

Disciplinary Board Reporter

Volume 5

January 1, 1991 to December 31, 1991

Report of Cases
Decided by the Disciplinary Board
of the Oregon State Bar

Donna J. Richardson
Editor

Fran Smith
Francine Frisch
Production Assistants



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DISCIPLINARY BOARD REPORTER

REPORT OF CASES

Decided by the
Disciplinary Board
of the
Oregon State Bar

DONNA J. RICHARDSON
Editor

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Preface

This Reporter contains final decisions of the Oregon State Bar Disciplinary Board. The Disciplinary Board Reporter should be cited as 5 DB Rptr 1 (1991).

A decision of the Disciplinary Board is final if the charges against the accused are dismissed, a public reprimand is imposed, or the accused is suspended from practice for up to sixty (60) days and neither the Bar nor the accused have sought review by the Supreme Court. See Title 10 of the Oregon State Bar Rules of Procedure, p. 261 of the 1992 Membership Directory, and ORS 9.536.

It should be noted that the decisions printed herein have been placed in what has been determined to be an appropriate format, taking care not to modify in any substantive way the decision of the Trial Panel in each case. Those interested in a verbatim copy of an opinion should contact me at 620-0222 or 1-800-452-8260, extension 404. Final decisions of the Disciplinary Board issued on or after January 1, 1992 are also available from me at the Oregon State Bar upon request. Please note that the statutes, disciplinary rules and rules of procedure cited in the opinions were those in existence at the time the opinions were issued. The statutes and rules may have since been changed or renumbered. Care should be taken to locate the current language of a statute or rule sought to be relied on concerning a new matter.

Questions concerning this reporter or the bar's disciplinary process in general may be directed to the undersigned. We hope this publication proves helpful to those interested in or affected by the bar's disciplinary procedures.

Donna J. Richardson
Executive Services Administrator
Oregon State Bar
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In re Taylor 1

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of)	Case No. 88-67
)	
R. SCOTT TAYLOR,)	
)	
Accused.)	
_____)	

Bar Counsel: James H. Anderson, Esq.

Counsel for the Accused: George A. Burgott, Esq.

Trial Panel: James W. Spickerman, Chairperson; Thomas E. Wurtz, Esq.; Nancie P. Fadeley (Public Member)

Disposition: Violation of DR 1-102(A)(3), DR 2-104(A), DR 2-106(A) and (B) and DR 5-105(A) and (B). Public Reprimand.

Effective Date of Opinion: March 19, 1991.

IN THE SUPREME COURT
IN THE SUPREME COURT OF THE STATE OF OREGON

In Re:)	
	)	Case No. 88-67
Complaint as to the Conduct of)	
	)	OPINION OF TRIAL PANEL
R. SCOTT TAYLOR,)	
)	
Accused.)	

THIS MATTER came before the Trial Panel of the Disciplinary Board for trial on January 20, 1991. The Oregon State Bar appeared through its counsel, James Anderson. The accused appeared in person and through his attorney, George A. Burgott. Also in attendance was Susan K. Roedl, Assistant Disciplinary Counsel, for the Oregon State Bar. The Bar's Formal Complaint contains three designations of violations of the Code of Professional Responsibility. The Trial Panel's findings and conclusions are as follows:

Excessive or Illegal Fees in Violation of DR 2-106(A)

The first cause of complaint against the accused alleges violation of DR 2-106(A) by charging an excessive fee. These allegations are set forth in paragraphs 1-9, inclusive, in the Formal Complaint filed herein.

The Panel finds that James G. Wiemals was injured in an automobile accident January 20, 1984, and that he retained R. Scott Taylor, the accused, to represent him in recovering damages and medical expenses for his injuries. The parties entered into the fee retainer agreement that was received into evidence as Exhibit "7". Based upon the fee agreement, Mr. Taylor took a fee in the amount of \$5,600.00 from a total PIP amount paid by Wiemals employer's insurance carrier (Orion) for personal injury protection (PIP) benefits.

A contingent fee agreement with a client to pursue PIP benefits for that

client is not in itself unreasonable or improper. See Legal Ethics Opinions Nos. 282 (1975) and 513 (1988). As stated in opinion 282, the determination as to whether or not a contingent fee agreement is reasonable depends upon the ability of the client to pay a fixed fee, an evaluation of the likelihood of eventual recovery, the existence of a right to recover attorney fees and whether, overall, the arrangement is beneficial to the client. As stated in opinion number 513, an important factor can be whether there is a "genuine dispute" with the PIP insurance carrier requiring the lawyer to perform "substantial legal services" to generate a recovery.

The accused maintained that there was a dispute as to coverage, as Mr. Wiemals arguably was an independent contractor and arguably did not have permission from his "employer" to take the vehicle which he was driving. It was argued, therefore, that there was some real question as to PIP coverage. The particular facts here were that Mr. Taylor had represented the driver and passenger of the vehicle Mr. Wiemal's vehicle had struck in negotiations with Orion prior to representing Mr. Wiemals. While the question was raised in the course of settling that matter as to whether or not Mr. Wiemals was an employee or agent and had authority to take the automobile he was driving, Orion, in effect, conceded those issues and settled the claim. It was after that time that Mr. Taylor was retained by Mr. Wiemals and there was no evidence that there was any serious contention by the insurance company that Mr. Wiemals was not entitled to PIP benefits. In fact, Mr. Taylor began correspondence with the company on behalf of Mr. Wiemals on December 24, 1984 concerning PIP coverage and the initial PIP payment was made January 15, 1985.

Neither party presented expert testimony as to what amount would be a reasonable fee in this situation but, based upon time records available, Mr. Taylor

received a fee of either \$280.00 or \$350.00 an hour. This was an amount in addition to a fee of \$9,936.00 he received for handling Mr. Wiemals workers' compensation claim and the amounts he received in representing two of the health care providers, as discussed below.

Considering all of these factors, the Trial Panel finds that there is clear and convincing evidence of violation of DR 2-106(A). In the words of DR 2-106(B), it is the Trial Panel's finding that a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee was in excess of a reasonable fee considering the eight factors set forth in that subsection.

Dishonest[y], Fraud, Deceit or Misrepresentation

DR 1-102(A)(3)

In paragraphs 10-17 of the Formal Complaint against the accused, the Bar charged the accused with engaging in conduct involving dishonesty or misrepresentation in violation of DR 1-102(A)(3) due to his failure to disclose in a Disputed Claim Settlement and Stipulation that he intended to receive fees in addition to the \$9,936.00 fee approved by the Workers' Compensation Hearing Referee. The accused did obtain additional attorney fees by representing the health care providers, Salem General Hospital and the Veteran's Administration, in the recovery of medical expenses expended in the treatment of Mr. Wiemals.

The Trial Panel finds that the Bar did not show by clear and convincing evidence that Mr. Taylor violated this disciplinary rule in the manner alleged. The Trial Panel accepted the argument of the accused that collection of a fee for money received on behalf of Salem General Hospital and the Veterans Administration was not compensation arising from Mr. Wiemals workers' compensation case and was not required to be reported to the Hearings Referee. As pointed out by counsel for the accused, there are separate provisions under

Oregon law for compensation of the worker and restitution to the health insurance and medical service providers. It is the view of the Trial Panel that compensation received by Mr. Taylor from these health care providers was separate and apart from the fee paid under the Disputed Claim Settlement. The Trial Panel finds, therefore, there was not a violation of DR 1-102(A)(3).

Solicitation and Conflicts of Interest

DR 2-104(A) and former DR 5-105(A) and (B)

The allegations contained in paragraph 18-25 in the Formal Complaint allege that Mr. Taylor contacted prospective clients, Salem General Hospital and the Veteran's Administration, for the purposes of obtaining professional employment. It is also alleged that in representing these two health care providers, Mr. Taylor was representing conflicting interests and that he did not make disclosure of this conflict to Mr. Wiemals or the health care providers.

The Bar is found to have not sustained its burden of proof so as to establish that Mr. Taylor solicited business from either of the hospitals. The evidence indicated that Mr. Taylor came in contact with the hospitals in the course of representing Mr. Wiemals on his workers' compensation claim. The DR 2-104 prohibition is to the effect that "a lawyer shall not initiate personal contact ... for the purpose of obtaining professional employment ..." There was no evidence presented that would establish that Mr. Taylor's contact with the health care providers was initiated for the purpose of obtaining professional employment. No employees of these health care providers were called to contradict Mr. Taylor's assertions that the matter of his representation of the health care providers came up in the course of his contract with them on behalf of Mr. Wiemals.

With respect to the conflict of interest allegation, even the Bar acknowledged that Mr. Wiemals and the two health care providers shared an

interest in maximizing the settlement amount to satisfy all of their claims. While it was argued in the Bar's brief that Mr. Wiemals and his medical providers would have conflicting interests with respect to the disbursement of monies awarded in the disputed claim settlement, no evidence was presented in that regard nor telling argument set forth as to what conflict would exist. Furthermore, the only evidence presented on the matter of disclosure to Mr. Wiemals was that Mr. Taylor's testimony that he had explained to Mr. Wiemals the portion of his fee agreement that pertained to Mr. Taylor representing health care providers and Mr. Wiemals consented to that arrangement. Mr. Taylor sent a letter to the Salem Hospital confirming his representation of that hospital (Exhibit "10") and sent a copy of that letter to Mr. Wiemals. Both hospitals were clearly aware Mr. Taylor represented Mr. Wiemals.

It is the Trial Panel's conclusion that it was not established that the exercise of Mr. Taylor's independent professional judgment was likely to be adversely affected by representing Mr. Wiemals and the two health care providers.

With regard to the allegation of conflict of interest, once again it is noted and persuasive that [in] ORS 656.289(4) and ORS 656.313 there are separate provisions for the worker's recovery and the recovery of amounts by a health care provider. The right to recover medical expenses is pursued independent of the workers' compensation proceedings and through arbitration. This being the case, there was no conflict of interest in Mr. Taylor representing the medical providers.

Sanction

The Oregon Supreme Court has recognized the American Bar Association's Standards for Imposing Lawyer Sanctions ("ABA Standards") in determining appropriate sanctions. (see *In Re: Bristow*, 301 Or 194, 721 P2d 437 (1986)).

The four facts set forth in the ABA Standards are addressed below.

1. Ethical Duty Violated: The ethical duty violated was one of charging an excessive fee for recovery of PIP benefits.

2. Mental State, Intent, Knowledge or Negligence: Mr. Taylor can certainly be said to have knowingly taken the excessive fee in the PIP matter. The Trial Panel recognized that the testimony was that the fee agreement upon which the fee was taken was originally signed relative to recovery for the worker's compensation [claim] and was later applied to the PIP matter. Also, it is recognized that Orion Insurance Company, while having previously in negotiating with Mr. Taylor on the issue of compensation to other persons involved in the same accident, had treated Mr. Wiemals as covered for purposes of liability on the insurance policy, the insurance company could have contested his claim for PIP benefits. The fact is, however, when the insurance company readily paid, Mr. Taylor proceeded with the fee agreement and took the excessive fee.

3. Injury: Charging of an excessive fee does involve injury to client, the legal system and the profession.

4. Aggravating or Mitigating the Circumstances: The evidence would indicate that the fee taken by Mr. Taylor was not a source of dispute with his client and his client was satisfied with the financial arrangement until a substantial period of time passed. While there was evidence that Mr. Wiemals suffered head injuries in the automobile accident, the evidence did not establish that Mr. Taylor intended to, nor did he, take advantage of any vulnerability in this regard.

