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<b>State Bar Court of California</b> Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco		
Counsel for the State Bar <b>Robert A. Henderson</b> Deputy Trial Counsel 180 Howard Street, 7th Floor San Francisco, CA 94105 (415) 538-2385  Bar # 173205	Case number(s)  04-0-12213 05-0-00346	(for Court's use)  <b>PUBLIC MATTER</b>  <b>FILED</b> JUL 18 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent <b>Jonathan C. Vorhes</b> 701 Howe Street, Suite G-45 Sacramento, CA 95825 (916) 927-5800  Bar # 190033	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND            DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of  <b>JONATHAN C. VORHES</b>  Bar # 190033 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 November 24, 1997 (date)
- (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 and order consist of 12 pages.
- (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.

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(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:  
(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 \_\_\_\_\_

(b)  Date prior discipline effective \_\_\_\_\_

(c)  Rules of Professional Conduct/ State Bar Act violations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(d)  Degree of prior discipline \_\_\_\_\_

(e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."

(2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

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- (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.
- (8)  **No aggravating circumstances are involved.**

**Additional aggravating circumstances:**

- (4) **Respondent's misconduct in the Martin matter caused her to lose her cause of action.**

**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.

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- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

- (1) Respondent was admitted to the practice of law in California on November 24, 1997 and has no prior record of discipline.

**D. Discipline:**

- (1)  **Stayed Suspension:**

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

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

(b)  The above-referenced suspension is stayed.

- (2)  **Probation:**

Respondent must be placed on probation for a period of two (2) years which will commence upon the effective date of the Supreme Court order in this matter.  
(See rule 953, Calif. Rules of Ct.)

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(3)  Actual Suspension:

- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of 90 days
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
  - ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
  - iii.  and until Respondent does the following: \_\_\_\_\_

E. Additional Conditions of Probation:

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in 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.

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- (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:
- |                                                     |                                                           |
|-----------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

#### F. Other Conditions Negotiated by the Parties:

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation 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 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended. Reason: \_\_\_\_\_
- (2)  **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, 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 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, 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: Client Trust Accounting School**
- Within one (1) year of the effective date of the discipline herein, respondent must supply to the Office of Probation satisfactory proof of attendance at a session of Client Trust Accounting School and passage of the test given at the end of that session.**

**ATTACHMENT TO**

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

IN THE MATTER OF:       Jonathan C. Vorhes  
CASE NUMBER(S):         04-O-12213; 05-O-00346

**FACTS AND CONCLUSIONS OF LAW.**

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

Case no. 04-O-12213 (Martin)

On or about November 20, 2002 Laura Martin employed Lillian Jenks ("Jenks") to represent her in a personal injury case arising out of an accident that occurred on or about December 31, 2001. The fee agreement was a one third contingency fee contract. On the same date, Martin also signed a one third contingency fee agreement with respondent for the same incident. Thereafter Jenks turned the case over to respondent to handle.

On or about December 13, 2002, respondent filed a civil complaint on Martin's behalf, *Laura Martin v. Liquid Investments; Mesa Beverage; Sunshine Foods*, Sacramento County Superior Court case number 02AM10846. The caption listed both respondent and Jenks as attorneys for Martin. Respondent signed the complaint. Respondent sent a check for \$238 for filing fees. On or about January 8, 2003, the Court sent a notice to respondent that his check had been returned unpaid, and included information for remitting payment. Additional, the notice indicated that no further filings would be accepted until payment was received. Respondent failed to resubmit payment for the filing fee.

In or about July 2003 the Court voided the complaint for failure to pay the filing fee.

On or about November 19, 2003, respondent discovered the complaint had been voided when he appeared at a hearing on a motion to compel responses to discovery filed by the defendant. Respondent did not inform Martin why the complaint was voided.

On or about November 24, 2003, the judgment of dismissal was filed.

Prior to December 1, 2003, respondent met with Martin to discuss her options regarding her personal injury case. On or about December 1, 2003 respondent sent a letter to Martin informing her that the case had been dismissed and listing several options for the case. Respondent also

told Martin that he may have committed professional negligence and advised her to seek the advice of other counsel on that issue.

Martin told respondent that she wanted to re-file her case.

On or about December 30, 2003, respondent filed another action, *Laura Martin v. Liquid Investments; Mesa Beverage; Sunshine Foods*, Sacramento County Superior Court case number 03AS07080, based on the same incident and informed Martin.

Over the next few months, respondent and Martin met and/or spoke on several occasions about the case. Martin decided that she did not want to pursue the personal injury case number 03AS07080.

