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**State Bar Court of California  
Hearing Department  
San Francisco**

<b>Counsel For The State Bar</b>  <b>Erica Dennings</b> State Bar of California Office of the Chief Trial Counsel 180 Howard Street San Francisco, CA 94105  Bar # 145755	<b>Case Number (s)</b>  04-O-10287 04-O-13380 05-O-04695  <b>PUBLIC MATTER</b>	<b>(for Court's use)</b>  <b>FILED</b> <i>LDJ</i>  JUN 02 2006  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>Counsel For Respondent</b>  <b>Steven A. Lewis</b> Lewis and Bacon 1050 Fulton Avenue, Suite 125 Sacramento, California 95825  Bar # 63488	<b>Submitted to: Settlement Judge</b>	
<b>In the Matter Of:</b>  <b>Thomas Witte</b>  Bar # 107542  A Member of the State Bar of California (Respondent)	<b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</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 12, 1983**.
- (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 12 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".

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension



(Do not write above this line.)

- (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):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: **2007** (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

**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.
- (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.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

**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)  **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**

**(1) Respondent was admitted to the practice of law in California on January 12, 1983 and has no prior record of discipline.**

**(3) Respondent cooperated with the State Bar during the disciplinary proceedings.**

(8), (9), (10) After several years of stress in the marriage, on April 1, 2000, respondent's wife, who was the mother of his three children and who had been at home with the children until September 1999, left the three children (then 7, 13 and 14) and respondent for another man. Respondent's wife's abandonment of the family placed a great strain on respondent physically, emotionally, and financially. By September 2000, the three children were in three different schools (a high school, middle school and elementary school) with three different drop-off and pick-up times. At the same time, respondent was in the process of losing his home of 12 years to foreclosure, and was forced to leave the home in December 2000. As a result, respondent was forced to move with his three children to a rental property that was significantly farther from the three schools. While respondent theoretically could have placed the children in schools closer to his rental, he chose not to add the stress of new schools to what was already a difficult time for his children. Because of the financial problems that stemmed in part from his divorce, in August 2001, respondent was forced to file for bankruptcy. He originally filed a Chapter 13 reorganization, but in May 2002, he was forced to file a Chapter 7. At the same time, respondent had the further stress of his father's final illness and death. In late May 2002, respondent left the area for several weeks to assist his mother while his father was dying. He stayed until his father's death in June 2002. During the same time frame, respondent suffered complications from Crohn's disease. He was hospitalized for two weeks in November 2002, and was on heavy medication until he had surgery in February 2003. He was hospitalized for approximately five days when he had the surgery, was released for a week, and then re-hospitalized for another five days because of surgical complications.

All of the foregoing factors had a significant impact on respondent's ability to work and to make money, and therefore had a connection to respondent's misconduct in the Dominguez matter.

The mitigating factors that contributed to the misconduct have been overcome. Respondent has adjusted to the end of this marriage, his three children are now 13, 19, and 20, placing many fewer demands on his time, his health has improved, and he has been able to work thereby improving his financial position.

#### D. Discipline:

(1)  Stayed Suspension:

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

i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii.  and until Respondent does the following:

(b)  The above-referenced suspension is stayed.

(2)  Probation:

Respondent must be placed on probation for a period of **4 years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 953, Calif. Rules of Ct.)

(3)  Actual Suspension:

- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **2 years**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:

**E. Additional Conditions of Probation:**

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, 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 period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (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 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.
- (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 probation conditions.

(Do not write above this line.)

- (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)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

**F. Other Conditions Negotiated by the Parties:**

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **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)  **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3)  **Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4)  **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: \_\_\_\_\_
- (5)  **Other Conditions:** \_\_\_\_\_

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

IN THE MATTER OF:        Thomas M. Witte

CASE NUMBER(S):        04-O-10287, 04-O-13380, 05-O-4695

**FACTS AND CONCLUSIONS OF LAW.**

**Case number 04-O-10287 (Dominguez)**

In or about September 1993 Sherrie Dominguez ("Dominguez") employed respondent to represent her in a wrongful death action arising out of the fatal shooting of her son approximately two months earlier. The fee agreement provided that respondent would receive 40 percent of all amounts recovered.