It is clear that in most cases of single violations of DR 2-106(A) where an excessive fee has been charged, the appropriate disposition is that of a public reprimand. [See *In Re: Potts, Trammell and Hannon*, 301 Or 57, 718 P2d 1363

(1986); *In Re: Hill*, 261 Or 573, 495 P2d 261 (1972); *In Re: Pederson*, 259 Or 429, 486 P2d 1283 (1971); *In Re: White*, 1 DB Reporter 174 (1986).]

It is the judgment of the Trial Panel that R. Scott Taylor shall be publicly reprimanded for violation of DR 2-106(A).

DATED this 22nd day of February, 1991.

/s/ James W. Spickerman
James W. Spickerman

/s/ Thomas E. Wurtz
Thomas E. Wurtz

/s/ Nancie Fadeley
Nancie Fadeley

THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 87-11
)	
WILLIAM T. RHODES,)	
)	
Accused.)	
_____)	

Bar Counsel: Stephen F. English, Esq.

Counsel for the Accused: Franklin G. Patrick, Esq.

Disciplinary Board: James M. Gleeson, State Chairperson and Richard Maizels, Region 5 Chairperson

Disposition: Violation of DR 9-101(A) and DR 9-101(B)(3). Disciplinary Board approval of stipulation for discipline. Public reprimand.

Effective Date of Opinion: April 3, 1991

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)
Complaint as to the Conduct of)
WILLIAM T. RHODES,)
Accused.)

Case NO. 87-11
DECISION AND ORDER

A Stipulation for Discipline has been presented to the Regional Chairperson and the State Chairperson of the Disciplinary Board for review pursuant to Bar Rule 3.6(e). The Stipulation is intended by the Accused and the Bar to resolve the matters set out in a previously filed Complaint by the Bar against the Accused.

The Stipulation recites that during the pendency of the proceedings, the Bar and the Accused voluntarily agreed to a resolution of the proceedings and this Stipulation is a product of those negotiations.

The material allegations of the Stipulation indicate the Accused at all material times, was admitted by the Oregon Supreme Court to practice law in Oregon.

From a review of the Stipulation, it appears that the Accused failed to maintain complete records of all funds of a client coming into his possession and failed to render an appropriate accounting to his client. In addition, the Accused failed to deposit funds of his client in an identifiable trust account.

The conduct of the Accused described in the Stipulation constitutes conduct in violation of DR 9-101(B)(3) of the Code of Professional Responsibility, and DR 9-101(A) of the Code of Professional Responsibility established by law and by the Oregon State Bar, as alleged in the Bar's Formal Complaint. A copy of the Stipulation is attached hereto and by this reference incorporated herein.

The Accused admits his violation of DR 9-101(B)(3) and DR 9-101(A) of the Code of Professional Responsibility as alleged in the Bar's Formal Complaint.

Pursuant to the Stipulation, the Accused agrees to accept the following designated form of discipline in exchange for the herein described stipulations:

(1) The Accused agrees to a public reprimand for having violated the ethical rules specified herein and described in the Bar's Formal Complaint.

From the Stipulation it appears that the Accused has no prior record of reprimands, suspensions or disbarment.

The Regional Chairperson and State Chairperson, on behalf of the Disciplinary Board, approve the Stipulation and sanction.

IT IS HEREBY ORDERED that the Accused be disciplined as set forth above for violation of DR 9-101(B)(3) of the Code of Professional Responsibility and DR 9-101(A) of the Code of Professional Responsibility.

DATED this 3rd day of April, 1991.

/s/ James M. Gleeson
James M. Gleeson
State Chairperson

/s/ Richard Maizels
Richard Maizels
Region 5 Chairperson

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 87-11
)	
WILLIAM T. RHODES,	)	STIPULATION FOR
	)	DISCIPLINE
)	
Accused.)	

William T. Rhodes, attorney at law, (hereinafter, the Accused) and the Oregon State Bar (hereinafter, the Bar), hereby stipulate to the following matters pursuant to Rule of Procedure 3.6(c).

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9 relating to the discipline of attorneys.

2.

The Accused, William T. Rhodes, was admitted by the Oregon Supreme Court to practice law in Oregon on April 20, 1979, and has been a member of the Oregon State Bar continuously since that time.

3.

The Accused enters into this Stipulation for Discipline freely and voluntarily.

4.

A formal complaint (No. 87-11) was filed by the Oregon State Bar on January 18, 1989, and an answer was filed by the Accused on February 10, 1989. The complaint is attached as Exhibit "A" and the answer is attached as Exhibit "B".

The parties stipulate to the following facts:

(a) Regarding the First Cause of Complaint:

- (1) In early 1984, the Accused began to represent an individual client in preliminary plans to form a capital equipment partnership to lease certain equipment and to purchase a suitable site for its location. Ultimately, a partnership was formed by the Accused and the Accused handled legal matters relative to establishing a subsequent, related partnership (hereinafter, "the partnership") through a limited partnership offering. The Accused rendered legal services to the partnership regarding partnership financing, contracts and site acquisition for the equipment.
- (2) On behalf of the partnership, the Accused collected capital contributions from each of the partners. One such partner wrote a check for \$9,000 on or about September 17, 1984 to "William T. Rhodes, Client Trust Account." This check was endorsed by the Accused on or about September 24, 1984 and deposited into the Accused's trust account. Through bookkeeping error, the deposit of \$9,000 was not thereafter reflected in the Accused's trust account ledger or trust records and the Accused was under the impression these funds had been disbursed to another partnership account.
- (3) On or about January 11, 1985, the Accused and the partnership terminated by agreement their attorney-client relationship. The Accused's final accounting to the partnership did not account for the \$9,000 deposit.

- (4) The Accused's inaccurate trust account records and failure to account to the partnership for the \$9,000 deposit was a result of error by the Accused and did not constitute intentional or knowing conduct on his part. Due to a breakdown in communications with the partnership's business manager, the Accused was slow to accept the contention made by the partnership that the Accused's records were inaccurate. Litigation ensued between the parties. The discovery of the trust account error during the course of litigation resulted in a settlement between the parties in which the Accused paid the partnership a sum of money to resolve the matter.
- (b) Regarding the Second and Third Causes of Complaint:
- (1) During the course of his representation of the partnership, the Accused billed for his services and received periodic payments from his client.
 - (2) On or about January 3, 1985, the partnership paid to the Accused a check in the sum of \$15,080. The Accused negotiated the check but did not deposit the sum into his trust account.
 - (3) At the time of payment, the partnership owed the Accused for services rendered and there was additional work in progress. The Accused contends that the entire \$15,080 was owed to him as earned fees as of January 3, 1985, but available records indicate not all of this sum was owed to the Accused at the time of payment. Those funds not yet earned should have been maintained in a trust account until earned. Within

the following week, the Accused rendered additional services for the partnership such that the entire \$15,080 was earned by the Accused.

- (4) On or about January 14, 1985, after the attorney-client relationship was terminated, the Accused presented to the partnership his final billing which totalled \$23,736. The billing did not credit the partnership for \$2,418.63, which the Accused believed to be the balance on deposit in trust for the partnership at the time of the Accused's discharge and which the Accused had withdrawn from his trust account as partial payment toward his attorney fees on or about January 11, 1985. In April, 1985, the Accused still believed he was owed in excess of \$2,000 which he reported to the partnership's new attorney in response to a demand which resulted in the civil litigation. The \$2,418.63, which should have been accounted for in the final billing to the partnership, was taken into consideration by the parties in the settlement of the civil litigation between them.

6.

The Accused stipulates that the foregoing conduct violated:

First Cause of Complaint - Former DR 9-102(B)(3) [current DR 9-101(B)(3)]

Second Cause of Complaint - Former DR 9-102(B)(3) [current DR 9-101(B)(3)]

Third Cause of Complaint - Former DR 9-102(A) [current DR 9-101(A)]

7.

As a result of the violations set forth herein, the Accused agrees to a

public reprimand.

8.

The Bar dismisses, for purposes of this stipulation only, the remaining charges in its Formal Complaint.

9.

The Accused has no prior disciplinary record.

10.

This Stipulation for Discipline is subject to review by Disciplinary Counsel of the Oregon State Bar and to approval by the State Professional Responsibility Board (SPRB). If approved by the SPRB, the parties agree the stipulation is to be submitted to the Disciplinary Board, together with information copies of the Formal Complaint and Answer, for consideration pursuant to the terms of BR 3.6

EXECUTED this 14th day of February, 1991.

/s/ William T. Rhodes
William T. Rhodes

EXECUTED this 15th day of February, 1991.

/s/ Jeffrey D. Sapiro
Jeffrey D. Sapiro
Disciplinary Counsel
Oregon State Bar

I, William T. Rhodes, being first duly sworn, say that I am the Accused in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true and correct as I verily believe.

/s/ William T. Rhodes
William T. Rhodes

Subscribed and sworn to before me this 14th day of February, 1991.

/s/ Catherine M. Young
Notary Public for Oregon
My Commission Expires: 6-10-94

I, Jeffrey D. Sapiro, being first duly sworn, say that I am Disciplinary Counsel for the Oregon State Bar and that I attest that I have reviewed the

foregoing Stipulation for Discipline and that it was approved by the SPRB for submission to the Disciplinary Board on the 19th day of January, 1991.

/s/ Jeffrey D. Sapiro

Jeffrey D. Sapiro
Disciplinary Counsel
Oregon State Bar

Subscribed and sworn to before me this 15th day of February, 1991.

/s/ Susan K. Parks

Notary Public for Oregon
My Commission Expires: 3-9-92

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	No. 87-11
)	
WILLIAM T. RHODES,	)	FORMAL COMPLAINT
)	
Accused.)	

For its FIRST CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating to the discipline of attorneys.

2.

The Accused, William T. Rhodes, is, and at all times mentioned herein was, an attorney at law, duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Multnomah, State of Oregon.

3.

At the request of R. Glenn Snodgrass, MD, the Accused formed a partnership called Portland Magnetic Imaging Laboratory Partnership (PMIL) in or about May, 1984, for the purpose of financing and acquiring a Magnetic Resonance Imaging medical diagnostic machine and a suitable site for its location.

4.

By or about September, 1984, the organization of PMIL was accomplished with ten physicians as general partners, each of whom contributed \$10,000, deposited in the Accused's clients' trust account. In each instance, the general

partners contributed \$1,000.00 in May or June, 1984 and the balance of \$9,000 in September, 1984.

5.

On or about October 1, 1984 the Accused formalized his fee agreement with PMIL to provide remaining legal services to establish a limited partnership and limited partnership offerings.

6.

PMIL discharged the Accused as its attorney on or about January 11, 1985. In or about February, 1985, the Accused delivered to PMIL a copy of his trust account ledger pertaining to PMIL trust funds.

7.

On or about September 17, 1984, John C. Misko, MD (Misko), one of the general partners, wrote a \$9,000 check to "William T. Rhodes Clients Trust Account." This check was endorsed on the back by the Accused "William T. Rhodes Clients Trust Account 36-144-22" on or about September 20, 1984. The Accused's trust account ledger for PMIL does not reflect the \$9,000 payment from Misko.

8.

On or about March 14, 1986, the CPA firm of Parsons, Golden and Company, representing PMIL, wrote to the Accused requesting documentation and an explanation regarding the \$9,000 check from Misko that was made payable to the Accused's trust account. The Accused did not respond to the CPA firm's request.

9.

