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

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<b>Counsel For The State Bar</b>  Esther J. Rogers The State Bar of California 180 Howard Street San Francisco, California 94105  Bar # 148246	<b>Case Number (s)</b> 07-O-11031 07-O-12410 07-O-13187 07-O-13536 07-O-13816	<b>(for Court's use)</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>  NOV 03 2010  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>Counsel For Respondent</b>  Jerome Fishkin Fishkin & Slatter LLP 1111 Civic Drive, Suite 215 Walnut Creek, California 94596  Bar # 47798	<b>Submitted to: Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter Of:</b> Frank L. Kucera  Bar # 124617  A Member of the State Bar of California (Respondent)		

**Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.**

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted December 11, 1986.
- (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 14 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
  - (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.  
  
See Attached.
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (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 Attached.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat 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**

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law 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:

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of 2 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 60 days.

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.

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- (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 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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2)  **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 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 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 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 Regarding Facts and Conclusions of Law

IN THE MATTER OF: Frank L. Kucera

CASE NUMBER(S): 07-O-11031; 07-O-12410; 07-O-13187; 07-O-13536; 07-O-13816

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct:

The Madden Matter

Case Number 07-O-13816

**Count One**

Facts

Prior to in or about December 2005, respondent was attorney of record to the defendant Christine Madden in the debt collection matter *Wells Fargo Bank v. Christine A. Madden*, Marin County Superior Court Case Number 055135. On or about March 30, 2006, respondent was served with a March 29, 2006 Notice of Hearing requiring respondent to appear at a case management conference on April 25, 2005. Respondent received the Notice of Hearing. Respondent failed to appear at the case management conference on April 25, 2005.

On April 26, 2006, the court properly served respondent with a Case Management Conference Order requiring respondent to pay sanctions of \$149 no later than May 10, 2006 for his failure to appear at the case management conference and issued an Order to Show Cause requiring respondent to show cause on May 10, 2006 why he failed to appear at the April 25, 2006 Case Management Conference. Respondent received a copy of the Case Management Conference Order. On May 4, 2006, the court continued the hearing set for May 10, 2006 to June 9, 2006.

Prior to on or about May 19, 2006, the parties settled the matter. On May 19, 2006, the court dismissed the action. On June 13, 2006, the court sent respondent a letter enclosing an endorsed copy of the request for dismissal and it requested that respondent remit the \$149 sanctions ordered on April 25, 2006. Respondent received the letter, but failed to respond to it and failed to pay the \$149 sanction.

On June 12, 2007, the court sent respondent a Final Notice requesting that he pay the \$149 sanctions ordered on April 25, 2006. The Final Notice indicated that if respondent failed to remit the funds by July 13, 2007, it would notify the State Bar that respondent failed to comply with a court order. Respondent received the letter, but failed to respond to it and failed to pay the \$149 sanction until October 2010.

## Conclusions of Law

By failing to pay the sanctions ordered on April 25, 2006, respondent disobeyed an order of the court requiring him to do an act connected with or in the course of respondent's profession which he ought in good faith to do, in willful violation of Business and Profession Code section 6103.

### **Count Two**

#### Facts

Count One is incorporated herein by reference.

Respondent received the March 29, 2006 Notice of Hearing requiring him to appear at the case management conference scheduled for April 25, 2006. Respondent failed to appear at the April 25, 2006 Case Management Conference. Respondent received the April 25, 2006 Order requiring him to pay sanctions of \$149 for failing to appear at the April 25, 2006 Case Management Conference. Respondent failed to pay the sanctions until October 2010.

#### Conclusions of Law

By failing to appear at the April 25, 2006 Case Management Conference and by failing to pay sanctions, respondent failed to maintain the respect due to the court.

#### The Garrido Matter

Case Number 07-O-12410

### **Count Three**

#### Facts

Prior to on or about August 15, 2005, respondent was attorney of record to defendant Juan Garrido in the matter *First Resolution Investment Corporation v. Garrido*, Marin County Superior Court case number CV 053300. Prior to on or about August 15, 2005, respondent received notice that he was required to file and serve a case management conference statement by November 22, 2005 and appear at a case management conference on December 7, 2005. Respondent failed to file the case management conference statement and failed to appear at the December 7, 2005 case management conference.

