


(Do not write above this line.)

<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  Susan J. Jackson Deputy Trial Counsel The State Bar of California 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1498  Bar # 125042	<b>Case Number(s):</b> 12-O-14921-RAH 12-O-14924-RAH	<b>For Court use only</b>  <div style="text-align: center; font-size: 1.2em; font-weight: bold;">FILED</div> <div style="text-align: center;">                         AUG 19 2013                          STATE BAR COURT                          CLERK'S OFFICE                          LOS ANGELES                     </div> <div style="text-align: center; margin-top: 20px;">                         kwiktag® 152 148 691   </div>
<b>In Pro Per Respondent</b>  Jeffrey A. Fishkin 26893 Bouquet Canyon Rd Ste C-404 Santa Clarita, CA 91350 (661) 513-4740  Bar # 213021	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
<b>In the Matter of:</b> JEFFREY A. FISHKIN  Bar # 213021  A Member of the State Bar of California (Respondent)	<b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted June 1, 2001.
- (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.



(Do not write above this line.)

- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (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 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years:  
Costs are to be paid in equal amounts prior to February 1 for the three billing cycles 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.
- (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. See Additional Facts re Aggravating Circumstances.

(Do not write above this line.)

---

- (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 Additional Facts re Aggravating Circumstances.
- (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.

(Do not write above this line.)

---

(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:**

See Additional Facts re Mitigating Circumstances.

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of one (1) 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:

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of two (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 NINETY (90) 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 the 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.

(Do not write above this line.)

- (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:
  - Substance Abuse Conditions
  - Medical Conditions
  - Law Office Management Conditions
  - 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**

(Do not write above this line.)

---

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)  **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.
- (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 RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      JEFFREY A. FISHKIN  
CASE NUMBERS:                         12-O-14921 AND 12-O-14924

**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 Rules of Professional Conduct.

Case No. 12-O-14921 (Complainant: Elizabeth Gurlekian)

**FACTS:**

1. On September 3, 2010, Elizabeth Gurlekian ("Gurlekian") employed Respondent and paid him \$5,355 in advanced attorney's fees to represent her in a civil lawsuit for libel against Jane Neikrug.
2. On September 16, 2010, Respondent filed a complaint on behalf of Gurlekian against Ms. Neikrug in a civil action in Los Angeles County Superior Court (the "Gurlekian action").
3. Between December 2010 and October 2011, Respondent performed some services to prosecute the Gurlekian action, including attending a mediation hearing and handling certain post-mediation matters.
4. Between November 2011 and February 2012, Gurlekian called Respondent on several occasions to inquire about the status of her case. Each time that she called, Gurlekian left a message asking about the status of her case and asking Respondent to call her back. Respondent received the messages, but did not return any of Gurlekian's phone calls or otherwise respond to her messages.
5. On February 9, 2012, opposing counsel in the Gurlekian action filed a motion to compel the deposition of Gurlekian and a request for sanctions. Respondent received timely notice of the motion to compel and request for sanctions, but failed to notify Gurlekian that the motion had been filed, and failed to respond to it.
6. In February 2012, Gurlekian learned of the motion to compel and repeatedly called Respondent to discuss the motion. Each time that Gurlekian called, Gurlekian left a message requesting that her files be released so that she could obtain new counsel. Respondent received the messages but did not return any of Gurlekian's calls, did not release her files, and did not otherwise respond to Gurlekian's inquiries or requests.
7. On or about April 3, 2012, the court denied the motion to compel and request for sanctions without prejudice, on the grounds that the defendant did not show a reasonable and good faith attempt at an informal resolution.
8. In February 2012, Respondent's telephone number and fax number were disconnected. Respondent did not provide Gurlekian with his new contact information.