On June 18, 1986, Siegfried M. Heller, PMIL Manager, complained to General Counsel of the Oregon State Bar that the Accused would not respond to

its requests for an accounting for Misko's \$9,000 payment. Not until the General Counsel requested the Accused's explanation did he review his bank records. By letter dated March 11, 1987 to the Multnomah County Local Professional Responsibility Committee (LPRC) the Accused admitted that an error was made and that the \$9,000 should have been reflected on the trust account ledger.

10.

The Accused failed to maintain complete records of all funds received by the Accused by not including in his trust account ledger the \$9,000 payment from Misko. The Accused failed to render appropriate accounts to PMIL by not responding to PMIL's requests for documentation.

11.

The aforesaid conduct of the Accused violated the following standards of professional conduct established by law and by the Oregon State Bar:

1. Former DR 9-102(B)(3) [current DR 9-101(B)(3)] of the Code of Professional Responsibility.

AND, for its SECOND CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

12.

Incorporates by reference as fully set forth herein, paragraphs 1 through 6 of its First Cause of Complaint.

13.

On or about January 3, 1985, the Accused's business account ledger for PMIL reflected an outstanding credit balance of \$4,000. On or about January 3, 1985, the Accused's client's trust account ledger for PMIL reflected an outstanding credit balance of \$2,418.63.

14.

On or about January 14, 1985 the Accused withdrew from PMIL's trust account balance the sum of \$2,418.63 for the Accused's services for January 1985.

15.

On or about January 14, 1985 the Accused presented to PMIL a final bill for services rendered between January 2, 1985 to January 11, 1985 totalling \$7,380. The bill also included \$16,356 for the return to PMIL of the Accused's personal investment in one unit of the limited partnership. The bill did not reflect credit for the \$4,000 balance due PMIL in the Accused's business ledger nor the \$2,418.63 withdrawn from PMIL's trust account balance.

16.

By letter dated March 13, 1985, attorney Harvey C. Barrager, representing PMIL, disputed the Accused's final bill. By letter to Barrager, dated April 5, 1985, the Accused maintained the accuracy of his final billing. By letter to General Counsel of the Oregon State Bar dated August 15, 1986, the Accused stated that he had "reviewed [his] trust account balance for PMIL and it still appears that the balance was zero with an amount for services still owing." The Accused reiterated this position by letter to the Multnomah County LPRC dated March 11, 1987. At no time, or at least at no time prior to or about August, 1987, did the Accused disclose or acknowledge the \$2,418.63 and \$4,000 credits owed PMIL against the Accused's final bill.

17.

The Accused failed to maintain complete records of all funds of PMIL coming into the Accused's possession and failed to render appropriate

accountings to PMIL by submitting a bill to PMIL that did not reflect a \$4,000 credit balance and a withdrawal from the trust account in the amount of \$2,418.63. The Accused also failed to render an appropriate accounting to PMIL by ignoring reasonable requests for documentation of his records.

18.

The aforesaid conduct of the Accused violated the following standard of professional conduct established by law and by the Oregon State Bar:

1. Former DR 9-102(B)(3) [current DR 9-101(B)(3)] of the Code of Professional Responsibility.

AND, for its THIRD CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

19.

Incorporates by reference as fully set forth herein, paragraphs 1 through 7 of its First Cause of Complaint.

20.

On or about December 26, 1984, the Accused paid himself \$3,000.00 from the PMIL trust fund for his legal fees for December 1984, leaving a balance of \$3,069.50 in PMIL trust funds according to the Accused's trust account ledger.

21.

On or about December 31, 1984, PMIL paid the Accused \$15,080.00 on account. The Accused did not enter this amount in the PMIL trust account ledger.

22.

On or about January 11, 1985, PMIL discharged the Accused as its

attorney. On January 11, 1985, the Accused's trust account ledger reflected a balance of \$2,418.63 for PMIL. The trust account ledger should have reflected, but did not, the \$9,000 paid by Misko on or about September 17, 1984 and the \$15,080.00 paid by PMIL on or about December 31, 1984.

23.

On or about January 14, 1985, the Accused submitted his final bill for legal fees from January 2, 1985 to January 11, 1985 in the amount of \$7,380.00. From this amount should have been deducted \$4,000 which the Accused held to PMIL's credit in his office business account for PMIL.

24.

In his final bill submitted to PMIL on or about January 14, 1985, the Accused also billed PMIL \$16,356 for the return to PMIL of the Accused's one unit of the limited partnership.

25.

On or about January 18, 1985 PMIL paid the Accused \$15,080.00, apparently a mistaken duplicate of its payment on or about December 31, 1984.

26.

As of January 18, 1985, PMIL had overpaid the Accused at least \$6,762.63.

27.

On or about March 13, 1985, Mr. Barrager, representing PMIL, demanded that the Accused pay \$20,000 to PMIL representing the amount PMIL paid the Accused that PMIL claimed exceeded the value of the services rendered by the Accused. This demand was less than the amounts alleged in Paragraph 22, supra which were funds received by the Accused in trust for PMIL.

28.

The Accused has never, or at least not at any time prior to August 1987, paid the sum demanded by PMIL.

29.

The Accused failed to deposit the \$15,080 payment made by PMIL on or about December 31, 1984, which was an advance payment for costs and attorney's fees, in his clients' trust account.

30.

The Accused failed to promptly pay to PMIL the funds in the possession of the Accused which PMIL is entitled to receive.

31.

The aforesaid conduct of the Accused violated the following standard of professional conduct established by law and by the Oregon State Bar:

1. Former DR 9-102(A) [current DR 9-101(A)] of the Code of Professional Responsibility; and,
2. Former DR 9-102(B)(4) [current DR 9-101(B)(4)] of the Code of Professional Responsibility.

AND, for its FOURTH AND FINAL CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

32.

Incorporates by reference as fully set forth herein paragraphs 1 through 6 of its First Cause of Complaint.

33.

On or about December 31, 1984 the Accused paid a \$5,000.00 deposit to become a limited partner of PMIL.

34.

On or about January 11, 1985 PMIL discharged the Accused as its attorney and informed him that he would not be invited to be a limited partner because the partnership was oversold.

35.

On January 14, 1985 the Accused submitted to PMIL a bill for \$23,736 of which \$16,356 represented a return on his personal investment in the limited partnership.

36.

The aforesaid \$16,357 was calculated by the Accused as the total of (1) his \$5,000 deposit, (2) lost investment tax credit of \$6,013, and (3) lost depreciation in the amount of 40 percent of \$14,690 [sic. This calculation is in error].

37.

The Accused therefore, on or about December 26, 1984, purchased from his client, PMIL, for \$5,000, one unit of the PMIL limited partnership which the Accused valued at \$16,357 on or about January 14, 1985.

38.

The Accused thereby entered into a business transaction with PMIL in which his interests differed from the interests of PMIL. PMIL reasonably relied on the Accused to exercise his professional judgment therein for its protection. The Accused made no disclosure of their differing interests in the transaction and did not recommend that PMIL seek independent legal advice.

39.

The aforesaid conduct of the Accused violated the following standard of professional conduct established by law and by the Oregon State Bar:

1. DR 5-104(A) of the Code of Professional Responsibility.

WHEREFORE, the Oregon State Bar demands that the Accused make answer to this complaint; that a hearing be set concerning the charges made herein; that the matters alleged herein be fully, properly and legally determined; and pursuant thereto, such action be taken as may be just and proper under the circumstances.

EXECUTED this 18th day of January, 1989.

OREGON STATE BAR

By: s/ Celene Greene
CELENE GREENE
Executive Director

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)
Complaint as to the Conduct of) Case No: 89-64
MICHAEL P. LEVI,)
Accused.)

Bar Counsel: Paul Duden, Esq.

Counsel for the Accused: Stephen R. Moore, Esq.

Disciplinary Board: James M. Gleeson, State Chairperson and Richard Maizels,
Region 5 Chairperson

Disposition: Violation of DR 1-103(C) and DR 6-101(B). Disciplinary Board
approval of stipulation for discipline. Sixty (60) day suspension.

Effective Date of Opinion: April 10, 1991.

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 89-64
MICHAEL P. LEVI,	)	DECISION AND ORDER
Accused.)	
<hr/>		

A Stipulation for Discipline has been presented to the Regional Chairperson and the State Chairperson of the Disciplinary Board for review pursuant to Bar Rule 3.6(e). The Stipulation is intended by the Accused and the Bar to resolve the matters set out in a previously filed Complaint by the Bar against the Accused.

The Stipulation recites that during the pendency of the proceedings, the Bar and the Accused voluntarily agreed to a resolution of the proceedings and this Stipulation is a product of those negotiations.

The material allegations of the Stipulation indicate the Accused at all material times, was admitted by the Oregon Supreme Court to practice law in Oregon, is a member of the Oregon State Bar and has his office and place of business in Multnomah County, Oregon.

Further, that in his representation of one Larry A. Luckey, the Accused neglected a legal matter entrusted to him and failed to respond timely to inquiries from disciplinary counsel's office and to comply with the reasonable requests of disciplinary counsel's office.

The conduct of the Accused described in the Stipulation constitutes a violation of DR 6-101(B) and DR 1-103(C) of the Code of Professional Responsibility established by law and by the Oregon State Bar. A copy of the Stipulation is attached hereto and incorporated by reference herein.

Pursuant to the Stipulation, the Accused agrees to accept the following designated form of discipline:

(1) Pursuant to the admissions in the Stipulation and BR 3.6(c)(iii) the Accused agrees to accept a 60-day suspension.

From the Stipulation it appears that the Accused has no prior record of reprimands, suspension or disbarment.

The Regional Chairperson and the State Chairperson, on behalf of the Disciplinary Board, approve the Stipulation and sanction.

IT IS HEREBY ORDERED that the Accused be disciplined as set forth above for violation of DR 6-101(B) and DR 1-103(C) of the Code of Professional Responsibility.

DATED this 3rd day of April, 1991.

/s/ James M. Gleeson
James M. Gleeson
State Chairperson

/s/ Richard Maizels
Richard Maizels
Region 5 Chairperson

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 89-64
)	
MICHAEL P. LEVI,	)	STIPULATION FOR DISCIPLINE
)	
Accused.)	
)	

Michael P. Levi, attorney at law, (hereinafter, "the Accused") and the Oregon State Bar (hereinafter, "the Bar"), hereby stipulate to the following matters pursuant to Oregon State Bar Rule of Procedure 3.6(c).

1.

The Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9 relating to the discipline of attorneys.

2.

The Accused, Michael P. Levi, is and at times mentioned herein was, an attorney at law duly admitted by the Oregon Supreme Court to practice law in this state and a member of the Oregon State Bar, having his office and place of business in Multnomah County, State of Oregon.

3.

The Accused enters into this Stipulation for Discipline freely and voluntarily. This Stipulation is made under the restrictions of Rule of Procedure 3.6(h).

4.

On November 11, 1989, the State Professional Responsibility Board (hereinafter "the Board") authorized prosecution against the Accused alleging that the Accused violated DR 6-101(B) and DR 1-103(C).

5.

Pursuant to the Board's authorization, a formal complaint was filed against the Accused on March 15, 1990. In that complaint, the Bar alleged that the Accused neglected a legal matter entrusted to him in that he failed to adequately communicate over a period of years with a personal injury client; that he failed to advise said personal injury client of developments in a companion case as agreed; and failed to take any action on, investigate, negotiate, prosecute or provide any notice of said personal injury client's claim for over four years.

6.

The complaint also alleged that the Accused failed to respond timely to inquiries from Disciplinary Counsel's office and to comply with the reasonable requests of Disciplinary Counsel's office. As alleged in the complaint, the Accused, once notified of the Bar complaint, repeatedly refused to respond to the Bar in a timely manner.

