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State Bar Court of California
Hearing Department
San Francisco

<p>Counsel For The State Bar</p> <p>Mark Hartman Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 (415) 538-2558</p> <p>Bar # 114925</p>	<p>Case Number (s) 05-O-01523-PEM 07-O-10740-PEM 08-O-12919-PEM</p>	<p>(for Court's use)</p> <p align="center">PUBLIC MATTER</p> <p align="center">FILED <i>[Signature]</i></p> <p align="center">SEP 02 2009</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Jay Twigg, Esq. 660 Leslie St. Spc 59 Ukiah, CA 95482 (707) 349-7244</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>Bar # 88201</p> <p>In the Matter Of: JAY TWIGG</p> <p>Bar # 88201</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 **November 29, 1979**.
- (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 **18** 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."

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- (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:
(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 **97-O-17674**
 - (b) Date prior discipline effective **June 25, 1998**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules Prof. Conduct 3-110(A) and Bus. & Prof. Code 6068(m)**
 - (d) Degree of prior discipline **Private reproof**
 - (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. **See page 13**
- (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. **See page 13**
- (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. **See page 14**
- (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

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:
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **four years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **one year**.
- 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.
- (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 checked="" 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 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, 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.

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- (3) **Conditional Rule 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, 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 DISCIPLINE

In the Matter of: JAY TWIGG

Membership No.: 88201

State Bar Case Nos.: 05-O-01523-PEM
 07-O-10740-PEM
 08-O-12919-PEM

CASE NO. 05-O-01523

Facts

Respondent admits that the following facts are true:

1. In November 2002, Alice Reitmulder (“Reitmulder”) owned two pieces of property in Kelseyville, California. Reitmulder’s daughter and successor-in-interest was Diana Valencia.
2. In November 2002, Reitmulder entered into a purchase and sale agreement to transfer a piece of property to Ronald and Linda Stordahl (“the Stordahls”).
3. Subsequently, the Stordahls learned that Reitmulder did not have title to the property. On April 24, 2004, the Stordahls employed respondent to clear the title to the property in their favor.
4. On May 27, 2004, Diana Valencia (“Valencia”) employed respondent to assist her in the efforts to clear the title to the property which Reitmulder purportedly transferred to the Stordahls. Valencia paid respondent \$2,000.00 in advanced attorney fees at that time. However, on May 27, 2004, respondent was still representing the Stordahls regarding the title to the same piece of property, and knew that Valencia was Reitmulder’s daughter and successor-in-interest.
5. At the time that Valencia hired respondent, respondent recognized the existence of the following potential conflict between Valencia and the Stordahls: that if Valencia was unable to provide the Stordahls with clear title to the property, then the Stordahls would have a cause of action for recession of the real estate contract and for resulting damages. Respondent informed Valencia orally of the existence of the potential conflict, but did not obtain Valencia’s written consent to the potential conflict. Respondent did not inform the Stordahls of the potential conflict, nor did he obtain their written consent to the potential conflict.

6. Between September 14 and September 23, 2004, Valencia called respondent's office seven times to inquire into the status of her matter, and left messages requesting a return call. Respondent failed to respond.

7. Respondent performed no legal services for Valencia, and therefore earned no portion of the \$2000.00 in advanced attorneys she paid to him. On September 26, 2004, Valencia sent a letter to respondent by facsimile which terminated her attorney-client relationship with respondent, requested the return of the unearned fees, and requested respondent to forward her file to Valencia's new attorney. Respondent did not promptly respond, refund the unearned fees, or return the client file to Valencia.

8. Between October 1, 2006 and September 6, 2007, Respondent paid Valencia \$2,000 plus 10% interest per annum from September 26, 2004.

Conclusions of Law

1. By willfully agreeing – without obtaining written consent – to provide legal representation to Valencia at a time when he was already providing legal representation to the Stordahls in the same matter, respondent accepted representation of more than one client in a matter in which the interests of the clients potentially conflicted without the informed written consent of each client, in violation of Rule of Professional Conduct 3-310(C)(1).