9. On February 28, 2012, Gurlekian hired new counsel to represent her in the Gurlekian action.
10. Between February 29, 2012 and April 2012, Gurlekian's new attorney sent letters and emails to Respondent requesting him to arrange for the transfer of Gurlekian's files and sign and return a substitution of attorney form. Respondent received, but did not respond to, the new attorney's letters or emails, arrange for the transfer of Gurlekian's files, or provide an executed substitution of attorney form.
11. On April 6, 2012, the new attorney filed a motion to remove Respondent as Gurlekian's counsel of record in the Gurlekian action. After notice and hearing, the court granted the motion and removed Respondent as counsel for Gurlekian.
12. By not returning any of Gurlekian's telephone calls after October 2011, and by disconnecting his telephone number and fax number without providing Gurlekian with his new contact information, Respondent constructively withdrew from employment as Gurlekian's attorney.
13. Respondent did not inform Gurlekian of his intent to withdraw from representation and he did not take any other steps to avoid reasonably foreseeable prejudice to Gurlekian.
14. At no time did Respondent release Gurlekian's file or communicate with Gurlekian or her new attorney regarding how Gurlekian could obtain the file.
15. On June 12, 2012, Gurlekian submitted a complaint against Respondent with the State Bar of California.
16. On July 27, 2012, and September 5, 2012, a State Bar investigator mailed letters to Respondent addressed to his membership records address regarding Gurlekian's complaint. The letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Gurlekian's complaint by August 10, 2012, and September 19, 2012, respectively. Respondent received the letters. Respondent did not respond to the investigator's letters or otherwise cooperate in the investigation.

#### CONCLUSIONS OF LAW:

17. By failing to respond to Gurlekian's repeated inquiries about the status of her case between November 2011 and February 2012, and by failing to inform Gurlekian of the motion to compel her deposition and request for sanctions, Respondent failed to respond promptly to reasonable status inquiries of a client and to keep the client reasonably informed of significant developments, in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).
18. By not giving Gurlekian notice of his withdrawal from employment, and by not otherwise taking any steps to avoid reasonably foreseeable prejudice to Gurlekian, Respondent improperly withdrew from employment with a client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
19. By not releasing the client file to Gurlekian, and by not otherwise communicating with Gurlekian about obtaining her file, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).



20. By failing to respond to the investigator's letters, Respondent failed to cooperate and participate in a disciplinary investigation, in willful violation of Business and Professions Code, section 6068(i).

**Case No. 12-O-14924 (Complainant: Nancy Wiener)**

**FACTS:**

21. In October 2010, Nancy Wiener ("Wiener") employed Respondent to represent her in a civil lawsuit against Sandra L. Smith ("Smith"), Wiener's sister. Wiener claimed in part that Smith had improperly received over \$200,000 from their deceased parents' trust as a result of Smith's misrepresentations to the bank trustee.

22. On October 13, 2010, Respondent filed a complaint on behalf of Wiener against Smith in a civil action in Los Angeles County Superior Court (the "civil action").

23. On November 5, 2010, Smith died, leaving a trust and a will.

24. Wiener promptly informed Respondent of Smith's death.

25. Several years prior to her death, Smith entered into an agreement with Life Services, Inc. ("Life Services"), a professional trustee, which provided that upon Smith's death, Life Services would become the successor trustee of Smith's trust, and the executor of Smith's will.

26. On January 21, 2011, Life Services, initiated a probate case on behalf of Smith in Los Angeles County Superior Court (the "probate case"), by filing its petition for appointment as personal representative of Smith's estate.

27. Respondent received notice of the probate case. Respondent assured Wiener that he would take, or had already taken, whatever action was necessary to protect and preserve her rights with respect to the civil action.

28. Between January 21, 2011 and August 2011, Life Services' counsel communicated with Respondent several times and informed him that a formal creditor's claim had to be filed by August 12, 2011 to preserve Wiener's claim against Smith's estate.

29. Respondent knew, but did not inform Wiener, that a formal creditor's claim in the probate case was necessary to protect and preserve her rights with respect to the civil action.

30. On March 30, 2011, the court issued orders ("court orders") in the probate case that granted Life Services' petition, admitted Smith's will into probate, and appointed Life Services as executor of Smith's estate, with the power to accept creditor's claims, sell property, and take other actions on behalf of the estate.

31. On April 14, 2011, Life Services served notice of the court orders to creditors in the probate case. Respondent was duly served with the notice and received it.

32. Respondent failed to file on behalf of Wiener a creditor's claim in the probate case for any of the claims set forth in the civil action by the required date.

