-6688</p> <p>Bar # <b>58657</b></p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>PUBLIC REPROVAL</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: <b>MATTHEW J. FAIRSHTER</b></p> <p>Bar # <b>131667</b></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 14, 1987**.
- (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 **16** 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: **two membership years following the effective date of the Supreme Court order. If Respondent fails to pay any installment within the time provide herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code, section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 286).**  
(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. **See Attachment to Stipulation page 5**
- (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:**

**See Attachment to Stipulation, page 5.**

**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 Reproof:**

- (1)  Respondent must comply with the conditions attached to the reproof for a period of **one (1) year**.
- (2)  During the condition period attached to the reproof, 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 reproof. 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 reproof 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: **The protection of the public and the interests of the Respondent do not require passage of the MPRE in this case. See In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181.**

(11)  The following conditions are attached hereto and incorporated:

- |   |  |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions                        |

## F. Other Conditions Negotiated by the Parties:

### CLIENT TRUST ACCOUNTING SCHOOL

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 Client Trust Accounting School, and passage of the test given at the end of that session.

(Do not write above this line.)

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Attachment language (if any):

**SEE ATTACHMENT TO STIPULATION.**

In the Matter of  
**MATTHEW J. FAIRSHTER** (no.  
131667)

Case number(s):  
**02-O-10849**

A Member of the State Bar

### Law Office Management Conditions

- a.  Within        days/        months/        years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b.  Within        days/        months/**one (1)** years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **three (3)** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c.  Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for **one (1)** year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

A Member of the State Bar

## NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a Notice of Disciplinary Charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) **Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admission required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.) (emphasis supplied)**

### Rule 133, Rules of Procedure of the State Bar of California STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

- (a) A proposed stipulation as to facts, conclusions of law, and disposition must set forth each of the following:

...

- (5) a statement that Respondent either
  - (i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or
  - (ii) **pleads nolo contendere to those facts and violations. If the Respondent pleads nolo contendere, the stipulation shall include each of the following:**
    - (a) **an acknowledgement that the Respondent completely understands that the plea of nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified in the stipulation; and**
    - (b) **if requested by the Court, a statement by the Deputy Trial Counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter (emphasis supplied)**

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code § 6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea must be considered the same as an admission of culpability except as state in Business and Professions Code section 6085.5(c).

Date August 25, 2008

Signature

MATTHEW J. FAIRSHTER  
Print Name



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

IN THE MATTER OF:        MATTHEW J. FAIRSHTER (no. 131667)

CASE NUMBER(S):        02-O-10849

**FACTS AND CONCLUSIONS OF LAW.**

Respondent Matthew J. Farishter (“Respondent”) pleads nolo contendere to the following facts and violation of *Rules of Professional Conduct*, rule 2-200(A). Respondent understands that the plea for nolo contendere shall be considered the same as an admission of the stipulated facts and of his culpability for a violation of *Rules of Professional Conduct*, rule 2-200(A) specified herein.

**FACTS**

1.        At all relevant times mentioned herein, Respondent and attorney Joel R. Bennett (“Bennett”) were the principals in a law firm known as Bennett & Fairshter, LLP (“B&F”).
2.        In or about 1978 Baja, Inc. (“Baja”) and its sole shareholder, Allen Berliner (“Berliner”) entered into a contract with East Los Angeles Doctors Foundation, Inc. under which Baja was granted rights to operate a hospital pharmacy for a specified period of time, and the contract also granted option rights of renewal for specified periods. In or about 1983, Baja’s contract was improperly terminated.
3.        Baja retained counsel, Edgar R. Bardin (“Bardin”), and filed a lawsuit entitled *Baja, Inc. v. Century Medcorp, et al.* in Los Angeles County Superior Court, case number

C468280 (herein, the “Health Net litigation,” so named after a corporate successor in interest) to recover damages, including lost profits from the option periods it lost. After numerous and time consuming procedural and substantive proceedings, Baja prevailed at trial as to damages for the First Option Period, but did not prevail on its claims concerning the Second and Third Option Periods and Baja took an appeal to the Court of Appeal of California, Second Appellate District. The appeal was assigned case no. B097353.