2. By willfully failing to respond to numerous messages to contact Valencia while otherwise failing to provide Valencia with a report on the status of her matter, respondent failed to respond promptly to reasonable status inquiries of a client, in violation of Business and Professions Code section 6068(m).

3. By willfully failing to promptly refund \$2000.00 in advanced attorney's fees to Valencia, respondent failed to refund promptly upon termination of employment a part of a fee paid in advance that was not earned, in violation of Rule of Professional Conduct 3-700(D)(2).

4. By willfully failing to promptly return the client file to Valencia, respondent failed to release promptly, upon termination of employment, to the client as requested, all client papers and property, in violation of Rule of Professional Conduct 3-700(D)(1).

CASE NO. 07-O-10740-PEM

Facts

Respondent admits that the following facts are true:

1. In or about November 2002, respondent was employed by Don Gorman ("Gorman") and Gorman's now deceased wife Sheila Mason ("Mason"), to represent them in a personal injury matter, on a contingency basis. Mason was a close friend of respondent; Gorman was not.

2. On or about November 8, 2002, respondent filed a complaint on behalf of Gorman and Mason in San Francisco County Superior Court, in the matter entitled *Mason and Gorman v. Mundh et al.*, case number CGC-02-414560 ("the *Gorman* case").

3. On or about January 31, 2003, the court set the *Gorman* case for an order to show cause for respondent's failure to file a case management conference statement in a timely manner, to be heard on or about March 4, 2003. Respondent received notice of the OSC, but failed to file the case management conference statement.

4. Although he received notice, respondent failed to appear at the OSC on or about March 4, 2003. Accordingly, the court sanctioned him \$200.00. Respondent failed ever to pay the sanctions.

5. On or about April 2, 2003, the court set another OSC for respondent's failure to file proof of service of defendants, obtain their answers or enter their defaults, to be heard on May 27, 2003. Respondent received notice of the OSC.

6. Thereafter, respondent filed the proof of service on defendants, but failed to obtain their answers or enter their defaults; the court continued the OSC to July 28, 2003. Respondent received notice of the continued OSC, but failed to file the proofs of service on defendants, obtain their answers or enter their defaults.

7. On or about July 28, 2003, the court continued the OSC to October 27, 2003, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

8. On or about October 27, 2003, the court continued the OSC to December 29, 2003, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

9. On or about December 29, 2003, the court continued the OSC to March 29, 2004, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

10. On or about March 24, 2003, the court continued the OSC to June 28, 2004, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

11. On or about July 9, 2004, Mason died. After that date, respondent failed to return Gorman's numerous calls for a status report, except sporadically. Throughout the case, respondent never once discussed with Gorman the circumstances of the traffic accident underlying the *Gorman* case.

12. On or about June 28, 2004, the court continued the OSC to September 20, 2004, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

13. On or about September 20, 2004, the court continued the OSC to December 20, 2004, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

14. On or about December 20, 2004, the court continued the OSC to March 21, 2005, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

15. On or about March 21, 2005, the court continued the OSC to June 6, 2005, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

16. On or about June 6, 2005, the court continued the OSC to October 3, 2005, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

17. On or about October 3, 2005, respondent filed an amended complaint and a case management conference statement in the *Gorman* case.

18. On or about October 3, 2005, the court continued the OSC to January 3, 2006, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

19. On or about January 3, 2006, the court continued the OSC to April 3, 2006, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued hearing, but failed to file proofs of service on defendants, obtain their answers or enter their defaults.

20. On or about April 3, 2006, the court continued the OSC to June 5, 2006, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. At the same time, the court served respondent with notice of an impending mandatory dismissal pursuant to Code of Civil Procedure 583.210 for failure to serve the complaint. Respondent received notice of the continued hearing and the impending dismissal, but failed to file proofs of service on defendants, obtain their answers or enter their defaults or take any other action to prevent the case from being dismissed. Respondent also failed to inform Gorman that his case was facing dismissal.

21. On or about June 5, 2006, the court continued the OSC to September 5, 2006, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults. Respondent received notice of the continued OSC, but failed to file proofs of service on defendants, obtain their answers or enter their defaults, or take any other action to prevent the case from being dismissed.