33. Between August 12, 2011 and October 2011, Life Services' counsel spoke with Respondent on multiple occasions and told Respondent that because the creditor's claim period had expired, in order to protect and preserve Wiener's rights with respect to the civil action, Respondent needed to file a petition for leave to file a late creditor's claim in the probate case before the one year statute of limitations expired on November 5, 2011, a year after Smith's death.

34. On November 14, 2011, Respondent appeared at a status conference in the civil action and represented to the court that he had filed a motion for permission to file a late creditor's claim in the probate case. At the time that Respondent made the statement to the court, Respondent knew that it was false. The time in which Respondent could have filed that motion had already expired on November 5, 2011.

35. As a result of Respondent's false statements, the court set another status conference for January 2012, to await the court's ruling on Respondent's non-existent motion.

36. Respondent never made a motion for permission to file a late creditor's claim in the probate case.

37. On July 20, 2012, as a result of Respondent's failure to file a creditor's claim in the probate case, the court in the civil action filed an order dismissing the civil action with prejudice.

38. In December 2011, Wiener employed new counsel to represent her in the civil action and the probate action.

39. Between December 28, 2011 and January 2012, Wiener, through her new attorney, sent letters and emails to Respondent requesting him to arrange for the transfer of Wiener's files and to sign and return a substitution of attorney form. In January 2012, Respondent returned a signed substitution of attorney form, but did not otherwise respond to the new attorney's requests for Wiener's files, or otherwise transfer Wiener's files.

40. On January 27, 2013, Wiener's new attorney filed a petition for permission to file a late creditor claim. However, it was too late and the court denied the petition as untimely. As a result, Wiener lost her right to pursue her \$200,000 claim against her sister's estate.

41. At no time did Respondent release Wiener's file or communicate with Wiener or her new attorney regarding how Wiener could obtain the file.

42. On June 19, 2012, Wiener submitted a complaint against Respondent with the State Bar of California.

43. On July 27, 2012, and September 5, 2012, a State Bar investigator mailed letters to Respondent addressed to his membership records address regarding Wiener's complaint. The letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Wiener's complaint by August 10, 2012, and September 19, 2012, respectively. Respondent received the letters. Respondent did not respond to the investigator's letters, or otherwise cooperate in the investigation.

## CONCLUSIONS OF LAW:

44. By failing to file a creditor's claim on behalf of Wiener in the probate case, leading to the dismissal of the civil action with prejudice, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).

45. By falsely representing to the court at a status conference on November 14, 2011 in the civil action that he had filed a motion for permission to file a late creditor's claim in the probate case, knowing the statement was false, Respondent thereby sought to mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code, section 6068(d).

46. By not releasing the client file to Wiener, and by not otherwise communicating with Wiener about obtaining her file, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

47. By failing to respond to the investigator's letters, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of Business and Professions Code, section 6068(i).

## ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

**Harm** (Std. 1.2(b) (iv)): In the Wiener matter, Respondent's failure to timely file a creditor's claim caused Wiener to lose her right to pursue her claim for \$200,000 from her sister's estate. (*In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 283; citing *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 642, 646 [client's loss of her cause of action constitutes significant harm to the client].)

**Multiple Acts of Misconduct** (Std. 1.2(b) (ii)): For at least two years, Respondent engaged in multiple acts of misconduct involving two separate clients. In the Gurlekian matter, Respondent improperly withdrew from employment, failed to respond to reasonable status inquiries, failed to promptly release the client's file to her new counsel, and failed to cooperate and participate in the disciplinary investigation. In the Wiener matter, Respondent failed to competently perform, sought to mislead a judge by a false statement, failed to promptly release the client's file to her new counsel, and failed to cooperate and participate in the disciplinary investigation.

## ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

**No Prior Record of Discipline:** Although Respondent's misconduct is serious, he has no prior record of discipline in 10 years of practice prior to the first act of misconduct herein and is entitled to some mitigation. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 2013); *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn. 13.)

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into this stipulated settlement without the need of a trial to resolve this matter. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].) However, mitigation is tempered by Respondent's failure to cooperate and participate in the State Bar's investigations of the two cases.

## 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 Silvertan* (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 multiple 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.

