



ORIGINAL

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State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar Lee Ann Kern, Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015-2299 Telephone: (213) 765-1272 Bar # 156623	Case number(s) 02-O-14891 <div style="text-align: center; font-weight: bold; font-size: 1.2em;">PUBLIC MATTER</div>	(for Court's use) <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-weight: bold;">MAR 03 2006</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERKS OFFICE LOS ANGELES</div>
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Raymond Dion 3460 Wilshire Blvd., 8 th Fl. Los Angeles, CA 90010-2228 Bar # 138206	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge	
In the Matter of MARC S. FELDMAN Bar # 108293 A Member of the State Bar of California (Respondent)	<div style="text-align: center; font-weight: bold;">STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION</div> <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 June 3, 1983
(date)
- (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 and order consist of 12 pages.
- (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.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a) costs added to membership fee for calendar year following effective date of discipline
(b) costs to be paid in equal amounts prior to February 1 for the following membership years:

_____ (hardship, special circumstances or other good cause per rule 282, Rules of Procedure)

- (c) costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
(d) costs 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 _____

(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.

(Do not write above this line.)

- (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.
- (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) **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. Please see page 9 for additional information in support of this mitigating factor.

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- (10) **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.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances are involved.**

Additional mitigating circumstances:

D. Discipline

1. Stayed Suspension.

(a) Respondent must be suspended from the practice of law for a period of TWO 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 YEARS, which will commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

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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 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 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 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.
- (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 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:
 - Substance Abuse Conditions Law Office Management Conditions
 - Medical Conditions Financial Conditions

(Do not write above this line.)

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 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.

No MPRE recommended. Reason: _____

- (2) **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MARC S. FELDMAN

CASE NUMBER(S): 02-O-14891

Respondent admits that the following facts are true and that he is culpable of violations of the specified statute(s) and Rule(s) of Professional Conduct.

FACTS AND CONCLUSIONS OF LAW.

COUNT ONE: Rules of Professional Conduct, rule 3-210
 [Advising the Violation of Law]

1. On or about February 22, 1999, Respondent's home in Sherman Oaks was burglarized. Cash, a ring, a leather jacket, and four paintings had been stolen.
2. On or about February 23, 1999, Respondent made a claim under his Allstate Insurance Company ("Allstate") policy for all of the stolen items, except the diamond as it was insured by another carrier. On or about February 25, 1999, Allstate sent a letter to Respondent and his estranged wife, Lauren, who were co-insureds under the policy, requesting that they submit proof of their loss to support their claim. Neither Respondent nor Lauren retained any receipts for the stolen items and therefore no documents were submitted to Allstate to substantiate the value of the loss.
3. On or about March 10, 1999, Respondent spoke with Lauren over the telephone and during their conversation, Lauren informed Respondent that: (1) Allstate called her, but she had not yet returned their call; (2) she recalled where she had purchased the paintings that had been stolen and the approximate amounts she had paid for them; and, (3) she was going to tell Allstate that the value of the pictures was \$2,000 unless Respondent advised her otherwise.
4. During their March 10, 1999, conversation, Respondent told Lauren that: (1) he did not want Lauren to tell Allstate that the value of the stolen paintings was \$2,000; (2) Lauren should tell Allstate that she did not remember what she had paid for the paintings; and (3) Lauren should just be "really vague" when talking with Allstate.
5. On or about March 15, 1999, Allstate took Respondent's taped recorded statement in which he confirmed that he did not personally purchase the stolen items, did not know their value, and had no supporting documentation or photographs of the stolen items. Respondent informed Allstate that Lauren had purchased the paintings and that Allstate should speak with her about their value.

6. On or about June 1, 1999, Respondent submitted to an Examination Under Oath ("EUO") taken by Allstate's coverage counsel. Respondent confirmed that he did not have any documentation for the stolen items, that he did not know their value, and that the estimated \$24,900 value he placed on the items was a "guess."

7. On or about August 19, 1999, Lauren submitted to an EUO taken by Allstate's coverage counsel. Lauren testified that she purchased all five of the stolen paintings and that their value was \$1,000 each for the two larger paintings and that the value of the smaller paintings was between \$50 - \$500 each. Lauren also testified that she personally purchased the two jackets and that one was worth \$150 and the other was worth \$75.

8. On or about August 30, 1999, Allstate denied Respondent's claim.

9. **LEGAL CONCLUSION:** By telling Lauren: (1) that he did not want her to inform Allstate that the value of the stolen paintings was \$2,000, (2) to inform Allstate that she did not recall where she purchased the paintings, and (3) that she should just be "really vague" when conversing with Allstate, Respondent advised Lauren to present misleading information in support of their insurance claim and thereby advised the violation of a law, in wilful violation of rule 3-210, Rules of Professional Conduct.

COUNT TWO: Business and Professions Code, section 6068(o)(3)
[Failure to Report Judicial Sanctions]

10. The allegations of paragraphs 1 through 8 are incorporated by reference.

11. In or about July 2000, Respondent filed a lawsuit in the Los Angeles Superior Court against Allstate and its adjuster for Breach of the Implied Covenant of Good Faith and Fair Dealing and Declaratory Relief ("the Allstate lawsuit"). The Allstate lawsuit was then removed to the United States District Court, Central District of California. Both Respondent and Allstate moved for summary judgment. The District Court granted Allstate's motion for summary judgment on the issue of breach of the implied covenant of good faith and fair dealing and declaratory relief.

