



ORIGINAL

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State Bar Court of California
Hearing Department
Los Angeles

Counsel For The State Bar Michael J. Glass Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1254	Case Number (s) 04-N-11899 07-O-14954(Investigation)	(for Court's use) <div align="center"> FILED NOV 24 2008 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Bar # 102700 In Pro Per Respondent John Royall Read III 5700 Ralston Street, #201 Ventura, CA 93003 (805) 650-1893	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
Bar # 51388 In the Matter Of: John Royall Read III Bar # 51388 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **January 5, 1972**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **20** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: **prior to February 1 in three billing cycles following the effective date of the discipline.**
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - ☐ costs entirely waived

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

- (1) ☒ **Prior record of discipline** [see standard 1.2(f)]
- (a) ☒ State Bar Court case # of prior case **00-O-11744 (S106667)**
 - (b) ☒ Date prior discipline effective **August 1, 2002**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **B & P Code sections 6125 and 6126 [Unauthorized Practice of Law]; rule 3-300 RPC [Improper Business Transaction with Client].**
 - (d) ☒ Degree of prior discipline **One year stayed suspension, two years probation with conditions, including a 90 day actual suspension.**
 - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.
 - (a). Case No. 4944 (State Bar Court Case No. 84-O-156 VE); (b). Discipline effective February 13, 1987; (c). former rule 6-101 RPC [Failure to Perform]; (d). 60 day stayed suspension, one year probation with conditions;
 - (a). Case No. 4853 (State Bar Court Case No. 83-O-111 VE); (b). Discipline effective April 26, 1985; (c). former rule 5-101 RPC [Adverse Business Transaction with Client]; (d). Three month stayed suspension, one year probation with conditions;
 - (a). Case No. 82-O-77 VE; (b). Discipline effective May 3, 1984; (c). Failure to promptly deliver client funds; Commingling personal funds with funds belonging to clients; (d). Public Reprimand.
- (2) ☒ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct. **See Attachment Page 9.**
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment Pages 8-9.**
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☒ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her

personal life which were other than emotional or physical in nature. **See Attachment Pages 9-10.**

- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **three (3) years**.

- i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **four (4) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **two (2) years**.

- i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☒ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until

he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
 - ☐ Substance Abuse Conditions ☐ Law Office Management Conditions
 - ☐ Medical Conditions ☐ Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason:
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☒ **Other Conditions:** See Attachment Pages 10-11 re Medical Conditions and Attachment Pages 11-13 re Substance Abuse Conditions.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JOHN ROYALL READ III

CASE NUMBER(S): 04-N-11899;
 07-O-14954 (Investigation)

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 04-N-11899

1. On or about January 14, 2002, Respondent signed a Stipulation Re: Facts, Conclusions of Law and Disposition and Order Approving Actual Suspension ("Stipulation"), with the State Bar of California, Office of the Chief Trial Counsel, for misconduct, including but not limited to, holding himself out as entitled to practice law during a time in which he was not an active member of the State Bar.

2. On or about January 15, 2002, the Stipulation was signed and approved by then Judge Paul C. Bacigalupo ("Bacigalupo") and the Stipulation was filed on January 18, 2002. The Stipulation, including the Order of the State Bar Court recommending the discipline to the Supreme Court, including a ninety (90) day actual suspension, was served upon the Respondent on the same date, January 18, 2002.

3. The Stipulation and Order were properly mailed to the Respondent by First Class Mail, postage prepaid, by depositing for collection by the U.S. Postal Service in the ordinary course of business directed to Respondent's membership records address at 5700 Ralston Street, No. 201, Ventura, California 93003. The Respondent received this document.

4. On or about February 26, 2002, Terry Gould ("Gould") employed Respondent to represent his company, Mercury Composite Technologies, LLC. ("Mercury") in a contract dispute matter with United Composite Technologies, Co. LLC ("United"). United was represented by attorney Gary A. Weis ("Weis") of the Law Office of Bruce A. Hatkoff. Gould paid the Respondent the sum of \$1,500, by check no. 1850 drawn on his company's Bank of America Account.