On or about April 6, 2004, Martin signed a document in settlement of any potential malpractice claims she may have had against respondent. Respondent paid Martin \$10,000 in consideration of her settlement. The check was drawn on respondent's client trust account. Respondent had not deposited any funds on behalf of Martin into that account. Respondent contends that the funds he used to pay Martin were those belonging to him, that had not been removed from the client trust account.

On or about April 28, 2004, respondent dismissed the second lawsuit, case number 03AS07080.

#### Conclusions of Law

By paying filing fees with a check drawn on insufficient funds and not replacing it with a check drawn on sufficient funds, and resulting in the case being dismissed, respondent recklessly failed to perform legal services competently in wilful violation of rule 3-110 of the Rules of Professional Conduct.

By not informing Martin that the case was dismissed because respondent failed to pay the filing fee with a check drawn on sufficient funds, respondent failed to keep his client reasonably informed of significant developments in matters with regard to which he agreed to provide legal services in wilful violation of section 6068(m) of the Business and Professions Code.

By issuing a check drawn from his client trust account to pay a personal obligation, respondent commingled personal funds with client funds in wilful violation of rule 4-100(A) of the Rules of Professional Conduct.

#### Case no. 05-O-00345 (Kowal)

In or about 2001 Jessica Kowal ("Kowal") employed Jenks to represent her in a personal injury case arising out of an auto accident that occurred on or about February 14, 2001. During the course of the case, respondent told Kowal that he was handling the case. At a point when the

case was close to settlement, Jenks started working on the case again. All along, Kowal understood that her medical bills would be paid from any settlement.

Beginning in 2001, Kowal received notices from the Placer Credit Bureau regarding a bill from the emergency room physicians who treated her. The bill was in the amount of \$425. Jenks did not respond to her calls. Respondent returned one of Kowal's phone calls and told her he would have to pull the file and get back to her. Respondent also told her not to worry that he would handle the situation with Placer Credit Bureau. After two weeks passed, Kowal called respondent and Jenks on several occasions to determine the status of the payment to Placer Credit Bureau, leaving messages to return her calls. Neither respondent nor Jenks returned Kowal's calls. Neither respondent nor Jenks took steps to pay the outstanding bill.

### Conclusions of Law

By not returning Kowal's call regarding payment of the emergency doctor's bill, respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code, section 6068(m).

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was June 7, 2006.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 7, 2006, the estimated prosecution costs in this matter are approximately \$2,915. Respondent acknowledges that this figure is an estimate only. 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.**

Standard 2.2(b) of the Standards for Attorney Sanctions for Professional Misconduct, states that:

Culpability of a member of commingling of entrusted funds or property with personal property, . . . , 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.

*In the Matter of Blum* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403 - Thirty days actual suspension for two client trust account violations, which rose to moral turpitude through gross negligence, and an illegal fee.

*In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615 - Six months actual suspension for improper use of client trust account, failure to return unearned costs promptly and failure to perform legal services competently.

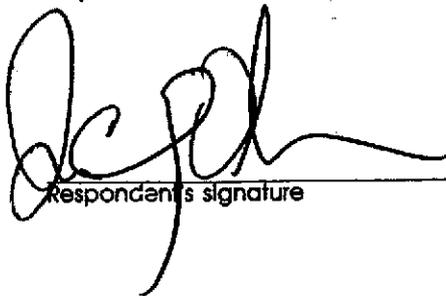
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In the Matter of  <b>JONATHAN C. VORHES</b>	Case number(s):  <b>04-0-12213</b> <b>05-0-00346</b>
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### SIGNATURE OF THE PARTIES

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

6/26/06  
Date

  
Respondent's signature

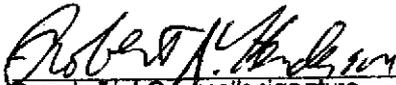
**JONATHAN C. VORHES**  
Print name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent's Counsel's signature

\_\_\_\_\_  
Print name

6/27/06  
Date

  
Deputy Trial Counsel's signature

**ROBERT A. HENDERSON**  
Print name

(Do not write above this line.)

In the Matter of  JONATHAN C. VORHES	Case number(s):  04-0-12213 05-0-00346
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### 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 953(a), California Rules of Court.)

Date

July 18, 2006

Pat McErney

Judge of the State Bar Court

**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 San Francisco, on July 18, 2006, 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:

- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JONATHAN C VORHES  
LAW OFFICE OF CLAY VORHES  
701 HOWE ST #G-45  
SACRAMENTO CA 95825**

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

**ROBERT HENDERSON, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 18, 2006.

  
**George Hue**  
Case Administrator  
State Bar Court