12. On or about July 13, 2001, Respondent filed a motion for reconsideration of the court's ruling on Allstate's motion for summary judgment. On or about August 21, 2001, Allstate filed a motion for Rule 11 sanctions on the basis that Respondent's motion for reconsideration was neither grounded in fact nor warranted by existing law.

13. On or about December 13, 2001, the District court granted Allstate's motion for Rule 11 Sanctions and imposed sanctions against Respondent and his counsel in the amount of \$2,990 to be paid to Allstate. Respondent paid the sanctions to Allstate.

14. Respondent did not report to the State Bar that sanctions had been imposed on him.

15. **LEGAL CONCLUSION:** By failing to report to the State Bar, in writing, within 30 days of the time Respondent had knowledge of the imposition of Rule 11 sanctions in the amount of \$2,990, Respondent wilfully violated Business and Professions Code, section 6068(o)(3).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was February 21, 2006.

MITIGATING CIRCUMSTANCES, continued from page 3.

Family Problems

On September 20, 1997, Respondent separated from his now ex-wife, Lauren. Their separation was extremely contentious and involved a bitter custody dispute that lasted from 1997 through 2003, as well as Lauren's report to law enforcement that Respondent had committed spousal rape (in 1997) and had molested their daughters (in late 1998). As a result of the allegations, Respondent's children were temporarily placed in a foster home by the Department of Children and Family Services. No charges were filed against Respondent, Respondent vehemently denies Lauren's allegations, and after the children were released from foster care, Respondent received sole custody of the children. At the time of the misconduct, Respondent was negotiating with Lauren as to custody rights. Presently, Respondent and Lauren share joint custody of the children.

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards

The Supreme court gives the Standards "great weight," and will reject a recommendation consistent with the Standards only where the Court entertains "grave doubts" as to its propriety. (*In re Naney* (1990) 51 Cal.3d 186, 190; *In re Silvertan* (2005) 36 Cal. 4th 81, 91-92.) Although the Standards are not mandatory, it is well established that the Standards may be deviated from only when there is a compelling, well-defined reason to do so. See *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291; *Bates v. State Bar* (1990) 51 Cal.3d 1056, 1060, fn. 2.

Standard 2.6 - Culpability of a member of a violation of Business and Professions Code section 6068 shall result in disbarment or suspension depending on the gravity of the offense or harm, if any, to the victim.

Standard 2.10 - Culpability of a member of a violation of a wilful violation of any Rules 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.

Case Law

In *In the Matter of Fandey* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767, Fandey received 18 months stayed suspension, 18 months probation, and six months actual suspension for aiding his client's flight from California so that his client could avoid complying with a child support order, in violation of Business and Professions Code, sections 6068(c) and 6106, as well as rule 7-101 (now rule 3-210), Rules of Professional Conduct.

The Review Department found that Fandey's knowledge of the child support order, of his client's violation of the order by stopping payments prior to the move, and of his client's express purpose

in moving, coupled with affirmative help he provided the client in moving, demonstrated that Fandey acted in conscious disregard of his obligation to uphold the law. As such, the Review Department found that Fandey's misconduct involved moral turpitude in violation of section 6106.

Respondent is not culpable of moral turpitude in the instant matter. Although the Respondent advised his estranged spouse, Lauren, to inform Allstate that she did not remember what she had paid for the paintings and to be vague when speaking with Allstate, Respondent ultimately referred Allstate to Lauren as the one with superior knowledge of the value of the stolen items. Furthermore, and because there were no receipts for the stolen items, Respondent submitted the Sworn Proof of Loss to carrier with a notation that the value of the stolen items was an "estimate" and when testifying in his Examination Under Oath, he stated that the estimated value he placed on the items was a "guess."

In light of Respondent's 22-years in practice without prior discipline, his family difficulties, and the fact that his misconduct was less serious than that found in *Fandey*, the recommended discipline of two years stayed suspension and three years probation is just and reasonable and serves the purposes of the disciplinary process.

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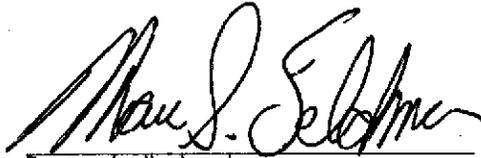
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In the Matter of MARC S. FELDMAN	Case number(s): 02-0-14891
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SIGNATURE OF THE PARTIES

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.

2/16/06
Date


Respondent's signature

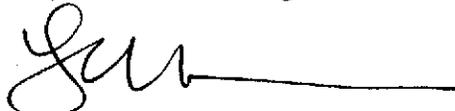
Marc S. Feldman
Print name

2/21/06
Date


Respondent's Counsel's signature

Raymond Dion
Print name

2/24/06
Date


Deputy Trial Counsel's signature

Lee Ann Kern
Print name

(Do not write above this line.)

In the Matter of MARC S. FELDMAN	Case number(s): 02-0-14891
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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 135(b), 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 953(a), California Rules of Court.)

03/03/06
Date


RICHARD A. PLATEL
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 Los Angeles, on March 3, 2006, 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:

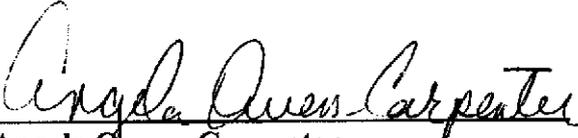
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**RAYMOND DION
KOLETSKY MANCINI ET AL
3460 WILSHIRE BLVD 8FL
LOS ANGELES CA 90010 2228**

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

LEE ANN KERN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **March 3, 2006.**



Angela Owens-Carpenter
Case Administrator
State Bar Court