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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION			PUBLIC MATTER
Counsel For The State Bar Diane J. Meyers Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1496 Bar # 146643	Case Number(s): 12-O-13319-RAH 12-O-13320 12-O-15652 (Inv.)	For Court use only <div style="text-align: center;"> FILED DEC 03 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
In Pro Per Respondent John Maurice Ebner 100 Oceangate, Suite 1200 Long Beach, CA 90802 (562) 628-5505 Bar # 100616	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: John Maurice Ebner Bar # 100616 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 1, 1981.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 16 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)



- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☐ Costs are added to membership fee for calendar year following effective date of discipline.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: the two billing cycles immediately following the effective date of the Supreme Court order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (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 Attachment at p. 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.
- (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.

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Additional mitigating circumstances

See Attachment at p. 13.

D. Discipline:

(1) ☒ **Stayed Suspension:**

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

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

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

E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) ☒ Within 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.
- (4) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (5) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

- (6) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) ☒ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <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 within one year. **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 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☐ **Other Conditions:**

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In the Matter of: John Maurice Ebner	Case Number(s): 12-O-13319-RAH, 12-O-13320, and 12-O-15652 (inv.)
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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
Margaret Williams	\$1,500	February 10, 2011
Michael Bernardin	\$1,500	April 21, 2011
Murvin Tillett	\$1,500	January 5, 2012

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the due date of Respondent's first quarterly report due to the Office of Probation.

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

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

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:
- 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.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: John Maurice Ebner

CASE NUMBER(S): 12-O-13319-RAH, 12-O-13320-RAH, and 12-O-15652 inv.

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.

Case No. 12-O-13319 (Complainant: Margaret Williams)

FACTS:

1. On January 5, 1987, Respondent filed a petition for a conservatorship of Janet Butler ("Butler") in the Orange County Superior Court, case number A136346. Respondent represented Butler's sisters, Stephanie Harmon ("Harmon"), Margaret Williams ("Williams"), and Iona Mouron ("Mouron"), who were appointed as co-conservators for Butler.
2. On February 8, 2011, Williams contacted Respondent seeking to employ him to transfer the conservatorship to the San Diego Superior Court because Butler had moved to San Diego County. Williams also informed Respondent that Mouron had died. Respondent informed Williams that he could initiate the change of venue in Orange County. Williams employed an attorney, Canela Cavada ("Cavada"), who practiced in San Diego to change the conservators after the transfer was completed.
3. On February 8, 2011, Respondent sent a letter to Williams with a fee agreement. Respondent stated in the letter that he anticipated that his total fee would be around \$2,500, which would include a filing fee, and that he would bill his time at \$300 per hour. On February 10, 2011, Williams paid Respondent \$1,500 as an advanced fee for the representation.
4. Between February and September 2011 approximately, Williams repeatedly left telephone messages for Respondent in which she asked for the status of the transfer. Respondent received the messages but did not respond to Williams's messages.
5. In or about the spring of 2011, Respondent reviewed his file for the conservatorship and conducted some legal research in contemplation of his filing a request with the Orange County Superior Court to affect the transfer of the conservatorship to the San Diego County Superior Court. However, Respondent did not file the request with the court as he concluded, based on his research, that the Orange County Superior Court would likely transfer the conservatorship to San Diego County on its own motion. Respondent did not communicate his conclusion to Williams.
6. On July 7, 2011, Cavada sent a letter to Respondent on behalf of Williams. In the letter, Cavada asked when the transfer would be completed. Respondent received the letter but did not respond to Cavada's letter.

7. In Cavada's letter to Respondent of July 7, 2011, Cavada requested an itemization of Respondent's fees and costs on behalf of Williams. Respondent received the letter but did not provide an accounting to Williams or Cavada.

8. On September 30, 2011, Williams mailed a letter to Respondent. In the letter, Williams terminated Respondent's employment and requested an itemization of Respondent's fees and costs and a refund. Respondent received the letter, but did not provide any accounting to Williams or Cavada of the \$1,500 received from Williams.

