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State Bar Court of California Hearing Department Los Angeles		
Counsel For The State Bar William F. Stralka Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2211 (213) 765-1091 Bar # 56147	Case Number (s) 06-O-11066	(for Court's use) <div style="text-align: center;"> FILED <i>MIS</i> JAN - 8 2007 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Michael J. Melton 927 Deep Valley Drive, #195 Rolling Hills Est., CA 90274-3808 (310) 541-6800 Bar # 48323	PUBLIC MATTER	
In the Matter Of: MICHAEL J. MELTON Bar # 48323 A Member of the State Bar of California (Respondent)	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 7, 1971.
- (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 13 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."

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

Actual Suspension

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- (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: **2008, 2009, 2010**
(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 **04-O-10802 (S132494)**
 - (b) Date prior discipline effective **July 10, 2005**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rule 3-110(A) failure to perform with competence; rule 3-700(A)(2) avoid reasonably foreseeable prejudice on withdraw; rule 3-700(D)(2) timely refund of fees; and Business and Professions Code, section 6068(m) information about significant developments, reply to reasonable status inquiries. Respondent's misconduct occurred beginning in early 2002 and ended in late 2004.**
 - (d) Degree of prior discipline **6 months suspension stayed, two years probation**
 - (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.

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

Actual Suspension

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- (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:

(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:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

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

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **thirty (30) 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

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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: **condition imposed in case no. 04-O-10802 (S132494) completed on June 1, 2006..**
- (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 checked="" 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: **Respondent took and passed MPRE on March 11, 2006 for case no. 04-O-10802 (S132494).**

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- (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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MICHAEL JOSEPH MELTON

CASE NUMBER: 06-O-11066

PENDING PROCEEDINGS:

The disclosure date referred to, on page one, paragraph A.(7), was November 14, 2006.

PARTIES ARE BOUND BY THE STIPULATION FACTS:

The Parties intend to be and are hereby bound by the stipulation to facts contained in this stipulation. This stipulation as to facts, and the facts so stipulated shall independently survive, even if the conclusions of law and/or stipulated disposition set forth herein are rejected, or changed in any manner whatsoever, by the Hearing Department or the Review Department of the State Bar Court, or by the California Supreme Court.

RESTRICTIONS WHILE ON ACTUAL SUSPENSION

1. During the period of actual suspension, Respondent shall not:
 - Render legal consultation or advice to a client;
 - Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;
 - Appear as a representative of a client at a deposition or other discovery matter;
 - Negotiate or transact any matter for or on behalf of a client with third parties;
 - Receive, disburse, or otherwise handle a client's funds; or
 - Engage in activities which constitute the practice of law.

2. Respondent shall declare under penalty of perjury that he or she has complied with this provision in any quarterly report required to be filed with the Probation Unit, pertaining to periods in which the Respondent was actually suspended from the practice of law.

STIPULATION AS TO 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, or has otherwise committed acts of misconduct warranting discipline.

FACTS: CASE NO. 06-O-11066:

1. In September 2002, Pamela Carter ("Carter") employed respondent to represent her in a pending civil action entitled *Carter v. Public Storage*, Los Angeles County Superior Court, case no. 02K16022 ("the Carter matter") Pamela Carter, plaintiff. (The case number was changed by the court on or before August 14, 2002, from BC270959 to 02K16022.) Carter signed a substitution of attorney in September 2002 and delivered it to Respondent for filing.
2. Carter paid Respondent \$4,000 in advanced fees.
3. On July 1, 2002, Public Storage propounded a Request for Production of Documents to Carter through her attorney Nancy P. Adel ("Adel").
4. Public Storage was informed by Adel on September 13, 2002 that Carter had substituted Adel out of the case and that she was representing herself in pro per. Carter confirmed Adel's substitution on September 20, 2002 by facsimile sent to Public Storage.
5. On November 12, 2002, Public Storage filed a Motion to Compel Responses and to Compel Compliance Re: Inspection Demands, and a Request for Sanctions. Carter was served in pro per.
6. On November 15, 2002, Public Storage filed an Answer to [Plaintiff's] First Amended Complaint. Carter was served in pro per.
7. On January 9, 2003, Public Storage's Motion to Compel and Inspection Demand was granted. Carter was ordered to comply within 30 days from January 10,

2003, and pay \$350 in sanctions. Carter was served in pro per.