5. On or about March 25, 2002, Bacigalupo amended the parties' stipulation and his order approving same, to add that the Respondent be ordered to take and pass the Multistate Professional Responsibility Examination within one year of the effective date of the Supreme Court's order. Bacigalupo added, "The parties having waived any objections to this order, it is ordered that the record in this matter be transmitted to the Supreme Court forthwith." This amended order was properly mailed to the Respondent by First Class Mail, postage prepaid, by depositing for collection by the U.S. Postal Service in the ordinary course of business addressed to Respondent's membership records address at 5700 Ralston Street, No. 201, Ventura, California 93003. The document was not returned to the State Bar by the U.S. Postal Service as undeliverable or for any other reason.

6. On or about April 3, 2002, United filed suit against Mercury in a civil matter entitled United Composite Technologies Co., Ltd., et al. v. Mercury Composite Technologies, LLC, Case No. CIV210568, Ventura County Superior Court ("the United v. Mercury matter").

7. On or about April 17, 2002, the Hearing Department decision based upon the Stipulation of Respondent and the State Bar was filed with the Supreme Court.

8. On or about June 17, 2002, Respondent filed an answer, in the Untied v. Mercury matter, on behalf of Gould and Mercury.

9. On or about July 2, 2002, the Supreme Court filed its order suspending the Respondent effective August 1, 2002 (Supreme Court Case No. S106667). The Respondent was to be actually suspended from August 1, 2002 through October 30, 2002. Respondent received the order. The order specified as follows, in relevant part: "It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that Rule within 30 and 40 calendar days, respectively, after the effective date of this order."

10. Pursuant to (former) rule 955(b), all notices required by the order of the Supreme Court or State Bar Court under the rule "shall be given by registered or certified mail, return receipt requested, and must contain an address where communications may be directed to the disbarred, suspended, or resigned member."

11. At no time did the Respondent provide notices as required by rule 955(b), to his client, Gould, to opposing counsel, or to the court.

12. At no time did Respondent notify his client, Gould, orally or in writing, or in any other manner, that he had been suspended from the practice of law pursuant to the Supreme Court's order, and pursuant to the requirement of subdivision (a) of (former) rule 955.

13. At no time did Respondent notify Weis or the Law Offices of Bruce A. Hatkoff, orally, in writing, or in any other manner that he had been suspended from the practice of law pursuant to the Supreme Court order, and pursuant to the requirements of subdivision (a) of (former) rule 955.

14. At no time did Respondent notify the court in the United v. Mercury matter orally, in writing, or in any other manner that he had been suspended from the practice of law pursuant to the Supreme Court order, and pursuant to the requirements of subdivision (a) of (former) rule 955.

15. On or about August 21, 2002, after his suspension was in effect, and having failed to inform Gould, Weis, the Law Office of Bruce A. Hatkoff, or the Court in the United v. Mercury matter of his suspension, Respondent sent another attorney, John Hartnett ("Hartnett") to appear at an Order to Show Cause for Sanction/Dismissal for Failure to File Proof of Service (Cross Complaint) in the United v. Mercury matter. The Court conducted a Case Management Conference and ordered that the Trial was continued to September 16, 2002, (still during Respondent's suspension) and that no appearance was necessary regarding the proof of service if it or an ex parte application for publication and signed order were filed five days prior to hearing. The court was not notified that Respondent was suspended at the time of this hearing or that he would still be suspended on the date set for trial, nor did Respondent cause the court to be so notified orally or in writing or in any other manner, or that Respondent would still be actually suspended on September 16, 2002.

16. On or about August 30, 2002, after his suspension was in effect, the Respondent served Responses to Requests for Admissions on Angela Oaks of the office of Bruce Hatkoff, a Law Corporation. The pleading heading was: John R. Read, III, Attorney at Law. Hatkoff was not notified that Respondent was suspended at the time these responses were prepared or sent, either orally or in writing or in any other manner.

17. On September 10, 2002, the Respondent filed a Rule 955 Affidavit of Compliance ("Affidavit") with the State Bar Court in Case no. 00-O-11744 et al, (S106667). The Affidavit was signed by the Respondent and dated September 9, 2002. In the Affidavit, the Respondent declared under the penalty of perjury that he had complied with subdivision (a) of (former) rule 955 by notifying all clients, opposing counsel and the court, where the litigation was pending.

18. In fact, as the Respondent knew, or in the absence of gross negligence, should have known, the declaration was false, because Respondent had not notified Gould, Weiss, the Law Office of Bruce A. Hatkoff or the Court in the United v. Mercury matter that he was not entitled to practice law in California, as required by (former) rule 955(a).