7.

A copy of the Bar's formal complaint is attached hereto and incorporated by reference herein.

8.

The Accused admits he violated DR 6-101(B) of the Code of Professional Responsibility. In September 1983, complainant was one of a group of inmates on board an airplane being transported to Hillsboro, Oregon. During the course of the flight, one of the inmates attempted to wrestle control of the plane. A scuffle ensued which resulted in the complainant, his wife and others suffering injuries.

9.

In February 1984, the Accused was retained to represent one of the

inmates regarding injuries sustained on the plane. A tort claim notice was filed on behalf of this inmate and the Accused commenced routine discovery. While complainant and his wife had originally retained another attorney to represent them regarding their injuries, in early 1985, the Accused commenced representing them as well.

10.

The Accused contends that all three plaintiffs agreed and understood that the original client's case would be litigated first. The complainant contends that no such agreement existed.

11.

The Accused admits that the first client/plaintiff terminated his services in October 1986. The Accused further admits that he failed to inform the complainant that he was no longer representing the first client/plaintiff.

12.

The Accused also admits that he last met with complainant in March 1987. From March 1987 until October 1988 when the Accused ceased representing the complainant, the Accused had no contact with or took any action on complainant's personal injury claim. Given that the complainant was incarcerated during this period of time and the statute of limitations was tolled, injury to the complainant was not substantial.

13.

The Accused admits his violation of DR 1-103(C) of the Code of Professional Responsibility, as alleged in the Bar's Second Cause of Complaint.

14.

Pursuant to the above admissions and BR 3.6(c)(iii), the Accused agrees to accept a 60-day suspension for his violations of DR 6-101(B) and 1-103(C).

15.

The Accused has no prior record of reprimands, suspension or disbarment.

16.

This Stipulation of Discipline is subject to approval by the Board and review by the Disciplinary Board of the Oregon State Bar. If the Board approves this Stipulation, the parties agree that it will be submitted to the Disciplinary Board for consideration pursuant to BR 3.6(e).

EXECUTED this 19th day of February, 1991 by Michael P. Levi and this 28th day of February, 1991 by Lia Saroyan for the Oregon State Bar.

/s/ Michael P. Levi
Michael P. Levi

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

I, Michael P. Levi, being first duly sworn, say that I am the Accused in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true and correct as I verily believe.

/s/ Michael P. Levi
Michael P. Levi

Subscribed and sworn before me this 19th day of February, 1991.

/s/ Joni Cullen
Notary Public for Oregon
My Commission Expires: 6-21-93

I, Lia Saroyan, being first duly sworn, say that I am Assistant Disciplinary Counsel for the Oregon State Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline and that it was approved by the SPRB for submission to the Disciplinary Board on the 20th day of February, 1991.

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

Subscribed and sworn to before me this 28th day of February, 1991.

/s/ Martha M. Hicks
Notary Public for Oregon
My Commission Expires: 2-10-92

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	No. 89-64
)	
MICHAEL P. LEVI,	)	FORMAL COMPLAINT
)	
Accused.)	
_____)	

For its FIRST CAUSE OF ACTION AGAINST the Accused, the Oregon State Bar alleges:

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS, Chapter 9, relating to the discipline of attorneys.

2.

The Accused, Michael P. Levi, is, and at all times mentioned herein was, an attorney at law duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Multnomah, State of Oregon.

3.

In June, 1984, Larry A. Luckey (hereinafter referred to as "Luckey") retained the Accused for the purpose of representing him in a suit for damages arising out of an airplane hijacking. On October 12, 1988, the Accused withdrew from his representation of Luckey.

4.

The Accused neglected the legal matter entrusted to him by Luckey in one or more of the following particulars:

1. By failing adequately to communicate with Luckey;

2. By failing to advise Luckey of events affecting a related claim which Levi intended to prosecute first and which affected Luckey's interests;
and
3. By failing to take any significant action on, investigate, negotiate, prosecute or provide any notice of Luckey's claim for over four years.

5.

The aforesaid conduct of the Accused violated the following standard of professional conduct established by law and by the Oregon State Bar:

1. DR 6-101(B) [former DR 6-101(A)(3)] of the Code of Professional Responsibility.

For its SECOND CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

6.

Incorporates by reference as fully set forth herein paragraphs 1 through 3 of its First Cause of Complaint.

7.

The Oregon State Bar received Luckey's complaint concerning the Accused's conduct on or about August 10, 1988. On September 7, 1988, the Disciplinary Counsel's office forwarded a copy of Luckey's complaint to the Accused and requested his response to that complaint by September 28, 1988. The time for the Accused's response was extended to October 28, 1988. The Accused made no response. On November 14, 1988, the Disciplinary Counsel's Office again requested the Accused's response to the complaint by November 29, 1988. The time for the Accused's response was extended to December 7, 1988. The Accused made no response until December 5, 1988.

8.

On January 30, 1989, the Disciplinary Counsel's Office requested that the Accused supply further details about Luckey's complaint on or before February 8, 1989. The Accused made no response. On February 23, 1989, the Disciplinary Counsel's Office again requested the above-mentioned information from the Accused. The Accused made no substantive response.

9.

On April 25, 1989, the Disciplinary Counsel's Office again requested the Accused's response on or before May 9, 1989 to its January 30, 1989, and February 23, 1989, letters. The Accused made no response until May 7, 1989.

10.

While the subject of a disciplinary investigation, the Accused failed to cooperate with the Disciplinary Counsel's Office, which is empowered to investigate or act upon the conduct of lawyers.

11.

The aforesaid conduct of the Accused violated the following standard of professional conduct established by law and by the Oregon State Bar:

1. DR 1-103(C) of the Code of Professional Responsibility.

WHEREFORE, the Oregon State Bar demands that the Accused make answer to this Complaint; that a hearing be set concerning the charges made herein; that the matters alleged herein be fully, properly and legally determined; and pursuant thereto, such action be taken as may be just and proper and under the circumstances.

Executed this 15th day of March, 1990.

Oregon State Bar

By: /s/ Celene Greene
CELENE GREENE
Executive Director

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 90-83
)	
GARTH LEDWIDGE,)	
)	
Accused.)	
_____)	

Bar Counsel: Walter A. Barnes, Esq.

Counsel for the Accused: Jon S. Henricksen, Esq.

Disciplinary Board: James M. Gleeson, State Chairperson and Mary Dahlgren, Region 6 Chairperson

Trial Panel: Richard E. Kingsley, Chairperson; Mary Dahlgren; Chalmers Jones (Public Member)

Disposition: Violation of DR 9-101(A), DR 9-101(B)(3) and DR 9-101(B)(4).
Disciplinary Board approval of stipulation for discipline. Public reprimand.

Effective Date of Opinion: May 29, 1991

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 90-83
)	
GARTH LEDWIDGE,	)	DECISION AND ORDER
)	
Accused.)	

A Stipulation for Discipline has been presented to the Regional Chairperson and the State Chairperson of the Disciplinary Board for review pursuant to Bar Rule 3.6(e). The Stipulation is intended by the Accused and the Bar to resolve the matters set out in a previously filed Complaint by the Bar against the Accused.

The Stipulation recites that during the pendency of the proceedings, the Bar and the Accused voluntarily agreed to resolution of the proceedings and this Stipulation is a product of those negotiations.

The material allegations of the Stipulation indicate the Accused at all material times, was admitted by the Oregon Supreme Court to practice law in Oregon. Since 1967 he was a member of the Oregon State Bar having his current place of business in the County of Clackamas, State of Oregon.

From a review of the Stipulation, it appears that the Accused failed to preserve the identity of funds of a client, failed to maintain a complete record of all funds of a client in his possession and failed to promptly deliver requested funds to a client.

The conduct of the Accused described in the Stipulation constitutes conduct in violation of DR 9-101(A) of the Code of Professional Responsibility, DR 9-101(B)(3) of the Code of Professional Responsibility, and DR 9-101(B)(4) of the Code of Professional Responsibility established by law and by the Oregon

State Bar, as alleged in the Bar's Formal Complaint.

The Accused stipulates to a violation of DR 9-101(A), DR 9-101(B)(3) and DR 9-101(B)(4) of the Code of Professional Liability as alleged in the Bar's Formal Complaint.

Pursuant to the Stipulation, the Accused agrees to accept the following designated form of discipline in exchange for the herein described stipulations:

(1) The Accused agrees to a public reprimand for having violated the ethical rules specified herein and described in the Bar's Formal Complaint.

From the Stipulation it appears that the Accused has no prior record of reprimands, suspensions or disbarment.

The Regional Chairperson and State Chairperson, on behalf of the Disciplinary Board, approve the Stipulation and sanction.

IT IS HEREBY ORDERED that the Accused be disciplined as set forth above for violation of DR 9-101(A) of the Code of Professional Responsibility, DR 9-101(B)(3) of the Code of Professional Responsibility, and DR 9-101(B)(4) of the Code of Professional Responsibility.

DATED this 29 day of May, 1991.

/s/ James M. Gleeson
James M. Gleeson
State Chairperson

/s/ Mary Dahlgren
Mary Dahlgren
Region 6 Chairperson

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 90-83
)	
GARTH LEDWIDGE,	)	STIPULATION FOR DISCIPLINE
)	
Accused.)	
_____)	

Garth Ledwidge, attorney at law, (the Accused) and the Oregon State Bar (the Bar) hereby stipulate to the following matters pursuant to Rule of Procedure 3.6(c).

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9 relating to the discipline of attorneys.

2.

The Accused is, and at all times mentioned herein, was an attorney at law, duly admitted by the Supreme Court of the State of Oregon to practice law in this state in 1967 and a member of the Oregon State Bar, having his office and place of business in the County of Clackamas, State of Oregon.

3.

The State Professional Responsibility Board of the Oregon State Bar, through its findings which were made on November 17, 1990, approved for filing against the Accused a formal complaint alleging his violation of DR 9-101(A), DR 9-101(B)(3), and DR 9-101(B)(4) of the Code of Professional Responsibility with regard to client trust account matters. After the filing of the Bar's formal complaint, and an answer being filed, the Accused and the Oregon State Bar entered into a discussion concerning the resolution of the Bar's charges without a

hearing. The Accused advised the Bar of his desire to stipulate to his violation of the above disciplinary rules and to accept a reprimand for having committed said violations.

4.

The Accused wishes to stipulate to his violations of DR 9-101(A), DR 9-101(B)(3) and DR 9-101(B)(4) as set forth in the Bar's Formal Complaint, a copy of which is attached hereto as Exhibit 1 and is incorporated by reference herein.

5.

The Accused explains the circumstances surrounding his violation of the foregoing standards of professional conduct as follows:

That at the time of accepting a \$450 retainer from Kermit Swenson, it was not an intentional act to not place the amount in a trust account, but rather a negligent act. The work for the client was performed thereafter, and a fee earned. A detailed billing was not sent to Mr. Swenson until after the Bar made a written inquiry of Mr. Swenson's complaint, however, a billing was promptly done, and a \$175.00 balance of client's funds was returned forthwith.

6.

The Accused acknowledges that his explanation in no way justifies his conduct and is not a defense to the charges that the Accused's conduct violated DR 9-101(A), DR 9-101(B)(3) and DR 9-101(B)(4).

7.

The Accused has no prior record of reprimand, suspension or disbarment in 24 years of the practice of law.

8.

The Accused agrees to accept a reprimand for his conduct.