On or about March 6, 1995, the State of California filed a lien against any proceeds recovered in the Dominguez matter in the amount of \$2890.44 for amounts paid to Dominguez through the victim's assistance fund.

On or about April 14, 1995, The Bureau of Family Support of the Sacramento District Attorney's Office filed a lien in the amount of \$9,493.75 against the proceeds. The \$9,493.75 represented the amount of child support owed by Dominguez from May 1987 through May 31, 1993 and including interest through March 31, 1995.

In or about 1995, the matter settled for \$22,500.00 on behalf of Dominguez.

In or about December 1995, respondent disbursed \$3,000.00 to Dominguez from her share of the settlement proceeds. Dominguez and respondent agreed that he would hold \$8,000.00 in his client trust account ("CTA") pending resolution of the liens by the state victim's assistance fund and the county bureau of family support.

The Victims of Violent Crimes lien was resolved without Dominguez paying anything. Respondent attempted to negotiate a reduction in the amount of child support, but was not successful.

Respondent told Dominguez that he had to keep the monies in his CTA until the lien was resolved. On or about August 28, 1998, and September 25, 2000, respondent made payments to the county totaling \$983.25. During this period, Dominguez claims that she sent respondent, via facsimile, a copy of a wage and earnings withholding order from her employer and that she instructed respondent to satisfy the Bureau of Family Support lien. Respondent claims that he did not receive the withholding order or the instructions to satisfy the Bureau of Family Support lien. Instead, respondent paid Dominguez five payments during the next several months, totaling \$900.00.

Dominguez paid off the bureau of family support lien by November 9, 2001. However, in or about May 2002, Dominguez received a notice from the United States Bankruptcy Court, Eastern District of California, in which respondent had filed a chapter 7 petition and listed her as a creditor. In the petition respondent characterized his debt to Dominguez as a personal loan in the amount of \$8,000.00.

On or about January 23, 2004, Dominguez filed a complaint against respondent with the State Bar of California.

On or about February 25, 2004, after being notified of Dominguez's complaint, respondent sent Dominguez a check for \$8,000.00 from his CTA. Dominguez did not negotiate the check.

On or about February 7, 2006, respondent sent Dominguez a check in that amount of \$8,694.16 representing \$6,116.75 in principal and \$2,577.41 in interest.

### Conclusions of Law

By not disbursing Dominguez's settlement funds as she requested for more than four years, respondent failed to promptly pay client funds in wilful violation of section 4-100(B)(4) of the Rules of Professional Conduct.

By not maintaining \$6,116.75 on behalf of Dominguez in his CTA, respondent failed to maintain the balance of funds received for the benefit of a client in trust in wilful violation of rule 4-100(A) of the Rules of Professional Conduct.

By misappropriating \$6,116.75 of Dominguez's funds for his own use and benefit, respondent wilfully violated section 6106 of the Business and Professions Code.

By listing the \$8,000 owed to Dominguez in his bankruptcy petition as a personal loan, when in fact the amount represented money respondent had misappropriated from Dominguez, respondent sought to mislead the judge or a judicial officer by a false statement of fact or law in wilful violation of section 6068(d) of the Business and Professions Code.

### Case number 04-O-13380 (Stroh)

In or about August 2001 Marven Stroh ("Stroh") through his attorneys, Knox, Lemmon and Anapolsky, LLP ("KLA") filed an action against Stroh's brother, Douglas. *Marven Stroh v. Douglas Stroh*, Sacramento County Superior Court case number 01AS05353. The case involved, inter alia, a dissolution of partnership and partition of real property.

In or about April 2003, KLA withdrew as Stroh's attorney of record and on or about April 18, 2003, sued Stroh for attorney fees in the amount of \$51,846.14. *Knox, Lemmon and Anapolsky, LLP v. Marven Stroh*, Sacramento County Superior Court case number 03AS02197.

On or about April 18, 2003, KLA filed an application for a pre-judgment writ of



attachment in the *KLA v. Stroh* action on several pieces of property owned by Stroh, including the Cozy Villa property.