22. On or about August 31 2006, the court continued the OSC to October 10, 2006, for respondent's failure to file proofs of service on defendants, obtain their answers or enter their defaults, and once again notified respondent that the case was facing mandatory dismissal. Respondent received notice of the continued OSC, but failed to file proofs of service on defendants, obtain their answers or enter their defaults, or take any other action to prevent the case from being dismissed.

23. On or about October 10, 2006, the court conducted the continued OSC hearing, and dismissed the matter pursuant to Code of Civil Procedure section 583.250 for respondent's failure to comply with Code of Civil Procedure section 583.210. Respondent had notice of the dismissal, but failed to inform Gorman.

24. Throughout the course of the proceeding, although he had notice that the case was in danger of being dismissed, respondent misrepresented to Gorman that the case was proceeding on course. At no time did he tell him that the case was in danger of being dismissed, or that it had been dismissed. Gorman contacted respondent again in or about January 2007, and respondent finally admitted to him that the matter had been dismissed.

25. In or about January 2007, Gorman telephoned respondent to inquire about the status of the case, and respondent finally admitted to him that the *Gorman/Mason* case had been dismissed. This was the first that Gorman knew about the dismissal.

Conclusions of Law

1. Respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, and repeatedly failing to perform legal services with competence, insofar as (1) he did not discuss with Gorman the circumstances of the traffic accident underlying the *Gorman* case; (2) he did not serve the complaint; (3) he did not file the case management conference statement; (4) he did not file proof of service of defendants, obtain their answers or move to enter their defaults; and (5) he did not keep the case from being dismissed.

2. Respondent willfully violated Business and Professions Code, section 6068(m), by failing to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, insofar as he did not inform Gorman that his case was in danger of being dismissed, or that it had been dismissed.

3. Respondent willfully violated Business and Professions Code, section 6068(m), by failing to respond promptly to reasonable status inquiries of a client, insofar as he did not return

Gorman's numerous calls for a status report after Mason died on July 9, 2004, except sporadically.

4. Respondent willfully violated Business and Professions Code, section 6103, by willfully disobeying or violating an order of the court requiring him to do an act connected with or in the course of his profession, which he ought in good faith to have done insofar as he did not pay the \$200.00 sanctions as ordered by the court.

5. Respondent willfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude, dishonesty, or corruption insofar as he misrepresented to Gorman that his case was proceeding along on track when he knew that it was in danger of being dismissed.

CASE No. 08-O-12919

Facts

Respondent admits that the following facts are true:

1. In October 2007, Emily Stone and her husband, Dustin, hired respondent to represent them in Dustin's child support, alimony, and child visitation matter and paid him an advance fee of \$3,000.
2. In March 2008, respondent informed Dustin that he could not provide the help which they wanted. Dustin asked for a final bill and a refund of the unearned advance fee. Respondent agreed.
3. When they had not heard from him, Dustin telephoned respondent and again asked for a final bill and a refund. Respondent said that he would have to find a record of his work before he could send an accounting and refund.
4. There was no further contact with respondent. Dustin and Emily called him many times, but did not reach him. His voice mail stated that his message box was full.
5. On June 10, 2008, Emily sent respondent a certified letter asking for an accounting and a refund. Respondent received the letter and signed the receipt.
6. In December 2008, respondent sent \$100 check to Dustin Stone.
7. On January 6, 2009, respondent sent an accounting to Dustin Stone.
8. None of the legal services which respondent provided were of value to the Emily and Dustin Stone. Thus, he still owes \$2,900.00 to them.

Conclusions of Law

1. Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct by intentionally, recklessly, and repeatedly failing to perform legal services with competence insofar as he did not render any services of value to help Dustin Stone.

2. Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct by failing, upon termination of employment, to refund promptly an unearned advance fee insofar as he did not promptly refund the \$3,000 in advance fees paid by Dustin and Emily Stone.

3. Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct by failing to provide an appropriate accounting of client funds insofar as he did not provide a prompt accounting of the funds which the Stones paid him.