This stipulation has been freely and voluntarily made by the Accused, as evidenced by his verification below, with the knowledge and understanding that this stipulation is subject to review by the Bar's Disciplinary Counsel and to approval by the SPRB. If the SPRB approves the stipulation for discipline, the parties agree that it will be submitted to the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

Executed this 26 day of April, 1991 by the Accused.

/s/ Garth Ledwidge
Garth Ledwidge

Executed this 6 day of May, 1991 by the Oregon State Bar.

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

I, Garth Ledwidge, being first duly sworn, say that I am the Accused in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true as I verily believe.

/s/ Garth Ledwidge
Garth Ledwidge

Subscribed and sworn to this 26 day of April, 1991.

/s/ J. S. Hill
Notary Public for Oregon
My Commission Expires: 4/26/93

I, Lia Saroyan, being first duly sworn, say that I am Assistant Disciplinary Counsel for the Oregon State Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline and that it was approved by the State Professional Responsibility Board for submission to the Supreme Court on the 30 day of March, 1991.

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

Subscribed and sworn to this 6 day of May, 1991.

/s/ Susan R. Parks
Notary Public for Oregon
My Commission Expires: 3/9/92

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 90-83
)	
GARTH LEDWIDGE,	)	FORMAL COMPLAINT
)	
Accused.)	

For its FIRST CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating to the discipline of attorneys.

2.

The Accused, Garth Ledwidge, is, and at all times mentioned herein was, an attorney at law duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Clackamas, State of Oregon.

3.

On or about September 28, 1988, Kermit Swenson retained the Accused for the purpose of instituting divorce proceedings. Mr. Swenson paid the Accused a retainer of \$450.

4.

Upon receipt of the \$450, the Accused did not deposit it into a trust account.

5.

Within a few months, Swenson notified the Accused that he and his wife had reconciled and requested a refund of his retainer. The Accused indicated that he would keep everything on file for a couple of month including the retainer to ensure that the reconciliation was successful.

6.

In May 1989, the Accused and opposing counsel signed a stipulated order of dismissal.

7.

Thereafter Mr. Swenson repeatedly called the Accused asking for a refund of the unused portion of the attorney fees and for an accounting.

8.

In December of 1989, having heard no word from the Accused, Mr. Swenson filed a complaint with the Oregon State Bar.

9.

In January 1990, the Accused remitted a refund check for \$175 to Mr. Swenson and included an itemization of his time.

10.

The aforesaid conduct of the Accused violated the following standards of professional conduct established by law and by the Oregon State Bar:

1. DR 9-101(A) of the Code of Professional Responsibility; and
2. DR 9-101(B)(3) of the Code of Professional Responsibility; and
3. DR 9-101(B)(4) of the Code of Professional Responsibility.

WHEREFORE, the Oregon State Bar demands that the Accused make answer to this Complaint; that a hearing be set concerning the charges made herein; that the matters alleged herein be fully, properly and legally determined;

and pursuant thereto, such action be taken as may be just and proper under the circumstances.

Executed this 14 day of December, 1990.

OREGON STATE BAR

By: /s/ Celene Greene
CELENE GREENE
Executive Director

IN THE SUPREME COURT
FOR THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 90-40
)	
BRIAN CALVERT,)	
)	
Accused.)	
_____)	

Bar Counsel: Thad M. Guyer, Esq.

Counsel for the Accused: Brian Calvert, Esq., pro se

Disciplinary Board: James M. Gleeson, State Chairperson and Donald K. Denman, Region 3 Chairperson

Disposition: Violation of DR 6-101(B) and DR 9-101(B)(3); Disciplinary Board approval of stipulation for discipline for thirty-five (35) day suspension.

Effective Date of Opinion: July 9, 1991

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 90-40
)	
BRIAN CALVERT,	)	DECISION AND ORDER
)	
Accused.)	
_____)	

A Stipulation for Discipline has been presented to the Regional Chairperson and the State Chairperson of the Disciplinary Board for review pursuant to Bar Rule 3.6(e). The Stipulation is intended by the Accused and the Bar to resolve the matters set out in a previously filed Complaint by the Bar against the Accused.

The Stipulation recites that during the pendency of the proceedings, the Bar and the Accused voluntarily agreed to a resolution of the proceedings and this Stipulation is a product of those negotiations.

The material allegations of the Stipulation indicate the Accused at all material times, was admitted to the Oregon Supreme Court to practice law in Oregon and is a member of the Oregon State Bar having his current place of business in the County of Josephine, State of Oregon.

From a review of the Stipulation, it appears that the Accused neglected a legal matter entrusted to him and failed to maintain a complete record of all funds and properties of a client coming into his possession and to render appropriate accounts to his client.

The conduct of the Accused described in the Stipulation constitutes conduct involving a violation of DR 6-101(B) of the Code of Professional Responsibility, and DR 9-101(B)(3) of the Code of Professional Responsibility

established by law and by the Oregon State Bar, as alleged in the Bar's Formal Complaint.

The Accused admits his violation of DR 6-101(B) and DR 9-101(B)(3) of the Code of Professional Responsibility as alleged in the Bar's Formal Complaint.

Pursuant to the Stipulation, the Accused agrees to accept the following designated form of discipline in exchange for the herein described stipulations:

(1) The Accused agrees to a thirty-five (35) day period of suspension for having violated the ethical rules specified herein and described in the Bar's Formal Complaint.

From the Stipulation it appears that the Accused has been previously admonished for a violation of DR 6-101(B) in 1990.

The Regional Chairperson and State Chairperson, on behalf of the Disciplinary Board, approve the Stipulation and sanction.

IT IS HEREBY ORDERED that the Accused be disciplined as set forth above for violation of DR 6-101(B) of the Code of Professional Responsibility and DR 9-101(B)(3) of the Code of Professional Responsibility.

DATED this 9 day of July, 1991.

/s/ James M. Gleeson
James M. Gleeson
State Chairperson

/s/ Donald K. Denman
Donald K. Denman
Region 3 Chairperson

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the conduct of	)	Case No. 90-40
)	
BRIAN CALVERT,	)	STIPULATION FOR DISCIPLINE
)	
Accused.)	
<hr/>		

Brian Calvert, attorney at law, (the Accused) and the Oregon State Bar (the Bar) hereby stipulate to the following matters pursuant to Rule of Procedure 3.6(c).

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9 relating to the discipline of attorneys.

2.

The Accused at all times mentioned herein, was an attorney at law, duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Josephine, State of Oregon.

3.

At its meeting of September 22, 1990, the Bar's State Professional Responsibility Board (SPRB) authorized the filing of a formal complaint alleging that the Accused violated DR 6-101(B) and DR 9-101(B)(3) of the Code of Professional Responsibility in connection with the Accused's representation of two plaintiffs in a civil law suit.

4.

A formal complaint, a copy of which is attached as Exhibit 1 and

incorporated by reference herein, was filed by the Oregon State Bar on January 15, 1991. The Accused filed his answer on February 20, 1991. Subsequent to the filing of the Answer, the Accused and the Oregon State Bar entered into a discussion concerning a resolution of the Bar's charges without a hearing.

5.

Regarding the allegations contained in the Bar's formal complaint, the Accused stipulates to the following:

- a. The Accused was retained by Harriet Davies to sue Coleman Tebbs and Associates, Inc., Thomas Coleman and Jack Tebbs to recover monies which Davies and James A. Waltz invested in Coleman and Tebbs' corporation. The representation commenced in October of 1987. While the Accused filed complaints on behalf of Davies and Waltz in early 1988, thereafter, the Accused neglected both cases in that:
 - (1) He failed to file proof of service with the court;
 - (2) He failed to take reasonable action on behalf of his clients to ensure the timely completion of the litigation; and
 - (3) In February 1989 when he learned that his clients' cases had been dismissed by the court for failure to prosecute, he failed to notify his clients and failed to take any action to get the dismissals set aside.
- b. In March 1989, client Davies retained Richard Kengla to handle the case. In April, 1989 Kengla requested that the Accused render an appropriate account regarding the Accused's use of Davies retainer.
- c. The Accused failed to respond to those requests and while he provided a response when he filed an answer to the Bar complaint in

November 1989, that accounting contained documentation of the filing and service fees only and did not account for his time.

6.

The Accused admits that the above-referenced conduct violated DR 6-101(B) and DR 9-101(B)(3). The Accused also admits that in the fall of 1988 he was preoccupied with running for public office. Upon being elected in November 1988, he unofficially commenced his new career, resulting in the de facto closing of his law office. However, he failed to properly monitor his mail, promptly complete this matter or secure substitute counsel on their behalf. Additionally, while these clients did retain substitute counsel and ultimately recovered a settlement, unnecessary expenses were incurred as a result of the Accused's neglect.

7.

Pursuant to the above admissions and BR 3.6(c)(iii), the Accused agrees to accept a 35-day suspension.

8.

The Accused has no prior record of reprimand, suspension or disbarment. The Accused has previously been admonished for DR 6-101(B), neglect of legal matter, in November, 1990.

9.

This stipulation has been freely and voluntarily made by the Accused, as evidenced by his verification below, with the knowledge and understanding that this stipulation is subject to approval by the SPRB and review by the Disciplinary Board. If the SPRB approves the stipulation for discipline, the parties agree that it will be submitted to the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

Executed this 24 day of May, 1991 by the Accused and this 11 day of June, 1991 by the Bar.

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

/s/ Brian Calvert
Brian Calvert

I, Brian Calvert, being first duly sworn, say that I am the Accused in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true as I verily believe.

/s/ Brian Calvert
Brian Calvert

Subscribed and sworn to this 24 day of May, 1991.

/s/ Susan K. Roedl
Notary Public for Oregon
My Commission Expires: 6/30/91

I, Lia Saroyan, being first duly sworn, say that I am Assistant Disciplinary Counsel for the Oregon State Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline and that it was approved by the State Professional Responsibility Board for submission to the Disciplinary Board on the 8 day of June, 1991.

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

Subscribed and sworn to this 11 day of June, 1991.

/s/ Susan R. Parks
Notary Public for Oregon
My Commission Expires: 3/9/92

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
	)	Case No. 90-40
Complaint as to the Conduct of)	
BRIAN CALVERT,	)	FORMAL COMPLAINT
Accused.)	
<hr style="border: 0.5px solid black;"/>		

For its FIRST CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS, Chapter 9, relating to the discipline of attorney.

2.

The Accused, Brian Calvert, is and at all times mentioned herein was, an attorney at law duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Josephine, State of Oregon.

3.

In October 1987, the Accused was retained by Harriet Davies and Brian Waltz to represent them in a securities matter.

4.

In January of 1988, the Accused filed a complaint on behalf of Ms. Davies and in February of 1988, he filed a complaint on behalf of Mr. Waltz.

5.

The Accused neglected a legal matter entrusted to him in one or more of the following particulars:

1. Failing to effectuate service in one of the cases;
2. Failing to take any significant action on either of the cases;
3. Failing to notify either client that both cases had been dismissed for lack of prosecution.

6.

The aforesaid conduct of the Accused violated the following standard of professional conduct established by law and by the Oregon State Bar:

1. DR 6-101(B) of the Code of Professional Responsibility.

For its SECOND CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

7.

Incorporates by reference as fully sets forth herein paragraphs 1 through 5 of its FIRST CAUSE OF COMPLAINT.

8.

When the Accused was retained in October 1987, Ms. Davies paid him a retainer of \$600. In late March 1989, Ms. Davies terminated the Accused's services and retained Richard Kengla to represent her in the matter.

9.

Mr. Kengla requested that the Accused refund any unearned portion of the retainer and render an account for the earned portion of the retainer.

