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State Bar Court of California Hearing Department		
PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES		
Counsel For The State Bar CHARLES A. MURRAY Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 Bar # 146069 Tel: (213) 765-1236	Case Number (s) 05-0-00719 FILED JAN 15 2010 <i>YHC</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES	(for Court's use) LODGED MAY - 6 2008 <i>YHC</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES CONFIDENTIAL
ERICA A. TABACHNICK 900 Wilshire Blvd., Suite 1000 Los Angeles, California 90017 Bar # 94324 Tel: (213) 895-4640	Submitted to: Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: LAWRENCE HOODACK Bar # 97629 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 May 29, 1981.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of () pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts." -See Attachment
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law". -See Attachment
- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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 90-O-10246; et al.
- (b) Date prior discipline effective July 17, 1994.
- (c) Rules of Professional Conduct/ State Bar Act violations: 3-110(A); 4-100(B)(4); 3-700(A)(2); 3-700(D)(1); 3-500; 4-100(A); 4-100(B)(1); 4-100(B)(3); 1-300(A); 1-310; 1-320
- (d) Degree of prior discipline (4) mo. Actual, (3) yrs. Stayed, (3) yrs. Prob.
- (e) If Respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (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:

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.

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- (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. (see page 7)
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (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:

ATTACHMENT TO
ADP STIPULATION RE FACTS, CONCLUSIONS OF LAW

IN THE MATTER OF: **LAWRENCE HOODACK** (Respondent"), #97629

CASE NUMBERS **05-O-00719**

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was December 3, 2007.

STIPULATION AS TO FACTS AND CONCLUSIONS OF LAW:

FACTS:

1. On November 23, 2001, Tin Nguyen was the driver and Duc Nguyen, Long Lai, Jason Chau and Michael Chau were passengers in a car involved in a head on car accident with a drunk driver who was fleeing the CHP. All five men sustained serious injuries as the result of the collision.
2. On November 29, 2001, Duc and Tin Nguyen executed designee authorizations and retainer agreements for legal services for Respondent to handle their personal injury matter.
3. On December 4, 2001 Lai hired Respondent to handle his case, signing a designee authorization and a retainer agreement for legal services.
4. On January 4, 2002, Moi Tuing, mother of Jason and Michael Chau, executed designee authorizations and retainer agreements for legal services, hiring Respondent to handle their personal injury matters arising from the November 23, 2001 accident.
5. When Respondent accepted the above-described representations, the interests of the clients potentially conflicted with each other.
6. Though there was an oral agreement among the clients that they would divide a negotiated settlement equally, Respondent failed to disclose in writing to his clients the relevant circumstances and the actual or foreseeable adverse consequences to his clients which may have resulted from the potential conflict of interest.
7. Respondent failed to obtain the clients' informed written consent to the representation following written disclosure of the potential adverse consequences of the multiple representation.
8. The driver who hit the car driven by Tin Nguyen in which the men were riding was driving under the influence of alcohol and uninsured.
9. At the time of the accident Tin Nguyen was insured by National Automobile & Casualty Insurance Company ("National"), which was later taken over by the California State Department of Insurance Conservation and Liquidation Office.
10. On February 6, 2002, Respondent wrote to National and demanded that National tender the uninsured motorist policy limits of \$30,000.00, for his five clients.
11. On February 21, 2002, Health Care Legal Services ("Health Care"), a medical provider for Duc Nguyen, submitted an application to the Victim Compensation and Government Claims Board ("Victim Board") to obtain Victims of Crime Program benefits to cover Duc Nguyen's medical expenses.

12. On March 14, 2002, Attorney Korosh Shahriari wrote to Respondent asserting a lien on the settlements of Jason and Michael Chau.

13. On March 26, 2002, National wrote a letter to Respondent agreeing to settle the case for \$6,000.00 per claimant under the Uninsured Motorist Bodily Injury policy limits on Tin Nguyen's policy. The letter included uninsured motorist release claim forms for Long Lai, Duc Nguyen and Tin Nguyen to sign. The letter also advised Respondent that a minor's compromise was required for Jason and Michael Chau. Respondent never prepared a minor's compromise for either Jason or Michael Chau; however, National still sent settlement checks for each minor without requiring the formal minor's compromise.