19. At no time did the Respondent seek to withdraw or to amend the Affidavit.

20. On or about September 14, 2002, Respondent executed a substitution of attorney form, substituting Hartnett into the case. The document was not executed by nor with the knowledge of Gould. Gould had not been told by Respondent that Respondent was suspended from the practice of law even as of this date. Gould was never contacted by anyone other than Respondent with regard to his case.

21. On or about September 16, 2002, Hartnett again appeared in court for a Case Management conference and other issues. The court again continued the matter until October 18, 2002. The Court was not notified that the Respondent was suspended at the time of this hearing, nor was it notified that he would still be suspended on the date set for the trial, nor did the Respondent cause the court to be so notified, orally or in writing or in any other manner.

22. On or about October 9, 2002, Respondent filed his quarterly report with the State Bar, attesting, *inter alia*, to his compliance with the State Bar Act and the Rules of Professional Conduct. In fact, the Respondent remained attorney of record on the Mercury/United case, and still had not advised the court of his ineligibility to practice, after the Supreme Court order of August 1, 2002.

23. On or about October 17, 2002, the Substitution of Attorney was filed with the Court. Respondent caused this substitution to be filed without the knowledge of Gould. This was two and a half months after Respondent's actual suspension went into effect.

24. On or about January 30, 2003, after the actual suspension had terminated, Respondent filed another Substitution of Attorney reinstating himself as Mercury's attorney. Respondent did not inform Gould of this reinstatement, nor did Gould, on behalf of Mercury, sign the Substitution of Attorney. Gould had never been contacted by Hartnett or any other attorney.

25. In or about March 2003, Gould, unable to reach Respondent by phone or in person, contacted another attorney for assistance, Glenn Dickinson ("Dickinson"). Dickinson began to assist Gould on or about March 21, 2003. At this point, the trial had been re-scheduled to March 24, 2003.

26. On or about March 24, 2003, the matter was called for trial. Respondent appeared for Mercury. Dickinson made a special appearance for Mercury. Initially, the court denied Respondent's request to continue the trial and re-open discovery. The case was trailed. On or about March 25, 2003, sanctions were imposed against Mercury of \$1,000.00. The court further ordered that United was granted evidentiary protection preventing the introduction of evidence not previously provided in the course of discovery (by Mercury). The trial was, however, ultimately continued. On or about June 12, 2003, the Court granted new counsel Dickinson's motion on behalf of Mercury to reopen discovery.

Conclusions of Law

By his conduct in failing to notify his client, Gould, Weis, the Law Office of Bruce A. Hatkoff, or the court in the United v. Mercury matter that he had been suspended from the practice of law, as required by (former) rule 955(a), Respondent wilfully failed to comply with the Supreme Court's order requiring him to do acts connected with or in the course of his profession which he ought to do in good faith, in wilful violation of California Business and Professions Code Section 6103.

By filing the false Affidavit, attesting to his compliance with (former) rule 955 (a), and by failing to take any steps to correct the false Affidavit, Respondent committed acts of moral turpitude, dishonesty or corruption in wilful violation of Business and Profession Code section 6106.

By executing a Substitution of Attorney, substituting Attorney John Hartnett ("Hartnett") in as counsel for Mercury in place of Respondent, without Gould's knowledge and without Gould executing the Substitution of Attorney, filing the Substitution of Attorney without Gould's knowledge, and at the conclusion of Respondent's actual suspension, subsequently filing and executing a Substitution of Attorney substituting Respondent back in as counsel for Mercury in place of Hartnett, without Gould's knowledge and without Gould executing the Substitution of Attorney, Respondent committed acts of moral turpitude, dishonesty or corruption in wilful violation of Business and Profession Code section 6106.

Case No. 07-O-14954 (Investigation)

1. On or about September 4, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$107.88 from Respondent's Client Trust Account, First Bank Account Number 245410407 ("cta"), to pay personal expenses from Longs Drugs, not related to any client matters.

2. On or about September 4, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$30.00 from Respondent's cta , to pay personal expenses from DeSoto Salon, not related to any client matters.

3. On or about September 5, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$32.35 from Respondent's cta , to pay personal expenses from Aloha Steakhouse, not related to any client matters.

4. On or about September 21, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$33.99 from Respondent's cta , to pay personal

expenses from Von's, not related to any client matters.