9. On November 2, 2011, the Orange County Superior Court, on its own motion, issued an order to show cause why the conservatorship should not be transferred to San Diego County. On December 27, 2011, the court ordered the conservatorship transferred to San Diego County.

10. As Respondent did not file a request to transfer the conservatorship with the Orange County Superior Court, Respondent did not fully earn the \$1,500 fee. Respondent did not refund any of the \$1,500 to Williams.

CONCLUSIONS OF LAW:

11. By not responding to Williams's messages and Cavada's letter of July 7, 2011, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent has agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

12. By not providing any accounting to Williams or Cavada of the \$1,500 received from Williams, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).

13. By not refunding any of the \$1,500 to Williams promptly upon termination of employment in September 2011, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 12-O-13320 (Complainant: Michael Bernardin)

FACTS:

14. On April 20, 2011, Michael Bernardin and Roseann Bernardin (collectively "the Bernardins") employed Respondent to obtain a conservatorship over their son, Blake Bernardin. The Bernardins were to be the conservators. Respondent was to prepare the petition and mail the petition to the Bernardins so they could sign the petition.

15. On April 21, 2011, the Bernardins paid Respondent \$1,500 as an advanced fee.

16. By September 2011, the Bernardins had not received the petition from Respondent. In September 2011, the Bernardins left a couple of messages for Respondent. Respondent called the Bernardins and claimed that he had mailed the petition. Respondent told the Bernardins that he would mail the petition again.

17. In late September 2011, the Bernardins received the petition with a cover letter from Respondent, dated September 15, 2011. The Bernardins promptly returned the signed petition to

Respondent. Respondent was to file the petition in the Orange County Superior Court. Respondent delayed the preparation of the petition and did not file the petition with the court.

18. In October 2011, Michael left telephone messages for Respondent asking about the status of the petition. In late October 2011, Respondent informed Michael that he was working on the matter.

19. On November 14, 15, 28, and 29, 2011, and December 5, 2011, Michael left telephone messages for Respondent asking about the status of the petition. Respondent received the messages, but did not respond to Michael's messages or provide the status of the petition to the Bernardins.

20. On November 22, 2011, Michael sent an e-mail to Respondent. In the e-mail, Michael complained about Respondent not responding to his previous status inquiries and requested that Respondent provide the status of the petition. Respondent received the e-mail, but did not respond to the e-mail or provide the status of the petition to the Bernardins.

21. In late December 2011, the Bernardins visited the clerk's office at the Orange County Superior Court and discovered that Respondent had not filed the petition with the court.

22. On January 3, 2012, the Bernardins mailed a letter to Respondent. In the letter, the Bernardins requested an accounting and a refund of the \$1,500 fee paid and effectively terminated Respondent's employment. Respondent received the letter.

23. Respondent did not provide any accounting to the Bernardins of the \$1,500 paid for the representation.

24. Respondent did not provide any services of value to the Bernardins and did not earn any of the \$1,500 advanced fee. Respondent did not refund any of the \$1,500 to the Bernardins.

25. On February 8, 2012, the State Bar of California ("State Bar") opened an investigation identified as case number 12-O-13320 concerning a complaint submitted by Michael against Respondent (the "complaint").

26. On March 8, 2012, a State Bar complaint analyst mailed a letter to Respondent at his membership records address regarding its investigation of the complaint. Respondent received the letter. In the letter, the State Bar requested a written response to the allegations raised by the complaint by March 22, 2012. Respondent did not provide the State Bar with a written response to the allegations.

27. On March 27 and April 11, 2012, a State Bar complaint analyst left a telephone message for Respondent about Respondent's overdue response to the complaint analyst's March 8, 2012 letter. Respondent received the messages, but did not provide a written response and did not respond to the complaint analyst's messages or letter of March 8, 2012.

28. On May 7, 2012, a State Bar investigator mailed a letter to Respondent at his membership records address regarding its investigation of the complaint. Respondent received the letter. In the letter, the State Bar requested a written response to the allegations raised by the complaint by May 21, 2012. Respondent did not provide the State Bar with a written response to the allegations.