On December 8, 2005, the court properly served respondent with a Case Management Conference Minute Order requiring respondent to pay sanctions of \$149 no later than December 28, 2005 and set a further case management conference for December 28, 2005. Respondent received a copy of the Case Management Conference Order. Respondent failed to appear at the December 28, 2005 Case Management Conference and failed to pay the \$149 sanction due by December 28, 2005.

On December 29, 2005, the court properly served respondent with a Case Management Conference Minute Order requiring respondent to pay additional sanctions of \$249 for his non appearance no later than January 19, 2006, set a further case management conference for January



19, 2006 and ordered respondent and his client to appear on January 19, 2006. Respondent received a copy of the Case Management Conference Order.

Respondent and Garrido failed to appear at the January 19, 2006 Case Management Conference and respondent failed to pay the \$249 sanction. On January 20, 2006, the court properly served respondent with a Case Management Conference Minute Order requiring respondent to pay an additional \$249 for his non appearance no later than February 3, 2006, set a further case management conference for February 3, 2006 and ordered respondent and his client to appear on February 3, 2006. Respondent and Garrido failed to appear at the February 3, 2006 Case Management Conference and respondent failed to pay the \$249 sanction.

On February 3, 2006, the Court struck Garrido's Answer and set the matter for a prove up hearing on March 30, 2006. On February 3, 2006, the court properly served respondent with a Case Management Conference Minute Order and indicated in the order that respondent owed sanctions.

Prior to on or about March 29, 2006, the parties settled the matter. On March 29, 2006, the court dismissed the action. On March 30, 2006, the court sent respondent a letter enclosing an endorsed copy of the request for dismissal and it requested that respondent remit the \$647 sanctions ordered on December 7, 2005, December 28, 2005 and January 19, 2006. Respondent received the letter, but failed to respond to it and failed to pay the \$647 sanction.

On May 18, 2006, the court sent respondent a Final Notice requesting that he pay the \$647 sanctions ordered on December 7, 2005, December 28, 2005 and January 19, 2006. The Final Notice indicated that if respondent failed to remit the funds by April 30, 2006, it would notify the State Bar that respondent failed to comply with a court order. Respondent received the letter, but failed to respond to it and failed to pay the \$647 sanction until October 2010.

### Conclusions of Law

By failing to pay the sanctions ordered on December 7, 2005, December 28, 2005 and January 1, 2006 and by failing to appear at the hearings on January 19, 2006 and February 3, 2006, respondent disobeyed orders of the court requiring him to do an act connected with or in the course of respondent's profession which he ought in good faith to do, in willful violation of Business and Profession Code section 6103.

### **Count Four**

#### Facts

Count Three is incorporated herein by reference.

Respondent received the order requiring him to appear to submit a case management conference statement by November 22, 2005 and to appear at the December 7, 2005 case management conference. Respondent failed to file a case management statement and failed to appear at the December 7, 2005 Case Management Conference.

Respondent received the Case Management Minute Orders issued on December 7, 2005, December 28, 2005 and January 19, 2006. Respondent failed to pay the \$647 sanctions ordered on December 7, 2005, December 28, 2005 and January 19, 2006.

Respondent failed to appear at the hearings on January 19, 2006 and February 3, 2006.

### Conclusions of Law

By failing to file a case management conference statement, failing to comply with court orders requiring him to appear at case management conferences and by failing to pay court ordered sanctions, respondent failed to maintain respect to the court, in willful violation of Business and Profession Code section 6068(c).

### The Keeshishian Matter

Case Number 07-O-13536

### **Count Five**

#### **Facts**

Prior to on or about March 9, 2006, respondent was attorney of record to the defendant in the matter *Unifund CCR Partners v. Keeshishian*, Marin County Superior Court Case number CIV 060495. Prior to on or about March 9, 2006, respondent received notice that he was ordered to file and serve a case management conference statement by June 15, 2006 and appear at a case management conference on June 29, 2006. Prior to on or about June 29, 2006, respondent failed to file a case management conference statement.

On June 29, 2006, respondent appeared at the case management conference and was ordered to pay sanctions of \$149 forthwith due to his failure to file a case management conference statement. On October 13, 2006, the court sent respondent a letter requesting that respondent remit the \$149 in sanctions ordered on June 29, 2006. Respondent received the letter, but failed to respond to it and failed to pay the \$149 sanction.