5. On or about September 25, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$27.23 from Respondent's cta , to pay personal expenses from Longs Drugs, not related to any client matters.

6. On or about September 28, 2007, Respondent deposited, a check for \$1350.00, made payable to Respondent, into Respondent's cta. The check represented Respondent's personal funds.

7. On or about December 13, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$56.54 from Respondent's cta , to pay personal expenses from Longs Drugs, not related to any client matters.

8. On or about January 7, 2008, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$27.23 from Respondent's cta , to pay personal expenses from Longs Drugs, not related to any client matters.

9. On or about December 10, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$40.00 from Respondent's cta , to pay personal expenses from DeSoto Salon, not related to any client matters.

10. On or about October 25, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$990.52 from Respondent's cta , to pay personal expenses from B & C Foreign Car, not related to any client matters.

11. On or about November 23, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$66.43 from Respondent's cta , to pay personal expenses from Village Wine, not related to any client matters.

12. On or about October 22, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$39.97 from Respondent's cta , to pay personal expenses from Applebees, not related to any client matters.

13. On or about November 30, 2007, Respondent John Royall Read III ("Respondent") made a pre-authorized debit in the amount of \$49.32 from Respondent's cta , to pay personal expenses from Applebees, not related to any client matters.

14. On or about January 7, 2008, Respondent John Royall Read III ("Respondent") made

a pre-authorized debit in the amount of \$85.51 from Respondent's cta , to pay personal expenses from Applebees, not related to any client matters.

Conclusions of Law

By depositing and paying personal expenses from Respondent's cta between September 4, 2007, and January 7, 2008, Respondent wilfully deposited and commingling funds belonging to Respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in wilful violation of rule 4-100(A) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was November 12, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 12, 2008, the costs in this matter are \$3,724.35. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE.

Under Standard 1.7(b), "If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by Standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.

Standard 2.2(b) provides that "Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

Standard 2.3 provides that "Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon

the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law."

Standard 2.6 provides, in pertinent part, that "Culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3: ...(b) Sections 6103 through 6105;...."

In imposing discipline, the court should consider the appropriate discipline in light of the standards, but in so doing, the court may consider any ground that may form a basis for an exception to application of the standards. *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal State Bar Ct. Rptr. 980.

In *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192, the hearing judge found Respondent culpable of wilfully failing to timely comply with Rule 955. The Review Department agreed and noted that "[e]ven though respondent had no clients or counsel to notify under rule 955(a), he was still required to file the affidavit required by rule 955(c). (Citing *Powers v. State Bar* (1988) 44 Cal. 3d 337, 341.) The Review Department recommended discipline consisting of a two year stayed suspension, two years probation with conditions, including a nine month actual suspension. In aggravation, Respondent had a prior record of discipline. The Review Department found as mitigation Respondent's recognition of wrongdoing demonstrated by Respondent's late attempt to file the Rule 955 affidavit, Respondent's efforts on behalf of the physically handicapped, and the lack of harm to clients in the Rule 955 matter.

AGGRAVATING CIRCUMSTANCES.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Under standard 1.2(b)(ii), Respondent's misconduct evidences multiple acts of misconduct due to the following: Respondent failed to comply with rule 955(a) of the California Rules of Court by failing to notify his client Gould, opposing counsel Weis, or the Law Offices of Bruce A. Hartkoff, or the court in the United vs. Mercury matter, at any time, that Respondent had been suspended from the practice of law per the order filed on or about July 2, 2008, by the Supreme Court of California, in wilful violation of Business and Professions Code section 6103 [Failure to Obey Court Order]; Respondent knowingly filed a false Affidavit of Compliance with rule 955(a) of the California Rules of Court and did not take any steps to correct the false Affidavit in wilful violation of Business and Professions Code section 6106 [Moral Turpitude]; Respondent executed a

Substitution of Attorney, substituting Attorney John Hartnett ("Hartnett") in as counsel for Mercury in place of Respondent, without Gould's knowledge and without Gould executing the Substitution of Attorney, filing the Substitution of Attorney without Gould's knowledge, and at the conclusion of Respondent's actual suspension, subsequently filing and executing a Substitution of Attorney substituting Respondent back in as counsel for Mercury in place of Hartnett, without Gould's knowledge and without Gould executing the Substitution of Attorney in wilful violation of Business and Professions Code section 6106 [Moral Turpitude]; and between September 2007 and January 2008, Respondent wilfully deposited and commingled his personal funds with funds in his cta, not related to any client matters, in wilful violation of rule 4-100(A) of the Rules of Professional Conduct [Commingling].