10.

On October 31, 1989, after Davies and Waltz filed a complaint with the Oregon State Bar, the Accused provided Ms. Davies with a summary of his expenditures and indicated that the balance of the retainer had been credited towards his attorney fees. No other accounting was provided to the Accused's clients.

11.

The aforesaid conduct of the Accused violated the following standards of professional conduct established by law and by the Oregon State Bar:

1. DR 9-101(B)(3) of the Code of Professional Responsibility

WHEREFORE, the Oregon State Bar demands that the Accused make answer to this Complaint; that a hearing be set concerning the charges made herein; that the matters alleged herein be fully, properly and legally determined; pursuant thereto, such action be taken as may be just and proper under the circumstances.

Executed this 15 day of January, 1991.

OREGON STATE BAR

By: /s/ Celene Greene
CELENE GREENE
Executive Director

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 89-59; 90-74
)	
ROBERT EHMANN,)	
)	
Accused.)	
_____)	

Bar Counsel: Dennis D. Doherty, Esq.

Counsel of the Accused: William Galbreath, Esq.

Disciplinary Board: James M. Gleeson, State Chairperson and Ronald L. Bryant, Region 1 Chairperson

Disposition: Violation of DR 6-101(B) and DR 9-101(B)(4). Disciplinary Board approval of stipulation for discipline. Public reprimand.

Effective Date of Opinion: July 9, 1991

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
	)	Case Nos. 89-59; 90-74
Complaint as to the Conduct of)	
	)	DECISION AND ORDER
ROBERT EHMANN,)	
)	
Accused.)	

A Stipulation for Discipline has been presented to the Regional Chairperson and the State Chairperson of the Disciplinary Board for review pursuant to Bar Rule 3.6(e). The Stipulation is intended by the Accused and the Bar to resolve the matters set out in a previously filed Complaint by the Bar against the Accused.

The Stipulation recites that during the pendency of the proceedings, the Bar and the Accused voluntarily agreed to a resolution of the proceedings and this Stipulation is a product of those negotiations.

The material allegations of the Stipulation indicate the Accused at all material times, was admitted by the Oregon Supreme Court to practice law in Oregon and is a member of the Oregon State Bar having his current place of business in the County of Umatilla, State of Oregon.

From a review of the Stipulation, it appears that the Accused neglected a legal matter entrusted to him and failed to deliver to a client properties in his possession to which a client was entitled to receive.

The conduct of the Accused described in the Stipulation constitutes conduct involving neglect of a legal matter in violation of DR 6-101(B) of the Code of Professional Responsibility, and DR 9-101(B)(4) of the Code of Professional Responsibility established by law and by the Oregon State Bar, as alleged in the Bar's Formal Complaint.

The Accused admits his violation of DR 6-101(B) and DR 9-101(B)(4) of the Code of Professional Responsibility as alleged in the Bar's Formal Complaint.

Pursuant to the Stipulation, the Accused agrees to accept the following designated form of discipline in exchange for the herein described stipulations:

(1) The Accused agrees to a public reprimand for having violated the ethical rules specified herein and described in the Bar's Formal Complaint.

(2) The Accused agrees to meet with representatives of the Professional Liability Fund who will evaluate the Accused's office practice and management.

From the Stipulation it appears that the Accused has no prior record of reprimands, suspensions or disbarment.

The Regional Chairperson and State Chairperson, on behalf of the Disciplinary Board, approve the Stipulation and sanction.

IT IS HEREBY ORDERED that the Accused be disciplined as set forth above for violation of DR 6-101(B) of the Code of Professional Responsibility and DR 9-101(B)(4) of the Code of Professional Responsibility.

DATED this 9 day of July, 1991.

/s/ James M. Gleeson
James M. Gleeson
State Chairperson

/s/ Ronald L. Bryant
Ronald L. Bryant
Region 1 Chairperson

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
Complaint as to the Conduct of	)	Case Nos. 89-59; 90-74
ROBERT EHMANN,	)	STIPULATION FOR DISCIPLINE
Accused.)	

Robert Ehmann, attorney at law, (the Accused) and the Oregon State Bar (the Bar) hereby stipulate to the following matters pursuant to Rule of Procedure 3.6(c).

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9 relating to the discipline of attorneys.

2.

The Accused is, and at all times mentioned herein, was an attorney at law, duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Umatilla, State of Oregon.

3.

At its meeting of November 11, 1989 meeting, the Bar's State Professional Responsibility Board (SPRB) authorized the filing of a formal complaint alleging that the Accused violated DR 6-101(B) and DR 9-101(B)(4) of the Code of Professional Responsibility in connection with the handling of a personal injury matter. At its meeting of November 17, 1990, the State Professional Responsibility Board authorized the filing of a formal complaint alleging that the

Accused violated DR 6-101(B) of the Code of Professional Responsibility in connection with the handling of a foreclosure matter.

4.

An Amended Formal Complaint (Case Nos. 89-59 and 90-74) was filed by the Oregon State Bar on January 9, 1991. The Accused filed his Answer on March 12, 1991. Subsequent to the filing of the Answer, the Accused and the Oregon State Bar entered into a discussion concerning the resolution of the Bar's charges without a hearing. The Accused advised the Bar of his desire to stipulate to the above disciplinary rule violations and to accept a public reprimand and an evaluation of his office practices by the Professional Liability Fund for having committed said violations.

The Accused hereby stipulates to his violations of DR 6-101(B) and DR 9-101(B)(4) as set forth in the Bar's Amended Formal Complaint, a copy of which is attached hereto as Exhibit 1 and is incorporated by reference herein.

5.

The Accused, acknowledging that his explanation in no way justifies his conduct and is not a defense to the charges in the Amended Formal Complaint, explains the circumstances surrounding his violation of the foregoing standards of professional conduct as follows:

- a. At the time the Accused agreed to associate as counsel in the Packard-Bettencourt matter (First Cause of Complaint), he was commuting to and from Corvallis repeatedly to see his wife who was attending school. Additionally, he was chairperson of the Bar/Press and Broadcasters annual seminar. These additional time commitments diverted attention from the Accused's law practice.
- b. Regarding his failure to promptly return Packard-Bettencourt's file,

the Accused was under the impression that Packard-Bettencourt's Washington attorney had all original file documents and the only documents in the Accused's possession were copies.

- c. Finally, regarding his failure to promptly handle the Hyke foreclosure (Second Cause of Complaint), the Accused acknowledges that once the case failed to settle and issues arose outside his area of expertise he should have resigned immediately. He is confident that he will handle this situation differently in the future.

6.

The Accused has no prior record of reprimand, suspension or disbarment in 16 years of the practice of law.

7.

The Accused agrees to accept a public reprimand for his conduct and to meet with representatives of the Professional Liability Fund who will evaluate the Accused's office practice and management and assist the Accused in revising his office practices if necessary.

8.

This stipulation has been freely and voluntarily made by the Accused, as evidenced by his verification below, with the knowledge and understanding that this stipulation is subject to review by the Bar's Disciplinary Counsel and to approval by the SPRB. If the SPRB approves the stipulation for discipline, the parties agree that it will be submitted to the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

Executed this 29 day of May, 1991 by the Accused.

/s/ Robert Ehmann
Robert Ehmann

Executed this 11th day of June, 1991 by the Oregon State Bar.

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

I, Robert Ehmann, being first duly sworn, say that I am the Accused in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true as I verily believe.

/s/ Robert Ehmann
Robert Ehmann

Subscribed and sworn to this 29 day of May, 1991.

/s/Pamela M. Webster
Notary Public for Oregon
My Commission Expires: 8/18/91

I, Lia Saroyan, being first duly sworn, say that I am Assistant Disciplinary Counsel for the Oregon State Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline and that it was approved by the State Professional Responsibility Board for submission to the Disciplinary Board on the 8 day of June, 1991.

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

Subscribed and sworn to this 11th day of June, 1991.

/s/ Susan R. Parks
Notary Public for Oregon
My Commission Expires: 3/9/92

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
Complaint as to the Conduct of	)	No. 89-59; 90-74
ROBERT EHMANN,	)	AMENDED FORMAL COMPLAINT
Accused.)	

For its FIRST CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon; and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS, Chapter 9, relating to the discipline of attorneys.

2.

The Accused, Robert N. Ehmann, is, and at all times mentioned herein was, an attorney at law, duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Umatilla, State of Oregon.

3.

On or about August 22, 1988, David Hevel, a Washington attorney, contacted the Accused, furnished him with relevant case information and offered him the opportunity to associate as Oregon co-counsel in the personal injury case of Sharmayne Packard-Bettencourt for the purpose of promptly filing the lawsuit, and related matters. The Accused agreed to represent Packard-Bettencourt as co-counsel with Hevel.

4.

In August 1988, Hevel asked the Accused to file a formal complaint in the Packard-Bettencourt matter. The Accused neglected to do so. On October 27, 1988, Hevel wrote to the Accused and instructed him to file the complaint.

5.

By letters dated December 16 and 29, 1988, Hevel demanded that the Accused immediately return Packard-Bettencourt's file materials. The Accused failed to respond to these demands to return the file materials until April, 1989. On or about December 29, 1988, the Accused was discharged from further representation of Packard-Bettencourt.

6.

Hevel, on behalf of Packard-Bettencourt, was entitled to the prompt return of the file from the Accused.

7.

The Accused failed to respond to any of the correspondence sent to him by Hevel. The Accused failed to perform any work on the case and failed to file a formal complaint on behalf of Sharmayne Packard-Bettencourt.

8.

By neglecting a legal matter entrusted to him, the Accused violated DR 6-101(B) of the Code of Professional Responsibility.

9.

By failing to promptly deliver his client's property to Hevel, the Accused violated DR 9-101(B)(4).

For its SECOND CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

10.

Incorporates by reference paragraphs 1 and 2.

11.

In December 1988, the Accused was retained to represent Agnes Hyke regarding Hyke's beneficiary interest in a trust deed which was being breached by the obligor.

12.

Settlement efforts with the obligor failed. In or about January 1989, Hyke directed the Accused to commence foreclosure procedures.

13.

On March 17, 1989, a Notice of Default and Election to Sell was prepared by the Accused. However, the Accused did not serve this on the obligor.

14.

Between March and October 1989, Hyke made repeated inquiries as to the status of her case. During this time, the Accused took no further steps to advance either judicial or nonjudicial foreclosure, or to otherwise protect Hyke's interest. On October 3, 1989, Hyke terminated the Accused's employment.

15.

The Accused neglected a legal matter entrusted to him in one or more of the following particulars:

1. Failing to effectuate service on the defendant;
2. Failing to respond to Ms. Hyke's request with respect to the propriety of her cashing checks tendered by the obligor;
3. Failing to take any significant action on the matter from March 1989 until the client terminated representation in October of 1989.

16.

By neglecting a legal matter entrusted to him, the Accused violated DR 6-101(B) of the Code of Professional Responsibility.

WHEREFORE, the Oregon State Bar demands that the Accused make answer to this complaint; that a hearing be set concerning the charges made herein; that the matters alleged herein be fully, properly and legally determined; and pursuant thereto, such action be taken as may be just and proper under the circumstance.

EXECUTED this 9th day of January, 1991.

OREGON STATE BAR

By: /s/ Celene Greene
CELENE GREENE
Executive Director



IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case Nos. 90-64; 90-101
)	
HAROLD R. DAUGHTERS,)	
)	
Accused.)	
_____)	

Bar Counsel: Jens Schmidt, Esq.