On May 18, 2006, the court sent respondent a Final Notice requesting that he pay the \$149 in sanctions ordered on June 29, 2006. The Final Notice indicated that if respondent failed to remit the funds by July 5, 2007, it would notify the State Bar that respondent failed to comply with a court order. Respondent received the letter, but failed to respond to it and failed to pay the \$149 sanction until October 2010.

### Conclusions of Law

By failing to file the case management conference statement and failing to pay the sanction, respondent disobeyed and violated an order of the court requiring him to do an act connected with or in the course of respondent's profession which he ought in good faith to do, in willful violation of Business and Profession Code section 6103

### **Count Six**

#### Facts

Count Five is incorporated by reference as if fully set forth herein.

Prior to on or about March 9, 2006, respondent knew he was ordered to file a Case Management Conference Statement no later than June 15, 2006. Respondent failed to file the case management conference statement. On June 28, 2006, the court ordered respondent to pay sanctions of \$149 forthwith. Respondent failed to pay the \$149 sanction. Respondent failed to comply with the court order requiring him to file a case management conference statement and to pay the \$149 sanction.

#### Conclusions of Law

By failing to comply with court orders, respondent failed to maintain respect to the court, in willful violation of Business and Profession Code section 6068(c).

#### The Tang-Perlas Matter

Case Number 07-O-13187

#### **Count Seven**

##### Facts

Prior to on or about October 31, 2006, respondent was attorney of record to the defendant in the matter *Capital One Bank v. Tang-Perlas*, Contra Costa County Superior Court case number CIVMSL06-04106. Prior to on or about November 6, 2006, respondent received notice that he was ordered to appear at a case management conference on January 5, 2007. On November 6, 2006, respondent filed a case management statement for the January 5, 2007 case management conference. Respondent failed to appear at the January 5, 2007 case management conference.

On January 5, 2007, the court properly served respondent with an Order to Show Cause requiring respondent to appear on February 9, 2007 to show cause why he should not be sanctioned for his failure to appear at the case management conference. Respondent received the Order to Show Cause. Respondent failed to appear at the February 9, 2007 hearing. On February 9, 2007, the court properly served respondent with an Order requiring him to pay sanctions of \$150 by March 9, 2007 for his failure to appear at the January 5, 2007 case management conference. Respondent received the February 9, 2007 order. Respondent failed to pay the sanctions by March 9, 2007.

On April 24, 2007, the Court properly served respondent with an order to show cause on May 17, 2007 why he should not be reported to the State Bar for failure to pay the \$150. Respondent received the April 24, 2007 order. Respondent appeared at the May 17, 2007 Order to Show Cause hearing and the Court continued the matter to June 19, 2007. Respondent failed to appear at the June 19, 2007 hearing and the court reported the matter to the State Bar. Respondent failed to pay the \$150 sanctions until October 2010.

#### Conclusions of Law

By failing to appear at the January 5, 2007 case management conference and failing to pay sanctions, respondent disobeyed and violated an order of the court requiring him to do an act connected with or in the course of respondent's profession which he ought in good faith to do, in willful violation of Business and Profession Code section 6103.

## **Count Eight**

Count Seven is incorporated by reference as if fully set forth herein. On January 5, 2007, respondent failed to appear at the case management conference. Respondent failed to pay the \$150 sanctions until October 2010.

### Conclusions of Law

By failing to comply with court orders to appear at hearing and to pay sanctions, respondent failed to maintain respect to the court.

### The Angulo Matter

Case Number 07-O-11031

## **Count Nine**

### Facts

Prior to on or about June 26, 2006, respondent was counsel of record to the defendant in the matter *Discover Bank v. Angulo*, the San Diego Superior Court Case number IC865717. Prior to on or about November 3, 2006, respondent received notice that he was ordered to appear at a case management conference on December 1, 2006. On November 3, 2006, respondent filed a case management statement for the December 1, 2006 case management conference. Respondent failed to appear at the December 1, 2006 case management conference.

On December 5, 2006, the court properly served respondent with an Order to Show Cause re Sanctions on January 26, 2007 for his failure to appear and it reset the case management conference to January 26, 2007. Respondent received the February December 5, 2006 order. Respondent failed to appear at the January 26, 2007 hearing and the court stuck the defendant's answer.

On January 26, 2007, the Court sanctioned respondent \$1,000 for failing to appear as noticed. On January 29, 2007, the Court properly served respondent with January 26, 2007 sanctions order. Respondent received the January 26, 2007 sanctions order. Respondent failed to pay the sanctions.