Under standard 1.2(b)(iii), Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct due to the following: Respondent knowingly filed a false Affidavit of Compliance with rule 955(a) of the California Rules of Court and did not take any steps to correct the false Affidavit in wilful violation of Business and Professions Code section 6106 [Moral Turpitude]; and Respondent executed a Substitution of Attorney, substituting Attorney John Hartnett ("Hartnett") in as counsel for Mercury in place of Respondent, without Gould's knowledge and without Gould executing the Substitution of Attorney, filing the Substitution of Attorney without Gould's knowledge, and at the conclusion of Respondent's actual suspension, subsequently filing and executing a Substitution of Attorney substituting Respondent back in as counsel for Mercury in place of Hartnett, without Gould's knowledge and without Gould executing the Substitution of Attorney in wilful violation of Business and Professions Code section 6106 [Moral Turpitude].

MITIGATING CIRCUMSTANCES.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

At the time of the misconduct, Respondent suffered extreme difficulties in his personal life which were other than emotional or physical in nature. *Schultz vs. State Bar* (1975) 15 Cal. 3d 799, 802-04. Respondent's reports of his addiction to alcohol has been longstanding, referred to as early as 1983 in his first disciplinary matter. Over the years, he has also been diagnosed with chronic and/or generalized anxiety as well as depression. As of 2002, when the last discipline was imposed, Respondent's anxiety and depression were the primary explanations. The State Bar accepted at that time, in stipulating to a third disciplinary disposition, that "... Respondent was not taking anti-depressant medication at the time of the misconduct" and "Respondent is now taking anti-depressant medication and he no longer suffers from extreme

emotional difficulties.” Unfortunately, Respondent’s various conditions continued to plague him, notwithstanding that 2002 conclusion, and there has been this fourth serious matter which includes failure to comply with former rule 955, presenting an affidavit to the State Bar that simply was not true and was not amended, filing a Substitution of Attorney without the Clients authorization, and commingling Respondent’s personal funds with funds in Respondent’s cta not related to any client matters. Respondent’s alcoholism is primary in his explanation and it is his contention that it was this condition that impaired his judgment and rational thinking as well as his ability to distinguish between right and wrong.

Respondent again went into recovery beginning early 2004, using the resources and support of the Other Bar, the Lawyer’s Assistance Program, the Ventura County Drug and Alcohol Program and Alcoholics Anonymous. Although Respondent is no longer involved with the Lawyer’s Assistance Program, he continues to attend meetings with the Other Bar in Ventura, and is committed to maintaining his sobriety. In October 2007, he sought evaluation by Dr. Robert Hoffman, M.D., Diplomate, American Board of Psychiatry and Neurology, Diplomate, American Board of Forensic Medicine, Assistant Clinical Professor of Psychiatry at UCLA, who is managing Respondent’s medication for his depression and anxiety.

Respondent has expressed his understanding and appreciation of his conduct and his remorse for his misconduct. Respondent understands that if he can not stay in recovery and/or manage his psychological conditions, he can not remain a licensed attorney. He is thus willing to commit to strict substance abuse and medical conditions in connection with this disciplinary matter.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

MEDICAL CONDITIONS

Respondent shall continue being treated by Dr. Robert Hoffman, or a doctor certified by the American Board of Psychiatry and Neurology, to be mutually agreed upon by Respondent and the State Bar, or as ordered by the Court, in addition to the Substance Abuse Conditions at Attachment Pages 11-13. If Dr. Hoffman, or a doctor certified by the American Board of Psychiatry and Neurology, to be mutually agreed upon by Respondent and the State Bar, or as ordered by the Court, determines that there has been a substantial change in the Respondent’s condition, Respondent or the State Bar may file a motion for modification of this condition with

the Hearing Department of the State Bar Court, pursuant to rule 550 et seq. of the Rules of Procedure of the State Bar of California. The motion must be supported by a written statement from Dr. Hoffman, or a doctor certified by the American Board of Psychiatry and Neurology, to be mutually agreed upon by Respondent and the State Bar, or as ordered by the Court, by declaration or affidavit under penalty of perjury, supporting the proposed modification.