29. On May 22, 2012, a State Bar investigator left a telephone message for Respondent about Respondent's overdue response to the investigator's May 7, 2012 letter. Respondent received the

message, but did not provide a written response and did not respond to the investigator's message or letter of May 7, 2012.

CONCLUSIONS OF LAW:

30. By not responding to Michael's messages and e-mail and by not providing the status of the petition to the Bernardins, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent has agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

31. By delaying the preparation of the petition and by not filing the petition with the court, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

32. By not providing any accounting to the Bernardins of the \$1,500 paid for the representation, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).

33. By not refunding any of the \$1,500 to the Bernardins, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

34. By not providing the State Bar with a written response to the allegations raised by the complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code section 6068(i).

Case No. 12-O-15652 inv. (Complainant: Murvin Tillett)

FACTS:

35. On January 5, 2012, Murvin Tillett ("Tillett") hired Respondent and paid Respondent \$1,500 as an advanced fee to prepare and file a limited conservatorship for Tillett's son. Respondent agreed to complete the matter by May 2012.

36. On or about February 29, 2012, Tillett received the petition for conservatorship and related documents prepared by Respondent for signature by Tillett and other proposed conservators.

37. On or about March 9, 2012, Tillett returned the signed documents to Respondent for filing with the court. Respondent did not file the conservatorship documents with the court and did not otherwise perform legal services to obtain the conservatorship.

38. From June 11 through August 15, 2012, Tillett left numerous telephone messages for Respondent asking for the status of the conservatorship, Respondent did not provide the status of the conservatorship to Tillett.

39. Respondent did not provide any services of value to Tillett and did not earn any of the \$1,500 advanced fee. Respondent did not refund any of the \$1,500 to Tillett.

CONCLUSIONS OF LAW:

40. By not responding to Tillett's telephone messages and by not providing the status of the conservatorship to Tillett, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent has agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

41. By not filing the conservatorship documents with the court and by not otherwise performing legal services to obtain the conservatorship, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

42. By not refunding any of the \$1,500 to Tillett, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Multiple/Pattern of Misconduct: Respondent violated Business and Professions Code section 6068(m) in three client matters; Rules of Professional Conduct, rules 3-110(A) and 4-100(B)(3) in two client matters; Rules of Professional Conduct, rule 3-700(D)(2) in three client matters; and Business and Professions Code section 6068(i) in one matter.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

Respondent was admitted to the State Bar on December 1, 1981 and has no prior record of discipline. Respondent's lack of prior discipline in approximately 29 years of practice before the misconduct occurred is entitled to significant weight in mitigation. (Standard 1.2(e)(1); *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, 127 [an attorney with 30 years of practice and no prior discipline was entitled to significant mitigation].)

Respondent's misconduct occurred during a limited time of approximately one and one-half years. (*In the Matter of Lynch* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287, 295 [occurrence of misconduct over a short period of time can be a mitigating factor]; *Frazer v. State Bar* (1987) 43 Cal.3d 564, 578 [occurrence of misconduct over a short time period considered in assessing discipline where the attorney committed many acts of wrongdoing during a period of roughly one year].)

Respondent has stipulated to misconduct at an early stage of the proceedings. Respondent thereby demonstrated his recognition of wrongdoing and cooperation with the State Bar and saved the State Bar's resources. (Standard 1.2(e)(v); *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing 11 acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

Although standard 2.2(b) calls for a minimum three-month actual suspension for a violation of rule 4-100 of the Rules of Professional Conduct, it is not the applicable standard. Respondent's misconduct involves a failure to account for advanced fees rather than trust funds. (See *In the Matter of Fonte* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752, where the Review Department concluded that the duty to account under Rules of Professional Conduct, rule 4-100(B)(3), included a duty to account for advanced fees.)