On or about April 2, 2007, the State Bar notified respondent that it had opened an investigation regarding his failure to pay the sanctions. On or about May 10, 2007, respondent arranged for the sanctions to be paid.

### Conclusions of Law

By failing to appear at the December 1, 2006 case management conference and failing to promptly pay the sanctions, respondent disobeyed and violated an order of the court requiring him to do an act connected with or in the course of respondent's profession which he ought in good faith to do, in willful violation of Business and Profession Code section 6103.

## **Count Ten**

Count Nine is incorporated by reference as if fully set forth herein.

Respondent failed to appear at the December 5, 2006 case management conference. Respondent failed to promptly pay the \$1,000 sanctions imposed on January 26, 2007.

#### Conclusions of Law

By failing to comply with the court order to appear at the case management conference and by failing to promptly pay the \$1,000 sanctions, respondent has failed to maintain respect to the court, in willful violation of Business and Profession Code section 6068(d).

#### **Count Eleven**

#### Facts

Count Seven Nine is incorporated herein by reference.

On January 26, 2007, the court imposed sanctions of \$1,000 for respondent's failure to appear. Soon after January 26, 2007, respondent knew that he had been sanctioned \$1,000. Respondent failed to report the sanctions to the State Bar in writing, or at all.

#### Conclusions of Law

By failing to report to the State Bar the imposition of the sanctions for his failure to appear within 30 days or at all, respondent failed to report in writing to the agency charged with discipline within 30 days of his knowledge of the imposition of the judicial sanctions, in willful violation of Business and Profession Code section 6068(o).

#### **Facts Relevant to Count One through Count Eleven**

Respondent was a long term contract attorney for Emilio Francisco and he relied upon Francisco's calendaring system. Francisco's calendaring system was defective and that is why respondent missed the court deadlines.

#### AGGRAVATION

Prior Record. Case No. 97-O-15922. Effective August 20, 2000, respondent received a private reproof for failing to competently perform.

Pattern of Misconduct. Respondent's conduct involves multiple violations of court orders.

#### MITIGATION

Cooperation. Respondent agreed to the imposition of discipline without requiring a hearing.

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In the Matter of <b>Frank L. Kucera</b>	Case number(s): 07-O-11031 07-O-12410 07-O-13187 07-O-13536 07-O-13816
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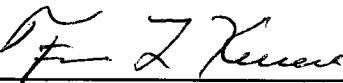
### SIGNATURE OF THE PARTIES

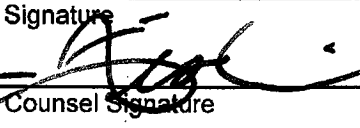
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

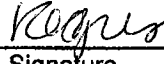
10-21-10  
 Date

10-22-10  
 Date

10/25/10  
 Date

  
 Respondent's Signature Frank L. Kucera  
 Print Name

  
 Respondent's Counsel Signature Jerome Fishkin  
 Print Name

  
 Deputy Trial Counsel's Signature Esther J. Rogers  
 Print Name

(Do not write above this line.)

In the Matter Of <b>Frank L. Kucera</b>	Case Number(s): <b>07-O-11031</b> <b>07-O-12410</b> <b>07-O-13187</b> <b>07-O-13536</b> <b>07-O-13816</b>
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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 conclusions of law in counts two, four, six and eight are modified to reflect that respondent willfully violated Business and Professions Code section 6068(b) only in each count. The conclusion of law in count eleven is modified to reflect that respondent willfully violated Business and Professions Code section 6068(o)(3) in this count.

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.)**

11-2-10  
Date

*Angie Scott*  
Judge of the State Bar Court  
PRO TEM

**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on November 3, 2010, 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:

JEROME FISHKIN  
FISHKIN & SLATTER LLP  
1111 CIVIC DR STE 215  
WALNUT CREEK, CA 94596

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

by overnight mail at , California, addressed as follows:

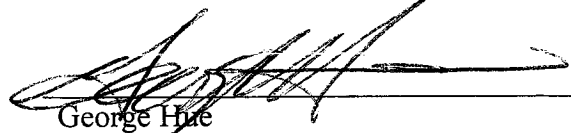
by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

ESTHER ROGERS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 3, 2010.

  
George Hie  
Case Administrator  
State Bar Court