14. Shortly thereafter Respondent returned the signed release forms of Long Lai, Duc Nguyen and Tin Nguyen.

15. On March 28, 2002, National issued a check in the amount of \$6,000.00 made payable to Respondent and Long Lai as Long Lai's portion of the \$30,000.00 settlement.

16. On that same day, March 28, 2002, National issued a check in the amount of \$6,000.00 payable to Respondent and Moi Tuing, as guardian ad litem of Michael Chau, as Michael Chau's portion of the \$30,000.00 settlement.

17. At about the same time, National issued additional checks in the amount of \$6,000.00 payable to Respondent and Duc Nguyen, Tin Nguyen and Moi Tuing as the guardian ad litem of Jason Chau as the claimant's portion of the \$30,000.00 settlement.

18. Respondent received all five checks - for the benefit of Tin Nguyen, Duc Nguyen, Long Lai and Jason and Michael Chau - in the total sum of \$30,000.00 from National.

19. At all times relevant to these charges, Respondent maintained a client trust account at Wells Fargo Bank, account no. 0781045968. He deposited the five checks totaling \$30,000.00 into his client trust account.

20. On April 15, 2002, Health Care updated Duc Nguyen's application for Victims of Crime Program benefits listing Respondent as Duc Nguyen's attorney.

21. On May 21, 2002, Respondent filed proof of claim forms with the State of California making claims against the CHP in the amount of \$1 million on behalf of all five of his clients.

22. On June 14, 2002, the State of California denied the claims of Respondent's five clients, claiming government immunity.

23. On June 14, 2002, the Victim Board wrote to Respondent at his State Bar of California membership records address concerning Duc Nguyen's claim for Victim of Crime Program benefits. In the letter, the Victim Board requested that Respondent provide specific information to the Victim Board about Duc Nguyen's claim. The letter was sent to Respondent via the United States Postal Service, first class postage prepaid. The letter was not returned by the United States Postal Service as undeliverable or for any other reason. Despite his receipt of the letter, Respondent failed to respond to the Victim Board's request for information.

24. On August 1, 2002, Respondent agreed to pay Shahriari \$400.00 for the attorney lien on Jason and Michael Chau's cases.

25. On August 4, 2002, Respondent issued a client trust account check in the amount of \$400.00 to the Law Offices of Shahriari & Associates to cover the attorney lien on Jason and Michael Chau's cases.

26. On September 16, 2002, Respondent sent a letter to Tin Nguyen with a client trust account check in the amount of \$2,000.00 as Tin Nguyen's portion of his uninsured motorist settlement. He also paid Tin Nguyen's medical provider \$2,000.00.

27. Respondent paid himself \$2,000.00 in attorney fees for each of his five clients' cases, for a total of \$10,000.00. Respondent was entitled to no more than 25% or \$1500 as an attorney fee for the minor clients Jason and Michael Chau. Respondent should have paid himself a total of no more than \$9,000.00 in attorney fees.

28. On November 25, 2002, Respondent filed a civil action against the State of California, the California Highway Patrol, Officer C. Chu, Erick Carillo (the drunk driver who hit the car driven by Tin Nguyen) and Jose Barragon on behalf of all five clients in Los Angeles Superior Court, case no. KC040510 (the "State of California action").

29. By December 2002, Respondent received payments for all the clients, and paid the prior attorney, himself and one client, and was left with the balance of settlement funds in his client trust account. The medical liens for his clients were for more than their entire portions of the settlement funds. Respondent was required to maintain at least \$17,000.00 in his client trust account pending resolution of his clients' medical liens.

30. In May 2003, the State of California action was dismissed.

31. After receiving the settlement funds, Respondent did not promptly take steps to resolve his clients' outstanding medical liens.

32. After receiving the settlement funds, Respondent did not promptly pay his other four clients - Duc Nguyen, Long Lai and Jason and Michael Chau - the settlement funds to which they were entitled.

33. Duc Nguyen contacted Respondent's office several times after Respondent settled with National to request that Respondent pay the medical providers and pay him his portion of the settlement proceeds. Respondent received these requests but did not promptly pay as requested.

34. Respondent has also failed to provide documentation to the Victim Board on behalf of Duc Nguyen for his client's Victims of Crime Program benefits claim.

35. By January 16, 2003, the balance in Respondent's client trust account dipped to \$7,869.28. At this point Respondent had not paid any of his clients' -other than Tin Nguyen - their medical liens or settlement funds.