The most severe sanction applicable to Respondent's misconduct is found in standard 2.6, which applies to Respondent's violations of Business and Professions Code section 6068(i). Standard 2.6 provides that culpability of a member of a violation of Business and Professions Code section 6068(i) shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

The gravamen of Respondent's misconduct was his failure to finalize legal matters, after completing some preliminary work for his clients. Respondent's misconduct did not cause significant harm to his clients, although his failure to refund unearned fees promptly did deprive them of those fees. Respondent's failure to cooperate in the State Bar's investigation of the Bernardin complaint is mitigated by his willingness to stipulate to misconduct in that matter. The net effect of the mitigating factors present, including Respondent's many years in practice without prior discipline, outweigh the aggravating factor of Respondent's multiple acts of misconduct, and therefore, a level of discipline at the low end of the range prescribed by standard 2.6 is consistent with the purposes of attorney discipline. A stayed suspension will serve to remind Respondent of the primary purposes of disciplinary proceedings including protection of the public, the court and the legal profession, maintenance of high professional standards by attorneys, and the preservation of public confidence in the legal profession.

The recommended discipline is consistent with case law involving failures to perform in more than one client matter where there were more serious aggravating factors present and less mitigation. (See *Matthew v. State Bar* (1989) 49 Cal.3d 784 [where a 60-day actual suspension was imposed for abandoning two clients without completing legal services and delaying completion of work for a third client for more than four years, with financial harm to the clients, refusal to refund unearned fees, and no prior record of discipline, but only for a few years before the misconduct occurred].)

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was October 19, 2012.

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

The parties waive any variance between the Notice of Disciplinary Charges filed in this matter, and the facts and/or conclusions of law obtained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

DISMISSALS.

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
12-O-13319	Two	Rules of Professional Conduct, rule 3-110(A)
12-O-13319	Five	Business and Professions Code section 6068(i)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 17, 2012, the prosecution costs in this matter are \$7,168. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

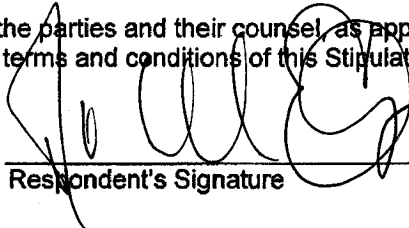
In the Matter of:
John Maurice Ebner

Case number(s):
12-O-13319-RAH, 12-O-13320, and 12-O-15652 (Inv.)

SIGNATURE OF THE PARTIES

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

11/07/12
Date

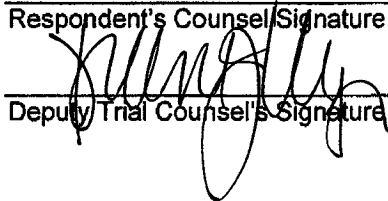

Respondent's Signature

John M. Ebner
Print Name

11/8/12
Date

Respondent's Counsel Signature

Print Name


Deputy Trial Counsel's Signature

Diane J. Meyers
Print Name

(Do not write above this line.)

In the Matter of: John Maurice Ebner	Case Number(s): 12-O-13319-RAH, 12-O-13320, and 12-O-15652 (Inv.)
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STAYED SUSPENSION 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.

PAGE 1 - IN THE MATTER OF: ~~DELETE - 100616~~
INSERT: - 100618

PAGE 3 - C. (1) - CHECK THE BOX
- AFTER - "NOT RECOMMENDED"
Add. SEE PAGE 13 FOR SUPPORTING FACTS AND
MITIGATING CIRCUMSTANCES

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 5.58(E) & (F), 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.)

11-30-2012
Date


Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 3, 2012, I deposited a true copy of the following document(s):

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

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

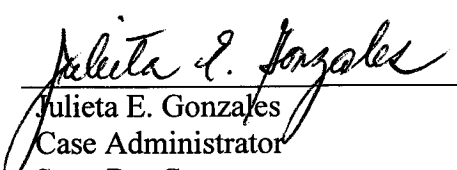
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOHN MAURICE EBNER ESQ
100 OCEANGATE STE 1200
LONG BEACH, CA 90802

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

Diane J. Meyers, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 3, 2012.



Julieta E. Gonzales
Case Administrator
State Bar Court