8. Respondent failed to substitute into Carter's case as attorney of record until March 26, 2003. Carter remained in pro per and Respondent did not notify Carter that he had not substituted into Carter's case as attorney of record. Respondent filed a substitution form using case no. BC270959. The court refiled the substitution on May 23, 2003 using the correct case no. 02K16022.
9. On March 28, 2003, Public Storage filed a Motion for Terminating Sanctions, a Motion to Compel Deposition, and a Motion for Sanctions. Carter was served in pro per.
10. On April 23, 2003, the court entered a judgment against Carter dismissing Carter's complaint with prejudice. Public Storage filed a Notice of Ruling on April 28, 2003, and served Carter in pro per.
11. On June 6, 2003 and July 25, 2003, Carter sent Respondent a fax requesting a refund of her advanced fees.
12. It was not until October 20, 2005, well after Carter had complained to the State Bar about Respondent and the State Bar had initiated an investigation of Respondent's misconduct, that Respondent refunded to Carter the entire \$4,000 in attorneys fees.

CONCLUSIONS OF LAW:

1. By failing to respond to Public Storage's Motion to Compel, by failing to comply with the court ordered discovery and inspection demand, by failing to timely and properly substitute into the Carter matter, and by failing to respond to Public Storage's Motion for Terminating Sanctions, which resulted in the dismissal of the Carter matter, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A).
2. By not informing Carter of his intent to do no further legal work on Carter's behalf in the Carter matter, nor that he was withdrawing from Carter's employment, Respondent wilfully failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, in violation of Rules of Professional Conduct, rule 3-700(A)(2).

3. By failing to refund any portion of the \$4,000 that Carter paid to Respondent for attorney fees for more than three years after Carter demanded a refund, Respondent wilfully failed to timely refund unearned fees, in violation of Rules of Professional Conduct, rule 3-700(D)(2).

AUTHORITIES SUPPORTING DISCIPLINE

STANDARDS FOR ATTORNEY SANCTIONS

To determine the appropriate level of discipline, the standards provide guidance. *Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Sampson*, (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 134. A disciplinary recommendation must be consistent with the discipline in similar proceedings. See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311. Also, the recommended discipline must rest upon a balanced consideration of relevant factors. *In the Matter of Sampson*, (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 135.

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the protection of public confidence in the legal profession.

Standards for attorney sanctions for Professional Misconduct:

Standard 2.10, violation of any section of the Business and Profession Code or Rules of Professional Conduct not specified by the standards shall result in reproof or suspension.

Wells v. State Bar (1978) 20 Cal.3d 708. Discipline - one year suspension stayed, one year probation, 30 days actual suspension. One case of abandonment. (Respondent had a prior in 1975 where he received a discipline of one year stayed suspension, one year probation, and three months actual suspension.)

In the Matter of Sklar (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618, aggregating force of prior discipline diminishes where misconduct occurred during same time period as Respondent's prior discipline. Melton's prior misconduct in case no. 04-O-10802 (S132494) occurred during the same time period as his misconduct in Carter's case.

COSTS OF DISCIPLINARY PROCEEDINGS:

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 30, 2006, the estimated prosecution costs in this matter are approximately \$1,983. Respondent acknowledges that this figure is an estimate only, and that it does not include State Bar Court costs, which will be included in any final cost assessment. 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.

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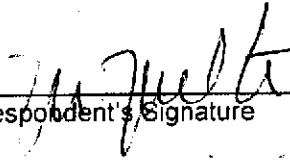
In the Matter of
MICHEAL JOSEPH MELTON

Case number(s):
06-O-11066

SIGNATURE OF THE PARTIES

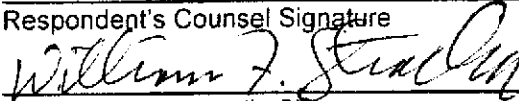
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

12-6-06
Date


Respondent's Signature

MICHAEL J. MELTON
Print Name

12-8-06
Date

Respondent's Counsel Signature

Deputy Trial Counsel's Signature

Print Name
WILLIAM F. STRALKA
Print Name

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In the Matter Of MICHAEL JOSEPH MELTON	Case Number(s): 06-O-11066
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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 "x" in paragraph E(1) is removed.

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.)

Date

Judge of the State Bar Court

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In the Matter of MICHAEL J. MELTON	Case number(s): 06 O 11066 RAH
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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 Hearing dates are vacated.

"The "x" in paragraph E(i) is removed."

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(d), Rules of Procedure.)

1/5/07
Date


RICHARD A. HONN
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 January 8, 2007, 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:

**MICHAEL JOSEPH MELTON
927 DEEP VALLEY DR #195
ROLLING HILLS EST, CA
90274 - 3808**

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

William Frank Stralka, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 8, 2007**.



Milagro del R. Salmeron
Case Administrator
State Bar Court