On or about May 30, 2003, the Court issued an order granting KLA the right to attach the property of Stroh.

Stroh then hired respondent both to represent him in the *Stroh v. Stroh* action and to defend him in the, *KLA v. Stroh* action. Respondent agreed to represent Stroh for \$10,000 in the *Stroh v. Stroh* matter, to be paid upon sale of the property, and agreed to accept one half of any amount by which respondent was able to reduce his bill from KLA in the *KLA v. Stroh* matter.

On or about June 2, 2003, Stroh filed an answer in the KLA action and simultaneously filed a cross complaint against KLA.

On or about October 6, 2003, the night before the trial in the *Stroh v. Stroh* matter commenced, respondent met with Stroh and demanded that he pay him \$15,000 for representation (upon sale of the property) instead of the \$10,000 already agreed upon. Respondent told Stroh the additional fees were required because, following the continuance of the trial, respondent expended substantial additional time on the case.

On or about February 4, 2004 the Judge in the *Stroh v. Stroh* action issued a tentative decision in which he ordered that the partnership properties be sold and the proceeds divided with the interests set forth in a previous interlocutory judgment. One of the properties owned by the partnership was Cozy Villa Mobile Home Park. Pursuant to the interlocutory judgment, real estate broker James Sullivan ("Sullivan") would handle the sale of Cozy Villa.

On or about June 10, 2004, the arbitrator in the *KLA v. Stroh* matter issued an award in the amount of \$39,527.47 in favor of KLA against Stroh. The arbitrator denied the relief Stroh sought in a cross complaint.

On or about June 11, 2004, Stroh notified respondent that he would accept the award of the arbitrator in the *KLA v. Stroh* matter. He instructed respondent to contact KLA and Sullivan to facilitate the settlement of the *KLA v. Stroh* action and to facilitate removal of KLA's attachment lien recorded against Cozy Villa so that escrow would close as scheduled on June 16, 2004.

On or about June 11, 2004, Stroh sent respondent a letter via facsimile in which he terminated his services in both the *KLA V. Stroh* and *Stroh v. Stroh* matters. Stroh terminated respondent because he was dissatisfied with the way he handled the trial, and because respondent had increased his fee from \$10,000 to \$15,000 the day before trial began.

On or about June 14, 2004, Stroh sent a letter to Tom Knox, one of plaintiffs in the *KLA v. Stroh* action, and informed him that he had terminated respondent, was now representing himself and that he was willing to pay the arbitration award to resolve the case. He asked that Knox reply immediately so that the funds could be released from escrow on the sale of the Cozy Villa property on June 15, 2004.

On or about June 14, 2004, Stroh sent another letter to respondent terminating his services, requesting that he file a substitution of attorney, and requesting that his files be prepared for him to pick up by June 16, 2004. Respondent did not return Stroh's file.

On or about June 15, 2004, Stroh signed a settlement agreement with KLA

On or about June 15, 2004, respondent sent a letter to Stroh in which he refused to substitute out of either case and contended that Stroh should allow him to negotiate with KLA to see if he could negotiate a lower amount. Respondent also indicated that he was entitled to at least \$6,159.34 (half of \$12,318.67-the difference between \$51,846.14 and \$39,527.47 ).

On or about June 17, 2004, respondent filed a notice of lien against Stroh on real estate escrow proceeds for the amount of \$25,000. Respondent claimed Stroh owed him \$25,000 in attorney's fees for work on the Stroh v. Stroh matter.

On or about June 17, 2004, respondent filed a second notice of lien against Stroh on real estate escrow proceeds for the amount of \$6,159.34. This amount represented the respondent's fee in the KLA v. Stroh matter.

On our about July 8, 2004 respondent filed a Rejection of Arbitrator's Award and Request for Trial de Novo as the attorney for Stroh. Stroh did not authorize respondent to file this document.

On or about September 27, 2004, respondent filed a complaint against Stroh, James Kaufman, and KLA to recover attorney fees he believed Stroh owed him. *Thomas Witte v. Marven Stroh, James Kaufman, and KLA*, Sacramento Superior Court case number 04AS03863.

