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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>DISBARMENT</b>		
<b>Counsel For The State Bar</b>  Diane J. Meyers Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1496  Bar # 146643	<b>Case Number(s):</b> 13-O-14093-RAH	<b>For Court use only</b>  <div style="text-align: center;"> <b>FILED</b>  OCT 18 2013  STATE BAR COURT  CLERK'S OFFICE  LOS ANGELES </div>
<b>In Pro Per Respondent</b>  John Maurice Ebner 100 Oceangate, Suite 1200 Long Beach, CA 90802 (562) 628-5505  Bar # 100618	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT  <b>DISBARMENT</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED  <div style="text-align: center;"> kwiktag * 152 146 577   </div>	
<b>In the Matter of:</b>  JOHN MAURICE EBNER  Bar # 100618  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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (10) pages, not including the order.

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- (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):
- ☒ Costs to be awarded to the State Bar.
- ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
- ☐ Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

**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**
- (a) ☒ State Bar Court case # of prior case 12-O-13319, 12-O-13320, and 12-O-15652 ("first discipline")
- (b) ☒ Date prior discipline effective May 10, 2013
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: 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 6063(i) in one matter
- (d) ☒ Degree of prior discipline a one-year stayed suspension and a two-year probation
- (e) ☒ If respondent has two or more incidents of prior discipline, use space provided below:
- (a) State Bar Court case # of prior case: 12-O-16029 ("second discipline")
- (b) Date prior discipline effective: The State Bar Court's recommendation is pending with the Supreme Court
- (c) Rules of Professional Conduct/State Bar Act violations: Rules of Professional Conduct, rules 3-700(D)(1) and 4-100(B)(3) in one client matter
- (d) Degree of prior discipline: a 90-day actual suspension, a two-year stayed suspension and a three-year probation

- (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 Stipulation Attachment at p. 7.
- (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 Stipulation Attachment at p. 7.
- (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

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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:**

See Stipulation Attachment at p. 7.

**D. Discipline:        Disbarment.**

**E. Additional Requirements:**

- (1) **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.
- (2) ☒ **Restitution:** Respondent must make restitution to Margaret Williams in the amount of \$ 1,500 plus 10 percent interest per year from February 10, 2011. If the Client Security Fund has reimbursed Margaret Williams for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than 30 days from the effective date of the Supreme Court order in this case.
- (3) ☒ **Other:**

Additional restitution:

Respondent must make restitution to Michael Bernardin in the amount of \$1,500 plus 10 percent interest per year from April 21, 2011. If the Client Security Fund has reimbursed Michael Bernardin for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than 30 days from the effective date of the Supreme Court order in this case.

Respondent must make restitution to Murvin Tillett in the amount of \$1,500 plus 10 percent interest per year from January 5, 2012. If the Client Security Fund has reimbursed Murvin Tillett for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than 30 days from the effective date of the Supreme Court order in this case.

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

IN THE MATTER OF:                      JOHN MAURICE EBNER

CASE NUMBER:                          13-O-14093-RAH

**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. 13-O-14093-RAH

**FACTS:**

1. On April 10, 2013, the California Supreme Court filed its Order number S208308 (State Bar Court case numbers 12-O-13319, 12-O-13320 and 12-O-15652) that Respondent be suspended from the practice of law for one year, that execution of the suspension be stayed, and that Respondent be placed on probation for two years with conditions (the "Order"). The Order was effective May 10, 2013.

2. As a condition of the probation, Respondent was ordered to contact the Office of Probation and schedule a meeting with his assigned probation deputy within 30 days from the effective date of the discipline. Respondent did not comply with this condition.

3. As a condition of the probation, Respondent was ordered to submit a quarterly report to the Office of Probation by July 10, 2013. Respondent did not comply with this condition.

4. As a condition of the probation, Respondent was ordered to pay restitution in the amount of \$1,500 plus interest of 10 percent per annum from February 10, 2011 to Margaret Williams ("Williams") and provide proof of the restitution paid to the Office of Probation by July 10, 2013. Respondent did not comply with this condition.

5. As a condition of the probation, Respondent was ordered to pay restitution in the amount of \$1,500 plus interest of 10 percent per annum from April 21, 2011 to Michael Bernardin ("Bernardin") and provide proof of the restitution paid to the Office of Probation by July 10, 2013. Respondent did not comply with this condition.

6. As a condition of the probation, Respondent was ordered to pay restitution in the amount of \$1,500 plus interest of 10 percent per annum from January 5, 2012 to Murvin Tillett ("Tillett") and provide proof of the restitution paid to the Office of Probation by July 10, 2013. Respondent did not comply with this condition.

**CONCLUSIONS OF LAW:**

7. By failing to contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy within 30 days from the effective date of the discipline; to submit a quarterly

report to the Office of Probation by July 10, 2013; and to pay restitution to Williams, Bernardin and Tillett and provide proof the restitution paid to the Office of Probation by July 10, 2013, Respondent failed to comply with conditions attached to his disciplinary probation, in wilful violation of Business and Professions Code section 6068(k).

## **AGGRAVATING CIRCUMSTANCES.**

### **Prior Record of Discipline (Std. 1.2(b)(i)):**

In case nos. 12-O-13319, 12-O-13320, and 12-O-15652, Respondent stipulated to a one-year stayed suspension and a two-year probation, effective May 10, 2013. The discipline involved three client matters. In the first case, Respondent stipulated that in 2011, he failed to respond promptly to his client's status inquiries in a conservatorship, failed to provide an accounting of fees and failed to promptly refund unearned fees. In the second case, Respondent stipulated that in 2011 to 2012, he failed to respond promptly to his client's status inquiries in a conservatorship, failed to perform legal services with competence, failed to provide an accounting of fees, failed to promptly refund unearned fees, and that in 2012, he failed to cooperate in the State Bar's investigation of the client's complaint. In the third case, Respondent stipulated that in 2012, he failed to respond promptly to his client's status inquiries in a conservatorship, failed to perform legal services with competence, and failed to promptly refund unearned fees.