Counsel for the Accused: Harold R. Daughters, Esq., pro se

Disciplinary Board: James M. Gleeson, State Chairperson and Martha Walters, Region 2 Chairperson

Disposition: Violation of DR 2-110(A)(1) and (2), DR 6-101(B) and DR 9-101(A).
Disciplinary Board approval of stipulation for discipline. Public reprimand.

Effective Date of Opinion: October 18, 1991

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case Nos. 90-64; 90-101
)	
HAROLD R. DAUGHTERS,	)	DECISION AND ORDER
)	
Accused.)	

A Stipulation for Discipline has been presented to the Regional Chairperson and the State Chairperson of the Disciplinary Board for review pursuant to Bar Rule 3.6(e). The Stipulation is intended by the Accused and the Bar to resolve the matters set out in a previously filed Complaint by the Bar against the Accused.

The Stipulation recites that during the pendency of the proceedings, the Bar and the Accused voluntarily agreed to a resolution of the proceedings and this Stipulation is a product of those negotiations.

The material allegations of the Stipulation indicate the Accused at all material times, was admitted by the Oregon Supreme Court to practice law in Oregon. Since 1974 he has been a member of the Oregon State Bar having his current place of business in the County of Lane, State of Oregon.

From a review of the Stipulation, it appears that the Accused failed to preserve the identity of funds of a client and failed to properly withdraw from the employment of a client.

The conduct of the Accused described in the Stipulation constitutes conduct involving improper withdrawal as an attorney and failure to preserve the identify of client's funds in violation of DR 2-110(A)(2) of the Code of Professional Responsibility, and DR 9-101(A) of the Code of Professional Responsibility as alleged in the Bar's Formal Complaint.

The Accused admits his violation of DR 2-110(A)(2) and DR 9-101(A) of the Code of Professional Responsibility as alleged in the Bar's Formal Complaint.

Pursuant to the Stipulation, the Accused agrees to accept the following designated form of discipline in exchange for the herein described stipulations:

(1) The Accused agrees to a public reprimand for having violated the ethical rules specified herein and described in the Bar's Formal Complaint.

From the Stipulation it appears that the Accused has no prior record of reprimands, suspensions or disbarment.

The Regional Chairperson and State Chairperson, on behalf of the Disciplinary Board, approve the Stipulation and sanction.

IT IS HEREBY ORDERED that the Accused be disciplined as set forth above for violation of DR 2-110(A)(2) of the Code of Professional Responsibility and DR 9-101(A) of the Code of Professional Responsibility.

DATED this 18th day of October, 1991.

/s/ James M. Gleeson
James M. Gleeson
State Chairperson

/s/ Martha Walters
Martha Walters
Region 2 Chairperson

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
Complaint as to the Conduct of	)	Case Nos. 90-64; 90-101
HAROLD R. DAUGHTERS,	)	STIPULATION FOR DISCIPLINE
Accused.)	

Harold R. Daughters, attorney at law, (the Accused) and the Oregon State Bar (the Bar) hereby stipulate to the following matters pursuant to Rule of Procedure 3.6(c).

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9 relating to the discipline of attorneys.

2.

The Accused is, and at all times mentioned herein, was an attorney at law, duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Lane, State of Oregon.

3.

At its meeting of January 19, 1991, the Bar's State Professional Responsibility Board (SPRB) authorized the filing of a formal complaint alleging that the Accused violated DR 9-101(A) of the Code of Professional Responsibility in connection with the handling of client funds. Additionally, at the same meeting, the SPRB authorized the filing of the formal complaint alleging that the Accused violated DR 2-110(A)(1), DR 2-110(A)(2) and DR 6-101(B) in connection with the handling of a civil law suit on behalf of a client. The SPRB also

authorized that these two cases be consolidated.

4.

A formal complaint (Case Nos. 90-64; 90-101) was filed by the Oregon State Bar on April 15, 1991. The Accused filed his answer on May 8, 1991. Both the complaint and answer are attached hereto and incorporated by reference herein as Exhibits 1 and 2. Subsequent to the filing of the answer, the Accused and the Oregon State Bar entered into a discussion concerning the resolution of the Bar's charges without a hearing.

5.

As a result of those discussions, the Accused hereby stipulates to violating DR 9-101(A) as set forth in the Bar's First Cause of Complaint and DR 2-110(A)(2) as set forth in the Bar's Second Cause of Complaint.

6.

Regarding the DR 9-101(A) violation, the Accused received a \$300 retainer from a client. The Accused failed to deposit or maintain this retainer in his client trust account. The Accused appears to have lost the retainer check as it has never been negotiated. The Accused admits that by misplacing the check, he violated DR 9-101(A).

7.

Regarding the DR 2-110(A)(2) violation, the Accused was retained by Carolyn Ramus and Tal Price to represent them in a civil lawsuit. During the course of the representation a dispute between the Accused and Price developed over the payment of fees. The Accused wrote Price and indicated if he did not accept the terms of his fee agreement (which included payment for prior services), he would move to withdraw by a particular deadline. While Price did not accept the terms of the Accused's fee agreement or pay any of his

outstanding bill, the Accused failed to properly withdraw or resign by the deadline or thereafter. Additionally, communications problems developed between the Accused and Price. Ultimately, the Accused received a notice for Price's deposition. The Accused notified Price by telephone message to Price's wife shortly before the deposition but Price could not attend the deposition on such short notice. The Accused, while still attorney of record for Price, offered no explanation for Price's absence. Opposing counsel moved to dismiss Price from the lawsuit for his failure to appear. His motion was ultimately withdrawn when Price retained other counsel.

8.

The Accused admits that he failed to formally withdraw as counsel after his client failed to sign the fee agreement or tender payment. He further admits that this failure constituted a de facto withdrawal in violation of DR 2-110(A)(2), as thereafter he neglected to take reasonable steps to ensure that Price was prepared for his deposition and not prejudiced for failing to attend.

9.

For the purposes of this stipulation only, the Bar withdraws its allegations in the Second Cause of Complaint that the Accused violated DR 2-110(A)(1) and DR 6-101(B).

10.

The Accused has no prior record of reprimand, suspension or disbarment during his 17 years of practice.

11.

The Accused agrees to accept a public reprimand for his conduct.

12.

This stipulation has been freely and voluntarily made by the Accused, as

evidenced by his verification below, with the knowledge and understanding that this stipulation is subject to review by the Bar's Disciplinary Counsel and to approval by the SPRB. If the SPRB approves the stipulation for discipline, the parties agree that it will be submitted to the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

Executed this 21st day of August, 1991 by the Accused.

/s/ Harold R. Daughters
Harold R. Daughters

Executed this 13th day of September, 1991 by the Oregon State Bar.

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

I, Harold R. Daughters, being first duly sworn, say that I am the Accused in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true as I verily believe.

/s/ Harold R. Daughters
Harold R. Daughters

Subscribed and sworn to this 21st day of August, 1991.

/s/ Kimberly A. Moore
Notary Public for Oregon
My Commission Expires: 6-15-91

I, Lia Saroyan, being first duly sworn, say that I am Assistant Disciplinary Counsel for the Oregon State Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline and that it was approved by the State Professional Responsibility Board for submission to the Disciplinary Board on the 11th day of September, 1991.

/s/ Lia Saroyan
Lia Saroyan
Assistant Disciplinary Counsel
Oregon State Bar

Subscribed and sworn to this 13th day of September, 1991.

/s/ Susan R. Parks
Notary Public for Oregon
My Commission Expires: 3-9-92

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
Complaint as to the Conduct of	)	Case Nos. 90-64; 90-101
HAROLD E.[sic] DAUGHTERS,	)	FORMAL COMPLAINT
Accused.)	

For its FIRST CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS, Chapter 9, relating to the discipline of attorneys.

2.

The Accused, Harold E. [sic] Daughters, is, and at all times mentioned herein was, an attorney at law, duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Lane, State of Oregon.

3.

In or about January 1989, the Accused was retained to represent Carolyn Ramus and Glynn Talmage Price regarding a dispute between them and the Oregon Department of Fish and Wildlife over the transferability of fishing permits.

4.

In or about February 1989, the Accused filed a lawsuit on behalf of Ramus and Price in Multnomah County Circuit Court.

5.

In connection with the representations, Ramus gave the Accused a \$300 check as an advance for costs and expenses. The Accused failed to deposit or maintain these funds in a trust account.

6.

On March 16, 1990, the Accused subpoenaed Penny Koehler to testify at a March 28, 1990 hearing in the above-referenced law suit. Accompanying the subpoena was a witness and mileage fee check for \$37 drawn on the Accused's trust account which he maintained at the Key Bank in Eugene, Oregon.

7.

After testifying on March 28, 1990, Ms. Koehler deposited the witness fee check in her bank. Her bank returned the check due to insufficient funds.

8.

The aforesaid conduct of the Accused violated the following standard of professional conduct established by law and by the Oregon State Bar:

1. DR 9-101(A) of the Code of Professional Responsibility.

AND, for its SECOND CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

9.

Incorporates by reference as fully set forth herein, paragraphs 1 through 3 of its First Cause of Complaint.

10.

In the course of the above representation, the Accused and client Price engaged in a dispute over the payment of legal fees.

11.

On June 23, 1989, the Accused wrote client Price and informed him that he would not proceed with the litigation unless the parties reached an agreement as to both past and future fees and costs.

12.

On October 17, 1989, the Accused wrote both clients Ramus and Price proposing a fee agreement and notifying them that if they did not accept the terms of the fee agreement by November 1, 1989, he would move to withdraw as attorney for the non-agreeing client.

13.

As of November 1, 1989, no agreement had been reached between client Price and the Accused, nor had the Accused moved to withdraw as attorney of record for client Price.

14.

Thereafter, depositions of clients Ramus and Price were scheduled between the Accused and opposing counsel for November 29, 1989. The Accused did not consult with client Price as to his availability on that date. On November 24, 1989, opposing counsel noticed client Price to a deposition on November 29, 1989. A copy of that notice was not forwarded to client Price by the Accused.

15.

At no time did the Accused formally notice or prepare client Price for his deposition. Client Price learned of his scheduled deposition on November 27, 1989 when the Accused contacted Price's wife to notify Price of the deposition. At that time, client Price was out of town. Upon learning that his deposition was scheduled for November 29, 1989, client Price phoned the Accused, leaving a message indicating that he would be unable to attend.

16.

Client Price did not appear at his deposition. The Accused offered no explanation for client Price's failure to appear. Opposing counsel moved to dismiss client Price for his failure to appear at his deposition.

17.

Thereafter all relations between Price and the Accused were severed. Price retained new counsel and opposing counsel withdrew his motion to dismiss.

18.

As of November 1, 1989, with the exception of one phone contact on November 27, 1989, the Accused failed to take any significant action with respect to client Price's claim against Oregon Fish and Wildlife. Additionally, his inaction constituted a de facto withdrawal resulting in his client being subject to a motion to dismiss.

19.

In failing to seek court permission for withdrawal, failing to give Price notice of his withdrawal, failing to give Price notice of his deposition and prepare him for that deposition, in failing to reschedule client Price's deposition once he learned Price was unavailable, the Accused violated the following standards of professional conduct established by law and by the Oregon State Bar:

1. DR 2-110(A)(1) of the Code of Professional Responsibility;
2. DR 2-110(A)(2) of the Code of Professional Responsibility; and
3. DR 6-101(B) of the Code of Professional Responsibility.