The most severe sanction applicable to Respondent’s misconduct is found in standard 2.6(a), which applies to Respondent’s violations of Business and Professions Code sections 6068(d) and 6068(i).

Standard 2.6(a) provides, in pertinent part, that culpability of a member of a violation of Business and Professions Code section 6068 shall result in disbarment or suspension depending upon the gravity of the offense or the harm, if any, to the victim. Respondent violated Section 6068(d) in one matter and Section 6068(i) in both matters.

Here, while representing two different clients over a two-year period, Respondent committed multiple, dishonest, and harmful acts of misconduct. In the Gurlekian matter, Respondent abandoned his client and then failed to participate in the State Bar’s investigation. In the Wiener matter, Respondent made a misrepresentation to the court, failed to perform on Wiener’s behalf, and again failed to participate in the State Bar’s investigation. By failing to perform on behalf of Wiener, Respondent deprived his client of the opportunity to litigate her claim.

Respondent is entitled to some mitigation because at the time that he committed the misconduct, he had practiced law for ten years without discipline. Respondent is also entitled to mitigation for entering into this stipulation. Nevertheless, Respondent’s multiple, serious acts of misconduct warrant a period of actual suspension notwithstanding these mitigating factors.

In light of Respondent’s misconduct, the applicable standard, and the aggravating and mitigating circumstances, discipline including a 90-day actual suspension is necessary in order to accomplish the purposes of attorney discipline as delineated in Standard 1.3.

Case law also supports the recommended discipline. In *In the Matter of Regan* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr 844, the Review Department recommended a 75-day actual suspension for an attorney who, in one client matter, made appearances without authority, made a misrepresentation to the court, failed to properly communicate with his client, and failed to return his client's files upon request. The court also required the attorney to comply with former California Rules of Court, rule 955 (now Rule 9.20), a requirement usually only imposed with discipline of 90 days or more. Here, Respondent's misconduct is more serious than the misconduct committed by the attorney in *Regan*, because Respondent committed misconduct while representing multiple clients.

**DISMISSALS.**

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
12-O-14924	Six	Business and Professions Code, section 6106

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 23, 2013, the prosecution costs in this matter are \$4,351. 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**

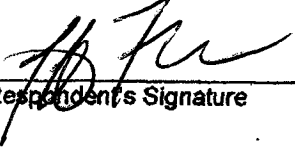
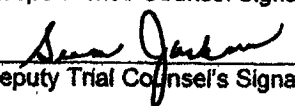
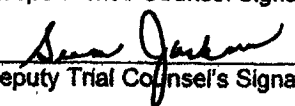
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: Jeffrey A. Fishkin	Case number(s): 12-O-14921-RAH, 12-O-14924-RAH
---	---

### 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.

<u>7/30/13</u> Date	 Respondent's Signature	<u>Jeffrey A. Fishkin</u> Print Name
<u>7/31/13</u> Date	 Respondent's Counsel Signature	<u>Susan J. Jackson</u> Print Name
<u>7/31/13</u> Date	 Deputy Trial Counsel's Signature	<u>Susan J. Jackson</u> Print Name

(Do not write above this line.)

In the Matter of: Jeffrey A. Fishkin	Case Number(s): 12-O-14921-RAH, 12-O-14924-RAH
---	---

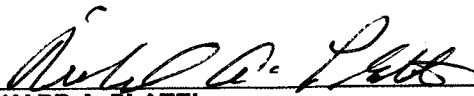
### ACTUAL SUSPENSION ORDER

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.

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.)**

08-13-2013  
Date

  
RICHARD A. PLATEL  
Judge of the State Bar Court

**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 August 19, 2013, 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:

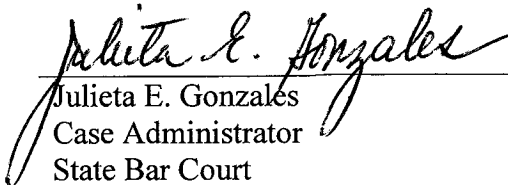
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JEFFREY A. FISHKIN  
26893 BOUQUET CANYON RD  
STE C-404  
SANTA CLARITA, CA 91350

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

Susan J. Jackson, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 19, 2013.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court