In case no. 12-O-16029 (pending with the Supreme Court), Respondent stipulated to a 90-day actual suspension, a two-year stayed suspension and a three-year probation for failing to promptly release the client file and provide an accounting to a client in 2012 and 2013.

**Harm (Std. 1.2(b)(iv)):** Respondent's misconduct in not paying restitution of unearned fees has significantly harmed his clients who have been deprived of the use of these funds for an extended period of time.

**Multiple Acts of Misconduct (Std. 1.2(b)(ii)):** Respondent's misconduct includes five violations of conditions attached to his disciplinary probation.

## **ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.**

**Pretrial Stipulation:** Respondent has entered into a stipulation as to facts and culpability at an early stage of the proceeding and prior to the setting of a trial date. (*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].)

## **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.)

Standard 2.6(a) provides that culpability of a member of a violation of Business and Professions Code section 6068(k) 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. Standard 1.7(b) provides that if a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by standard 12(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.

Standard 1.7(b) must be applied with due regard for the purposes of imposing professional discipline, and the Supreme Court has declined to apply this standard under the appropriate circumstances. (*Conroy v. State Bar* (1991) 53 Cal.3d 495.) The nature and the extent of the prior record of discipline must be considered. (See *Arm v. State Bar* (1990) 50 Cal.3d 763, 778-780.) Further, the aggravating effect of prior discipline may be diminished if the misconduct underlying the prior discipline occurred contemporaneously with the misconduct then under consideration. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619.)

Respondent’s prior misconduct spanned for approximately two years, between 2011 and 2013, in four client matters and involved his failure to respond to status inquiries, to account and to refund unearned fees in three of the client matters; failure to perform in two of the client matters, and a failure to cooperate in a State Bar investigation.

Respondent’s present misconduct was contemporaneous with his second discipline matter in that his probation violations occurred right after he provided an accounting and released the file to his former client and entered into a stipulation to discipline on June 26, 2013. However, Respondent was involved in the disciplinary process in his second discipline matter and was on disciplinary probation in his first discipline matter, indicating that the discipline process had very little impact on his behavior and demonstrating his inability to conform his conduct to ethical norms. Under such circumstances, the greater showing required in a reinstatement proceeding would better protect the public than the showing required to return to practice after suspension under standard 1.4(c)(ii) and standard 1.7(b) should be applied. (*In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63, 80; see also *Barnum v. State Bar* (1990) 52 Cal.3d 104, 113 [standard 1.7(b) applied even though misconduct in second and third disciplinary priors occurred during the same time period].)

Respondent’s failure to comply with any of his probation conditions thus far is serious and demonstrates that disbarment is the appropriate discipline, as he is unable or unwilling to rehabilitate himself from his prior misconduct and as such, poses a danger to the public if he is allowed to practice



law. Further, Respondent's misconduct in not paying any of the restitution due to his former clients has caused significant harm to them, as they have been deprived of the funds for an extended period of time. While Respondent is entitled to some mitigation for entering into this stipulation, such mitigation is not compelling and does not outweigh the aggravating factors of his prior record of discipline, the significant harm to his former clients, and his multiple probation violations.

Disbarment is consistent with case law supporting imposition of the greatest amount of discipline for probation violations significantly related to the misconduct for which probation was imposed, as such violations reflect adversely on the attorney's rehabilitation efforts and raise serious concerns about the need for public protection. (See *In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540 and *In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 151.)

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 18, 2013, the prosecution costs in this matter are \$3,419. 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.

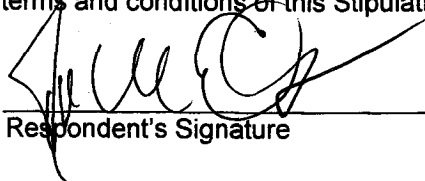
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In the Matter of:  John Maurice Ebner	Case number(s):  13-O-14093-RAH
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### SIGNATURE OF THE PARTIES

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

09-27-13  
Date

  
Respondent's Signature

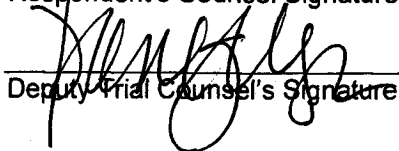
John M. Ebner  
Print Name

                      
Date

                      
Respondent's Counsel Signature

                      
Print Name

10-1-13  
Date

  
Deputy Trial Counsel's Signature

Diane J. Meyers  
Print Name

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In the Matter of:  John Maurice Ebner	Case Number(s):  13-O-14093-RAH
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### DISBARMENT 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.)**

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

10-17-13

Judge of the State Bar Court

**RICHARD A. HONN**

## 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 October 18, 2013, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND  
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

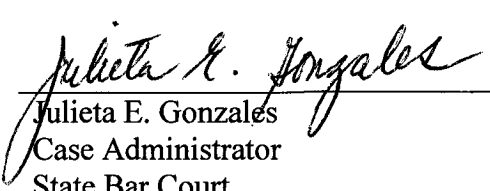
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOHN MAURICE EBNER  
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 October 18, 2013.

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