36. By January 16, 2003, Respondent had misappropriated \$9,130.72 of his client's settlement funds.

37. By allowing his CTA balance to drop below \$17,000.00, Respondent dishonestly or with gross negligence misappropriated the client's funds.

38. In mid-October, 2006, Respondent resolved the medical provider's liens and mailed to each of the four remaining clients - Duc Nguyen, Long Lai and Jason and Michael Chau - a letter of apology and a check for \$4,000.00, waiving retention of any attorney fees. The mailings were received at that time by Lai and the Chau. However, due to his change of address the mailing to Duc Nguyen was not completed until after Respondent obtained a current address from the State Bar.

CONCLUSIONS OF LAW:

30. By misappropriating at least \$9,130.72 of his clients' settlement funds, Respondent committed an act involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code section 6106.

31. By failing to pay Duc Nguyen, Long Lai and Jason and Michael Chau their portions of the March 2002 settlement proceeds until October 2006, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive in wilful violation of Rule of Professional Conduct 4-100(B)(4).

32. By failing to maintain funds in the amount of \$17,000.00 on behalf of his five clients in his client trust account, Respondent failed to maintain client funds in his client trust account in wilful violation of Rule of Professional Conduct 4-100(A).

33. By failing to promptly negotiate his clients' medical liens, failing to prepare the minor's compromises, and failing to provide requested information to the Victim Board, Respondent intentionally, recklessly, or repeatedly failing to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

34. By failing to obtain his clients' informed written consent to his representation, Respondent wilfully violated Rule of Professional Conduct 3-310(C)(1).

AGGRAVATION:

Prior Record of Discipline: 1994 four month actual suspension for eleven RPC violations involving the mishandling of his client's matter.

Harm: Respondent's misconduct harmed significantly his clients whose matters were not handled as agreed and four of whom were denied payment of their settlement for at least 3 years.

Multiple Acts: Respondent's current misconduct evidences multiple acts of wrongdoing.

MITIGATION:

Candor/Cooperation: Respondent exhibited spontaneous candor and cooperation with the State Bar in its investigation and these proceedings.

Remorse: Though Respondent did not promptly take objective steps demonstrating remorse and recognition of his wrongdoing, when he did pay his four yet unpaid clients their settlement funds some three years late, he also waived any attorney fees and paid that amount to those clients and included a letter of apology to them.

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In the Matter of LAWRENCE HOODACK Member #97629	Case number(s): 05-O-00719
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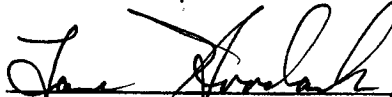
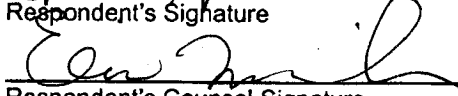
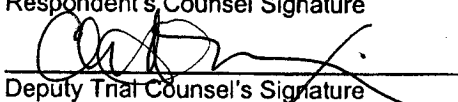
SIGNATURE OF THE PARTIES

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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

<u>12-11-07</u> Date	 Respondent's Signature	<u>LAWRENCE HOODACK</u> Print Name
<u>12/11/07</u> Date	 Respondent's Counsel Signature	<u>ERICA A. TABACHNICK</u> Print Name
<u>12/13/07</u> Date	 Deputy Trial Counsel's Signature	<u>CHARLES A. MURRAY</u> Print Name

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In the Matter Of LAWRENCE HOODACK Member #97629	Case Number(s): 05-O-00719
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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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

The stipulation consists of nine (9) pages, including this order. Page numbers have been added by the court to pages 8 and 9. The attached Proof of Service, previously attached to the agreement, has been removed and separately lodged with the court.

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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

May 6, 2008
Date


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 Los Angeles, on May 7, 2008, I deposited a true copy of the following document(s):

**CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND
ORDERS; STIPULATION RE FACTS AND CONCLUSIONS OF LAW;
CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR
COURT'S ALTERNATIVE DISCIPLINE PROGRAM**

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:

**ERICA ANN TABACHNICK
900 WILSHIRE BLVD #1000
LOS ANGELES, CA 90017**

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

CHARLES MURRAY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 7, 2008**.



Tammy R. Cleaver
Case Administrator
State Bar Court