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**State Bar Court of California
Hearing Department
San Francisco**

<p>Counsel For The State Bar</p> <p>Donald R. Steedman Supervising Trial Counsel State Bar of California 180 Howard Street San Francisco, CA 94105 (415) 538-2345</p>	<p>Case Number (s) 06-H-11317</p> <p>PUBLIC MATTER</p>	<p>(for Court's use)</p> <p>FILED <i>Kos</i></p> <p>JUN 13 2006</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Bar # 104927</p> <p>In Pro Per Respondent</p> <p>Larry T. Cole 2401 East Orangeburg Avenue #675 PMB 203 Modesto, CA 95355 (530) 906-4252</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>Bar # 70462</p> <p>In the Matter Of: Larry T. Cole</p> <p>Bar # 70462</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 22, 1976**.
- (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 **10** 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".

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Stayed Suspension



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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline.
 - 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 **82-O-235A**
 - (b) Date prior discipline effective **08/09/82**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Former Rule of Professional Conduct 6-101(2)**
 - (d) Degree of prior discipline **Private Reproval**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline. Respondent received a public reproval, effective February 4, 2005, in case number 03-O-00174 for a violation of Rule of Professional Conduct 3-700(D).
- (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.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Stayed Suspension

(Do not write above this line.)

- (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.
- (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:

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Stayed Suspension

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one 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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 953, California Rules of Court)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.

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- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: **Respondent attended Ethics School in February 2006 as required by the reprobation order in case number 03-O-00174.**
- (8) 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.
- (9) 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 within one year. **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: **Respondent took and pass the MPRE in November, 2005, as required by the conditions of his public reprobation in case number 03-O-00174.**
- (2) **Other Conditions:**

Attachment language (if any):

FACTS:

1. On or about February 4, 2005, acting under the authority of Business and Professions Code section 6077, the State Bar Court of California issued imposed a public reproof upon respondent in case number 03-O-00174. Pursuant to California Rule of Court 956, the State Bar Court ordered respondent to comply with certain conditions attached to the reproof.

2. The February 4, 2005 State Bar Court reproof order became final on or about February 25, 2005, and at all times thereafter has remained in full force and effect.

3. On February 4, 2005, the State Bar Court Clerk served the reproof order upon respondent by mail. Respondent received the decision shortly thereafter and at all times pertinent hereto was aware of the reproof order and conditions.

4. The reproof order required respondent to comply with the specified conditions for a period of one year, i.e., from on or about February 25, 2005 until on or about February 25, 2006.

5. One of the conditions of the reproof required respondent to submit quarterly reports as follows:

“Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall 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. If the first report would cover less than 30 days, that report shall 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 condition period and no later than the last day of the condition period.”

6. Respondent violated the quarterly reporting condition by submitting his quarterly reports late, as follows:

<u>DATE DUE</u>	<u>DATE ACTUALLY SUBMITTED</u>
April 10, 2005	April 14, 2005
July 10, 2005	July 29, 2005
October 10, 2005	December 20, 2005
January 10, 2006	April 11, 2005
February 25, 2006	April 3, 2006

7. Another condition of respondent's reproof provided as follows:

"Respondent shall pay restitution to Gregory Alan Marts (or the Client Security Fund, if appropriate), in the amount of \$700. Respondent will make monthly payments of no less than \$100 towards this restitution amount starting March 1, 2005, and thereafter by the first day of each month until paid in full, and provide satisfactory proof thereof to the Office of Probation with each quarterly report. Failure to timely pay restitution will be in violation of probation."

8. The stipulation upon which the reproof was based identified Gregory Alan Marts as a victim of respondent's attorney misconduct. The restitution condition was intended to reimburse Mr. Marts for an attorney fee that respondent had received but had not earned. Because Mr. Marts had not received reimbursement from the Client Security Fund, respondent made his restitution payments to Mr. Marts.

9. Respondent violated the restitution condition by failing to make timely restitution payments as follows:

DATE THAT RESTITUTION WAS DUE	AMOUNT DUE	APPROXIMATE DATE THAT RESPONDENT PAID MR. MARTS	AMOUNT PAID
March 1, 2005	\$100	March 4, 2005	\$100
April 1, 2005	\$100	April 4, 2005	\$100
May 1, 2005	\$100	May 4, 2005	\$100
June 1, 2005	\$100	June 5, 2005	\$100
July 1, 2005	\$100	August 1, 2005	\$100
August 1, 2005	\$100		
September 12, 2005	\$100	December 14, 2005	\$200

10. Another condition of the reproof provided as follows:

“Within one (1) year of the effective date of discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance of the Ethics School and passage of the test given at the end of that session.”

11. Respondent violated the Ethics School condition because, although he attended Ethics School on February 9, 2006, he failed to provide proof of attendance to the Office of Probation unless after the year had expired. Specifically, respondent did not provide the proof of attendance until on or about April 3, 2006.

12. Respondent has now completed all of the conditions of his reproof.

CONCLUSION OF LAW

Respondent wilfully violated Rules of Professional Conduct, rule 1-110(A), by failing to comply with conditions attached to a public reproof administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and rule 956, Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page two, paragraph A7 was May 1, 2006.

SUPPORTING AUTHORITIES

In the Matter of Meyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697; *Conroy v. State Bar* (1990) 51 Cal.3d 799); Standard 2.9, Standards for Attorney Sanctions for Professional Misconduct.

MITIGATION

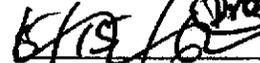
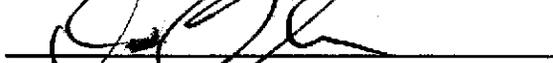
Respondent has informed the State Bar that during the period in question he had responsibilities in taking care of an ill family member, that the family member died in March 2006, that he suffered financial hardship from the unexpected delay in the relocation of his law office from Auburn to Modesto, and that this delay was caused the necessity of an unanticipated retrial of a murder case requiring that respondent live in a hotel in Auburn for the duration of the trial.

(Do not write above this line.)

In the Matter of Larry T. Cole	Case number(s): 06-H-11317
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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 Fact, Conclusions of Law and Disposition.

5-11-06		Larry T. Cole
Date	Respondent's Signature	Print Name
		Print Name
Date	Respondent's Counsel Signature	Print Name
5/15/06		Donald R. Steedman
Date	Deputy Trial Counsel's Signature	Print Name

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In the Matter of LARRY T. COLE Member No. 70462	Case number(s): 06-H-11317
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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 court makes the following modifications:

1. On page 2, under "Prior record of discipline," the reference to "case 82-O-235A" is deleted and replaced with "case 82-O-23."
2. On page 7, in paragraph 6 under "Facts," respondent's January 10, 2006 quarterly report was submitted April 11, 2006, not April 11, 2005.
3. On page 8, in paragraph 11 under "Facts," the word "unless" is deleted and replaced with "until."
4. On page 8, under "Conclusion of Law," the reference to "rule 1-110(A)" is deleted and replaced with "rule 1-110."

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

6/13/06

JOANN M. REMKE

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 June 13, 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:

**LARRY THAYNE COLE
LAW OFC LARRY T COLE
PMB 203
2401 E ORANGEBURG AVE #675
MODESTO, CA 95355**

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

DONALD STEEDMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **June 13, 2006.**



Laine Silber
Case Administrator
State Bar Court