4. Bardin died in June, 1991.

5. In 1993, following representation by other counsel, Alexander Kirkpatrick (“Kirkpatrick”) became the attorney for Baja and Berliner. Baja and Berliner did not have a written fee agreement with Kirkpatrick. An attorney-client relationship existed between Kirkpatrick and Baja and Berliner. Kirkpatrick billed Baja and Berliner on an hourly basis. However, at some point between 1993 and September 1999, Kirkpatrick and Berliner discussed Kirkpatrick’s receiving an additional amount of fees if the litigation ultimately proved successful. Kirkpatrick and Berliner ultimately agreed that Kirkpatrick would be paid an additional \$1 million in fees if the litigation was successful.

6. In December 1997, the Court of Appeal rendered its decision in case no. B097353, affirming the award of damages to Baja for the First Option Period, but remanded the matter for a determination of damages and interest for the Second and Third Option Periods. Trial on those issues was eventually scheduled for December 1999.

7. In late September 1999, Kirkpatrick, with Berliner’s consent, hired Respondent and Bennett to take over responsibility for the remanded trial in the Health Net litigation.

Neither Respondent nor Bennett were a partner of, associate of, or shareholder with Kirkpatrick. Berliner and Baja did not have a written fee agreement with Respondent and Bennett or their law firm. An attorney-client relationship existed between Respondent, Bennett, and Baja and Berliner. Respondent and Bennett were paid their hourly rate for their services in the Health Net litigation.

8. In September 1999, Kirkpatrick, Respondent and Bennett entered into an agreement whereby Kirkpatrick would share the additional \$1 million payment with Respondent and Bennett, collectively. Neither before or after entering into this agreement did Respondent, Bennett or Kirkpatrick obtain Berliner's consent in writing to the division of the additional fees.

9. Thereafter, Respondent and Bennett prepared for and conducted the trial in the Health Net litigation in December 1999. On April 24, 2000, the Los Angeles County Superior Court filed its Statement of Decision in the Healthnet litigation. Baja was awarded \$2,719,300.00 in lost profits and pre-judgment interest of \$1,712,041.48 as damages for the Second Option Period; and \$2,276,719.00 and pre-judgment interest of \$295,037.83 as damages for the Third Option Period. A judgment reflecting these awards was entered in due course and thereafter, while Healthnet's appeal was pending, Baja and Healthnet engaged in settlement discussions, many of which were conducted by Respondent on behalf of Baja.

10. In February 2001, Baja and Healthnet settled the Healthnet litigation involving the Second and Third Option Periods.

11. On February 22, 2001, Healthnet issued check no. 0000039820 in the amount of \$7,021,690.38 in partial payment of that settlement.

12. On March 6, 2001, at Berliner's direction, Respondent and Bennett deposited Healthnet's check into a trust account established by B&F at City National Bank. The account was labeled "Attorney Client Trust Account, FBO Baja, Inc." ("FBO Baja account") and bore account no. 026-218462.

13. On May 14, 2001, Kirkpatrick tendered to Berliner his final bill for his legal services in the Healthnet litigation. Kirkpatrick claimed total attorneys fees and costs of \$663,353.85.

14. On June 25, 2001, Berliner directed Respondent and Bennett to transfer \$1,563,353.85 from the FBO Baja account to a separate trust account for the benefit of Kirkpatrick. This amount represented payment of Kirkpatrick's final bill plus \$900,000 in additional fees rather than \$1 million as previously promised by Berliner, who deducted \$100,000 and paid another associated attorney that sum directly.

15. On July 10, 2001, Respondent and Bennett opened an account, bearing number 026-220289 at City National Bank, for the benefit of Kirkpatrick ("FBO Kirkpatrick account"), and directed the transfer of \$1,563,576.57 from the FBO Baja account to FBO Kirkpatrick account.