SUBSTANCE ABUSE CONDITIONS

Abstinence:

Respondent shall abstain from use of any alcoholic beverages, and shall not consume or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.

Reporting Abstinence:

Respondent shall report his compliance with this condition (i.e. Abstinence) by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to this order.

Submit to Examination:

Within thirty (30) days of the effective date of the discipline in this matter, if Respondent has not already done so, Respondent shall submit to a medical examination by a doctor certified by the American Society of Addiction Medicine, to be mutually agreed upon by Respondent and the State Bar or as ordered by the Court ("Doctor"). The Doctor shall conduct an evaluation and issue a report to the Office of Probation and include/address the following:

1. Provide an evaluation, pursuant to DSM-IV-TR, to determine a diagnosis, if any, of Respondent's condition regarding alcohol;

The evaluation may include the performance of standardized tests in oral or written form; interviews with Respondent; review of records relating to his medical condition, criminal proceedings, criminal probation records, State Bar disciplinary records, alcohol treatment or recovery records; and other information provided by the State Bar and/or Respondent.

No physically invasive procedures may be performed without prior consent of Respondent or upon a court order. The Doctor will advise Respondent and/or the State Bar if any physically invasive procedure

is required.

2. For any condition regarding alcohol which is diagnosed by the Doctor a determination should be made as to whether the Doctor recommends any treatment to address that condition, and the Doctor should state in specific terms the Doctors' recommendations for how Respondent should be tested, monitored, and/or treated.

Compliance with Recommended Treatment:

Respondent shall comply with all treatment conditions recommended by the Doctor, either as originally set forth or as may be modified thereafter.

Respondent shall report his compliance with these conditions by statement under penalty of perjury in each written quarterly report to the Office of Probation and he shall provide such satisfactory proof of his compliance as the Office of Probation may request.

Random Blood/Urine Tests:

Respondent must select a licensed medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.

Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. The Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.

Consent for Release of Treatment and Recovery Information:

Respondent shall provide a written consent to all alcohol or drug recovery or treatment providers, including testing facilities, who provide services as identified in these Substance Abuse Conditions to release information to the Office of Probation regarding his treatment,

compliance, and status.

Copy of this Stipulation to all Treatment Providers:

Within thirty (30) days of the effective date of discipline in this matter, Respondent shall deliver a copy of this stipulation to all treatment providers who provide services to him described in these Substance Abuse Conditions.

Reporting Consent and Delivery of Stipulation:

Respondent shall report his compliance with the condition of providing consent to release treatment and recovery information and his delivering of this Stipulation to treatment providers, by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to this order and he shall provide to the Office of Probation satisfactory proof of his compliance if requested.

Costs are Responsibility of Respondent:

Respondent shall be responsible for the prompt and timely payment of all costs associated with these Substance Abuse Conditions, including, without limitation, the cost of examination(s), testing, treatment, or therapy, and any all other costs related to these Substance Abuse Conditions.

Modification of Conditions:

Modification of these conditions shall be pursuant to the Rules of Procedure of the State Bar of California, rule 550 et seq.

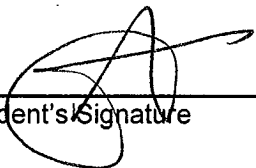
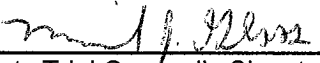
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In the Matter of
John Royall Read III

Case number(s):
04-N-11899; 07-O-14954 (Investigation)

SIGNATURE OF THE PARTIES

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

<u>11-19-08</u> Date	 Respondent's Signature	<u>John Royall Read III</u> Print Name
<u>11/21/08</u> Date	 Deputy Trial Counsel's Signature	<u>Michael J. Glass</u> Print Name

(Do not write above this line.)

In the Matter Of
John Royall Read III

Case Number(s):
04-N-11899; 07-O-14954 (Investigation)

ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

11/24/08

Date

Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 24, 2008, I deposited a true copy of the following document(s):

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

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

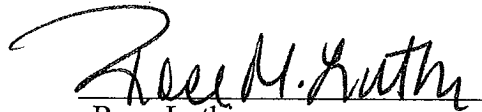
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOHN ROYALL READ III
5700 RALSTON ST #201
VENTURA, CA 93003

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

MICHAEL GLASS, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 24, 2008.



Rose Luthi
Case Administrator
State Bar Court