WHEREFORE, the Oregon State Bar demands that the Accused make answer to this complaint; that a hearing be set concerning the charges made herein; that the matters alleged herein be fully, properly and legally determined;

and pursuant thereto, such action be taken as may be just and proper under the circumstances.

EXECUTED this 15th day of April, 1991.

OREGON STATE BAR

By: /s/ Celene Greene
CELENE GREENE
Executive Director

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
	)	Case No. 89-75
Complaint as to the Conduct of)	
)	
RONALD D. SCHENCK,)	
)	
Accused.)	
_____)	

Bar Counsel: Judy S. Henry, Esq.

Counsel for the Accused: Ronald D. Schenck, Esq., pro se

Disciplinary Board: James M. Gleeson, State Chairperson and Ronald Bryant, Region 1 Chairperson

Disposition: Violation of former DR 5-105(A) [current DR 5-105(C) and (E)].
Disciplinary Board approval of stipulation for discipline. Public Reprimand.

Effective Date of Opinion: October 18, 1991

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
Complaint as to the Conduct of	)	Case No. 89-75
RONALD D. SCHENCK,	)	DECISION AND ORDER
Accused.)	

A Stipulation for Discipline has been presented to the Regional Chairperson and the State Chairperson of the Disciplinary Board for review pursuant to Bar Rule 3.6(e). The Stipulation is intended by the Accused and the Bar to resolve the matters set out in a previously filed Complaint by the Bar against the Accused.

The Stipulation recites that during the pendency of the proceedings, the Bar and the Accused voluntarily agreed to a resolution of the proceedings and this Stipulation is a product of those negotiations.

The material allegations of the Stipulation indicate the Accused at all material times, was admitted by the Oregon Supreme Court to practice law in Oregon. Since 1979 he has been a member of the Oregon State Bar having his current place of business in the County of Wallowa, State of Oregon.

From a review of the Stipulation, it appears that the Accused engaged in conduct that constituted a conflict of interest.

The conduct of the Accused described in the Stipulation constitutes conduct in violation of former DR 5-105(A) [current DR 5-105(E)] of the Code of Professional Responsibility.

The Accused admits his violation of former DR 5-105(A) [current DR 5-105(E)] of the Code of Professional Responsibility as alleged in the Formal Complaint. Pursuant to the Stipulation, the Accused agrees to accept the

following designated form of discipline in exchange for the herein described stipulations:

(1) The Accused agrees to a public reprimand for having violated the ethical rules specified herein and described in the Formal Complaint.

From the Stipulation it appears that the Accused has no prior record of reprimands, suspensions or disbarment.

The Regional Chairperson and State Chairperson, on behalf of the Disciplinary Board, approve the Stipulation and sanction.

IT IS HEREBY ORDERED that the Accused be disciplined as set forth above for violation of former DR 5-105(A) [current DR 5-105(E)] of the Code of Professional Responsibility.

DATED this 18th day of October, 1991.

/s/ James M. Gleeson
James M. Gleeson
State Chairperson

/s/ Ronald Bryant
Ronald Bryant
Region 1 Chairperson

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
)	
Complaint as to the Conduct of	)	Case No. 89-75
RONALD D. SCHENCK,	)	STIPULATION FOR DISCIPLINE
Accused.)	
)	

Ronald D. Schenck (hereinafter the Accused) and the Oregon State Bar (hereinafter the Bar) hereby stipulate to the following matters pursuant to Rule of Procedure 3.6(c).

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9 relating to the discipline of attorneys.

2.

The Accused, Ronald D. Schenck, is, and at all times mentioned herein, was an attorney at law, duly admitted by the Oregon Supreme Court to the practice of law in Oregon on May 1, 1979, and has been a member of the Oregon State Bar since that time.

3.

The Accused enters into this Stipulation for Discipline freely and voluntarily.

4.

On September 22, 1990, the State Professional Responsibility Board (SPRB) authorized the filing of a formal complaint alleging that the Accused committed conflict of interest violations contrary to former DR 5-105(A) [current DR 5-105(C) and (E)] of the Code of Professional Responsibility. A formal complaint (no. 89-75) was subsequently filed by the Oregon State Bar on February 18,

1991 and the Accused filed an answer on June 4, 1991. The parties wish to resolve this disciplinary matter with this Stipulation for Discipline.

5.

Regarding the Bar's allegation that the Accused committed a current client conflict of interest, the parties stipulate to the following:

- (a) In or about April and May 1987, the Accused was contacted by Ron Lewis (hereinafter "Lewis") and Sam Asta (hereinafter "Asta") for legal services regarding the sale by Lewis and purchase by Sam and Jeanenne Asta of a number of cattle located in Wallowa County, Oregon. As part of the sale, the Accused prepared the transactional documents including a promissory note, a bill of sale and a security agreement. The Accused also prepared a management agreement between Asta and Lewis whereby Lewis was to manage Asta's cattle and farming operation on real property owned by Asta. The Accused also prepared a lease agreement whereby Asta leased real property to Lewis for the purpose of hunting, fishing and other recreational purposes. These various documents were subsequently signed by the parties.
- (b) While the Accused viewed himself more as a scrivener for Asta and Lewis drafting documents to memorialize their agreements, the Accused represented both Lewis and Asta in the transactions described herein.
- (c) One purpose of the cattle transaction was to provide Asta with sufficient livestock ownership to satisfy the requirements for a U.S. Forest Service cattle grazing permit on Asta's property. In response to concerns of the Forest Service regarding whether the cattle

transaction was a bona fide sale, the Accused, at his clients' request, redrafted the transactional documents with amended terms. The amended documents were subsequently signed by the parties.

- (d) The interests of Asta and Lewis were in actual conflict. The exercise of the Accused's independent professional judgment on behalf of either Lewis or Asta was or was likely to be adversely affected by the Accused's representation of both clients. It was not obvious that the Accused could adequately represent both Lewis and Asta in the transactions.
- (e) The aforesaid conduct of the Accused violated former DR 5-105(A) [current DR 5-105(E)] of the Code of Professional Responsibility.

6.

For the purposes of this stipulation only, the Bar dismisses its allegation that the Accused committed a former client conflict of interest.

7.

Based upon this stipulation, the Accused agrees to accept a public reprimand.

8.

The Accused has no prior disciplinary record.

9.

This Stipulation for Discipline is subject to review by Disciplinary Counsel and to approval by the SPRB. If the SPRB approves the stipulation for discipline, the parties agree that it will be submitted to the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

Executed this 5th day of September, 1991 by the Accused.

/s/ Ronald D. Schenck
Ronald D. Schenck

Executed this 12th day of September, 1991 by the Oregon State Bar.

/s/ Jeffrey D. Sapiro
Jeffrey D. Sapiro
Disciplinary Counsel
Oregon State Bar

I, Ronald D. Schenck, being first duly sworn, say that I am the Accused in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true as I verily believe.

/s/ Ronald D. Schenck
Ronald D. Schenck

Subscribed and sworn to this 5th day of September, 1991.

/s/ Chris D. Yundt
Notary Public for Oregon
My Commission Expires: 03-19-93

I, Jeffrey D. Sapiro, being first duly sworn, say that I am Disciplinary Counsel for the Oregon State Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline and that it was approved by the State Professional Responsibility Board for submission to the Disciplinary Board on the 11th day of September, 1991.

/s/ Jeffrey D. Sapiro
Jeffrey D. Sapiro
Disciplinary Counsel
Oregon State Bar

Subscribed and sworn to this 12th day of September, 1991.

/s/ Susan R. Parks
Notary Public for Oregon
My Commission Expires: 03-09-92

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)	
Complaint as to the Conduct of	)	Case No. 89-75
RONALD D. SCHENCK,	)	FORMAL COMPLAINT
Accused.)	

For its FIRST CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

1.

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS, Chapter 9, relating to the discipline of attorneys.

2.

The Accused, Ronald D. Schenck, is, and at all times mentioned herein was, an attorney at law, duly admitted by the Supreme Court of the State of Oregon to practice law in this state and a member of the Oregon State Bar, having his office and place of business in the County of Wallowa, State of Oregon.

CURRENT CLIENT CONFLICT

3.

In or about April and May 1987, the Accused was contacted by Ron Lewis (hereinafter "Lewis") and Sam Asta (hereinafter "Asta") for legal services regarding the sale by Lewis and purchase by Sam and Jeanene Asta of a number of cattle located in Wallowa County, Oregon. As part of the sale, the Accused prepared the transactional documents including a promissory note, a bill of sale and a security agreement. The Accused also prepared a management agreement

between Asta and Lewis whereby Lewis was to manage Asta's cattle and farming operation on real property owned by Asta. The Accused also prepared a lease agreement whereby Asta leased real property to Lewis for the purpose of hunting, fishing and other recreational uses. These various documents were subsequently signed by the parties.

4.

One purpose of the cattle transaction was to provide Asta with sufficient livestock ownership to satisfy the requirements for a U.S. Forest Service cattle grazing permit on Asta's property.

5.

The Accused represented both Lewis and Asta in the transactions described in paragraph 3 above.

6.

The exercise of the Accused's independent professional judgment on behalf of either Lewis or Asta was or was likely to be adversely affected by the Accused's representation of both clients. It was not obvious that the Accused could adequately represent both Lewis and Asta in the transactions.

7.

The aforesaid conduct of the Accused violated the following standard of professional conduct established by law and by the Oregon State Bar:

1. Former DR 5-105(A) [current DR 5-105(E)] of the Code of Professional Responsibility.

AND, for its SECOND CAUSE OF COMPLAINT against the Accused, the Oregon State Bar alleges:

FORMER CLIENT CONFLICT

8.

Incorporates by reference as fully set forth herein, paragraph 1 through 5 of its First Cause of Complaint.

9.

In or about September 1987, the Accused undertook to represent Ella Zollman and Melva Botts, conservators of the estate of Amos F. Evans. Shortly thereafter, the Accused filed on the conservators' behalf a complaint in Wallowa County Circuit Court against Lewis and his wife, Beverly Lewis. The complaint sought to terminate a cattle management agreement between Amos Evans and Lewis and sought, among other things, the return of certain cattle allegedly taken wrongfully by Lewis.

10.

In furtherance of the litigation brought against Lewis on behalf of the conservators, the Accused contested Lewis' ownership of some of the cattle previously sold by Lewis to Asta. The Accused further sought to recover that cattle on behalf of the conservators.

11.

The Accused continued to represent the conservators in the litigation against Lewis until August 1988, when the Accused was disqualified by the Circuit Court upon the motion of Lewis which alleged a conflict of interest.

12.

The claims asserted by the Accused on behalf of the conservators regarding the ownership of the cattle Lewis sold to Asta caused the U.S. Forest Service to deny or delay validation of Asta's cattle grazing permit.

13.

By undertaking to represent the conservators against Lewis, the Accused represented a current client (the conservators) in a matter significantly related to the Accused's prior representation of his former clients (Lewis and Asta) when the interests of the current and former clients were in conflict. The Accused did not obtain the informed consent of his former clients prior to undertaking to represent the conservators.

14.

The aforesaid conduct of the Accused violated the following standards of professional conduct established by law and by the Oregon State Bar:

1. Former DR 5-105(A) [current DR 5-105(C)] of the Code of Professional Responsibility.

WHEREFORE, the Oregon State Bar demands that the Accused make answer to this complaint; that a hearing be set concerning the charges made herein; that the matters alleged herein be fully, properly and legally determined; and pursuant thereto, such action be taken as may be just and proper under the circumstances.

EXECUTED this 18th day of February, 1990.

OREGON STATE BAR

By: /s/ Celene Greene
CELENE GREENE
Executive Director

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