16. Subsequent to the opening of FBO Kirkpatrick account, Respondent and Bennett became involved in litigation with Kirkpatrick and Berliner over various issues, including entitlement to the additional fees to which Berliner had agreed.

17. After Kirkpatrick dismissed his cross-complaint against Respondent and Bennett

over entitlement to their share of the additional fees, Respondent and Bennett took their agreed upon share of such additional fees.

18. At no time prior to dividing the additional fees did Respondent, Bennett or Kirkpatrick make full disclosure in writing to Berliner of the agreement between Kirkpatrick, Bennett and himself to share the additional fees or obtain Berliner's consent in writing to the division of the additional fees.

#### CONCLUSIONS OF LAW

19. By dividing the additional fees with Kirkpatrick and Bennett without making full written disclosure of the division and the terms of the division to Berliner, and without obtaining Berliner's written consent after such written disclosure, Respondent wilfully violated *Rules of Professional Conduct*, rule 2-200(A).

#### **MITIGATING CIRCUMSTANCES.**

1) Respondent has been a member of the State Bar since December 14, 1987 and has no prior record of discipline.

2) Respondent was candid and cooperative with the State Bar during the disciplinary investigation and proceedings.

#### **WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.**

The parties waive any variance between the First Amended Notice of Disciplinary Charges filed on May 1, 2007 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of a further amended Notice of

Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending First Amended Notice of Disciplinary Charges

**DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
02-O-10848	One	B&P, section 6106
	Two	B&P, section 6068(o)(2)
	Three	R.P.C., rule 4-100(B)(1)
	Four	R.P.C., rule 4-100(A)

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was August 14, 2008.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 14, 2008, the costs in this matter are \$ 3,654.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

**AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.10

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.

Standard 2.10 is the controlling standard in this matter as violations of rule 2-200, *Rules of Professional Conduct* are not specified in the standards

The stipulated level of discipline in this matter is consistent with standard 2.10.

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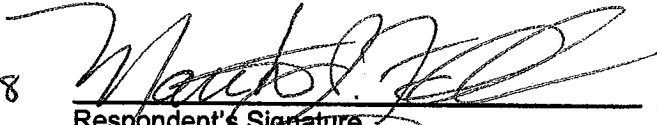
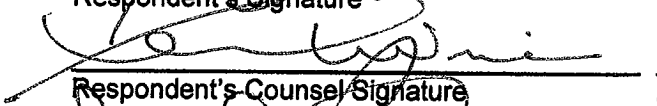

Attachment Page 7

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In the Matter of <b>MATTHEW J. FAIRSHTER (no. 131667)</b>	Case number(s): <b>02-O-10849</b>
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### SIGNATURE OF THE PARTIES

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

<u>August 25, 2008</u> Date	 Respondent's Signature	<u>MATTHEW J. FAIRSHTER</u> Print Name
<u>8/25/08</u> Date	 Respondent's Counsel Signature	<u>MICHAEL E. WINE</u> Print Name
<u>8/26/08</u> Date	 Deputy Trial Counsel's Signature	<u>JOSEPH R. CARLUCCI</u> Print Name



(Do not write above this line.)

In the Matter Of <b>MATTHEW J. FAIRSHTER (no. 131667)</b>	Case Number(s): <b>02-O-10849</b>
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**ORDER**

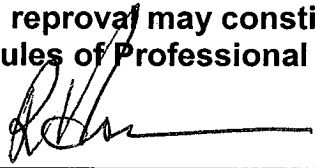
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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 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 reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

9/4/08 \_\_\_\_\_  
Date

  
\_\_\_\_\_  
Judge of the State Bar Court  
**RICHARD A. HONN**

**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 September 15, 2008, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL**

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 PostalService at Los Angeles, California, addressed as follows:

MICHAEL E. WINE  
301 N LAKE AVE STE 800  
PASADENA, CA 91101 - 5113

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

JOSEPH R. CARLUCCI, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 15, 2008.



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Tammy Cleaver  
Case Administrator  
State Bar Court