On or about December 16, 2004, respondent appeared at a hearing on a motion in the *Witte v. Stroh* matter. At the hearing, respondent argued that he continued to be the attorney of record for Stroh after Stroh terminated him because he had not executed a substitution of attorney. Respondent continued by saying that he did not file a substitution of attorney form because he did not have time.

In the course of the *Witte v. Stroh* case, defendant James Kaufman served a deposition subpoena and for personal appearance and production of documents and things relating to respondent's financial condition and assets. Respondent filed a motion for Protective Order and Motion Quashing Deposition Subpoena and Sanctions against James Kaufman.

On or about October 28, 2005 the court denied respondent's motion and ordered him to appear for his order of examination on November 15, 2005 and to bring the documents identified in the deposition subpoena. Respondent failed to appear with the documents he was ordered to present.

On or about January 6, 2006, the court found respondent guilty of contempt in violation of section 1209(a) of the Code of Civil Procedure and sanctioned him in the amount of \$1,000.00.

On or about January 13, 2006, respondent paid the \$1,000 fine.

### Conclusions of Law

By filing the rejection of arbitration award on Stroh's behalf after Stroh had terminated his services, respondent wilfully and without authority appeared as Stroh's attorney in wilful violation of section 6104 of the Business and Professions Code.

By not providing Stroh's file when he requested it, respondent failed to promptly release

the client file in wilful violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

By not providing documents as he was required to do by the October 28, 2005 order, respondent violated an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear in wilful violation of section 6103 of the Business and Professions Code.

By being held in contempt for violating a court order, respondent failed to support the Constitution and laws of the United States and of this state in wilful violation of section 6068(a) of the Business and Professions Code.

**Case number 05-O-4695 (James)**

Respondent represented Steven Leus, the administrator of the estate of Margaret Curtis in case number 02PR00818.

On or about August 10, 2005, respondent filed a Reply to Opposition to Petition on behalf of his client, Leus.

In the Reply to Opposition to Petition, respondent made comments that denigrated Judy Carver's and Carolyn M. Young's understanding of the law because they were women. Ms. Carver was the attorney for Ms. Young, special administrator of the estate of Margaret Curtis.

On or about September 7, 2005, respondent withdrew his reply.

**Conclusions of Law**

By making statements that were without basis and constituted unfounded personal attacks on interested parties, respondent failed to maintain the respect due to the courts of justice and judicial officers in wilful violation of section 6068(b) of the Business and Professions Code.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was April 24, 2006.

**STATE BAR ETHICS SCHOOL.**


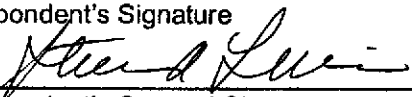

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

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In the Matter of Thomas Witte (#107542)	Case number(s): 04-O-10287, 04-O-13380, 05-O-4695
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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>4-27-06</u> Date	<u></u> Respondent's Signature	<u>Thomas Witte</u> Print Name
<u>4-27-2006</u> Date	<u></u> Respondent's Counsel Signature	<u>Steven A. Lewis</u> Print Name
<u>3 May 2006</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Erica L. M. Dennings</u> Print Name

(Do not write above this line.)

In the Matter of THOMAS WITTE	Case number(s): 04-O-10287; 04-O-13380; 05-O-04695
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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 court hereby modifies the stipulation as follows:

1. On page 2, under "Aggravating Circumstances," an "x" is inserted in the box next to paragraph B(8), indicating no aggravating circumstances are involved.
2. On page 5, under "Additional Conditions of Probation," the "x" is deleted in the box next to paragraph E(1). Respondent is required to satisfy standard 1.4(c)(ii) before he will be relieved from his actual suspension and the requirement is not conditional.

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.)**

Date

6/2/06

  
JOANN M. REMKE  
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 June 2, 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:


- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**STEVEN ALLAN LEWIS  
LEWIS & BACON  
1050 FULTON AVE #125  
SACRAMENTO, CA 95825**

- [X] 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 **June 2, 2006**.



\_\_\_\_\_  
**Laine Silber**  
Case Administrator  
State Bar Court