4. Respondent willfully violated section 6068, subdivision (m), of the Business and Professions Code by failing to respond to reasonable client inquiries insofar as he did not provide the Stones with a telephone number where he could be reached and did not respond promptly to the Stone's certified letter of June 10, 2008.

SUPPORTING AUTHORITY

Standards 1.3, 1.6, 1.7, 2.3, 2.4, and 2.6.

DATE OF DISCLOSURE OF ANY PENDING INVESTIGATION

On **July 22, 2009**, the State Bar sent a disclosure letter to respondent. In this letter, the State Bar advised him of any pending investigations or proceedings against him.

AGGRAVATING CIRCUMSTANCES

Prior Record of Discipline: Respondent was privately reproved on June 26, 1998 in State Bar case no. 97-O-17694.

Multiple Acts of Misconduct: Respondent's thirteen ethical violation in the three current cases involved multiple acts of misconduct.

MITIGATING CIRCUMSTANCES

Candor and cooperation. Respondent has been candid and cooperative with the State Bar during its investigation and resolution of the current cases case.

Financial Problems: At the time of his misconduct, respondent suffered from extreme financial problems related to his law practice and his family situation.

Pro Bono and Community Service: Respondent has participated in numerous pro bono and community services, including: Redwood Legal Assistance, Inc.; State Bar Conference of

Delegates for Lake and Mendocino Counties; president, vice president and secretary of Lake County Bar Assn.; personnel and by-laws committees and treasurer of natural food cooperative; host of local access cable television program, "The Legal Forum"; director, board of directors of HAVEN, a (501(c)(3) corporation fostering better health through education.

In the Matter of	Case number(s):
JAY TWIGG, No. 88201,	05-O-01523-PEM 07-O-10740-PEM 08-O-12919-PEM
A Member of the State Bar	

Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Dustin and Emily Stone	\$2,900	October 26, 2007

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **two and one-half years after the effective date of the disciplinary order in the current cases.**

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Dustin and Emily Stone	\$100	Monthly

c. Client Funds Certificate

- 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
 - a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of

California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

(Do not write above this line.)

In the Matter of JAY TWIGG, No. 88201, A Member of the State Bar.	Case number(s): 05-O-01523-PEM 07-O-10740-PEM 08-O-12919-PEM
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SIGNATURE OF THE PARTIES

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

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

<u>8/4/09</u> Date	<u><i>Jay Twigg</i></u> Respondent's Signature	<u>JAY TWIGG</u> Print Name
<u> </u> Date	<u><i>IN PROPRIA PERSONAM</i></u> Respondent's Counsel Signature	<u> </u> Print Name
<u>8/5/09</u> Date	<u><i>Mark Hartman</i></u> Deputy Trial Counsel's Signature	<u>MARK HARTMAN</u> Print Name

(Do not write above this line.)

In the Matter Of Jay Twigg	Case Number(s): 05-O-01523-PEM 05-O-10740-PEM 05-O-12919-PEM
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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.

1. On page 4 of the stipulation, the "x" in the box at ¶ D.(1)(a) (1.) and D.(1)(a) (ii.) is deleted as it is condition of respondent's probation that he provide satisfactory proof of payment two and one-half years after the effective date of the disciplinary order in the current cases.
2. On page 4 of the stipulation, the "x" in the box at ¶ D.(3)(a)(ii.) is deleted as it is a condition of respondent's probation.
3. On page 4, of the stipulation, the "x" in the box at ¶ E.(1) is deleted as it is a condition of respondent's probation.
4. On page 5 of the stipulation, the "x" in the box at ¶ E.(9) is deleted.

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 9.18(a), California Rules of Court.)**

Date

Sept. 2, 2009

Pat McElroy
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 2, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

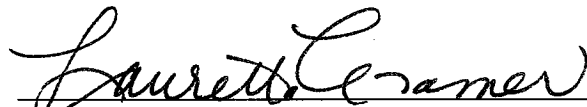
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JAY TWIGG
JAY TWIGG, ESQ.
660 LESLIE ST SPC 59
UKIAH, CA 95482**

- 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 September 2, 2009.



Laretta Cramer
Case Administrator
State Bar Court