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State Bar Court of California Hearing Department San Francisco		CONFIDENTIAL
PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES		
Counsel For The State Bar Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7 th Fl. San Francisco, CA 94105 Tele: 415/538-2204 Bar # 114637	Case Number (s) PUBLIC MATTER 06-O-13190-PEM FILED MAR 15 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO	(for Court's use) LODGED SEP 04 2007 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Jeffrey A. Nelson 527 Antioch Drive Davis, CA 95616 Tele: 209/756-2137 Bar # 74834	Submitted to: Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: JEFFREY ALAN NELSON Bar # 74834 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 **June 28, 1977**.
- (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 **7** pages, excluding 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) 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 **02-O-12943**
 - (b) Date prior discipline effective **June 18, 2004**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **rules 4-100(A), 3-110(A), 3-700(A)(2) Business and Professions Code sections 6106, 6068(m)**
 - (d) Degree of prior discipline **Two-years suspension execution stayed, conditioned on two years probation, with a six-months actual suspension and until respondent paid restitution.**
 - (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. **See attached**
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

None

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. **See attached**
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature. **See attached**
- (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:

See attached

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **JEFFREY ALAN NELSON**
CASE NUMBER: **06-O-13190-PEM**

FACTS AND CONCLUSIONS OF LAW.

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

Facts:

1. On December 2, 2003, respondent entered into a stipulation re facts: conclusions of law and disposition with the State Bar in Case No. 02-O-12943.
2. On January 5, 2004, the State Bar Court approved a stipulation in case number 02-O-12943. As part of the stipulation and disposition, respondent agreed to be placed on probation for two years and to comply with various conditions of probation set forth in the stipulation.
3. On May 19, 2004, the California Supreme Court issued Order Number S122786, imposing the stipulated disposition and discipline in Case No. 02-O-12943.
4. On May 19, 2004, the Supreme Court clerk mailed Order Number S122786 ("the order") to respondent's official membership records address, and respondent received the order. At all times set forth herein, respondent had actual notice of the order and the probation conditions therein.
5. The order became effective on June 18, 2004, has thereafter remained in full force and effect and has never been modified.
6. Quarterly Written Reporting Condition. One of the conditions of probation 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 probation.

Respondent filed all of his written quarterly reports late, as follows:

DATE REPORT DUE	DATE FILED
October 10, 2004	October 15, 2004
January 10, 2005	January 12, 2005
April 10, 2005	April 11, 2005
July 10, 2005	July 11, 2005
October 10, 2005	March 6, 2006
January 10, 2006	March 6, 2006
April 10, 2006	June 19, 2006
June 18, 2006	June 26, 2006

7. Mental Health Written Reporting Condition: Another probation condition provided:

Respondent shall obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist or clinical social worker at respondent's own expense a minimum of 1 times per month and shall furnish evidence to the Probation Unit that respondent is some complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment shall continue for N/A or N/A months or 2 years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or the Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

8. To date, respondent has failed to provide to the Probation Unit documentation sufficient to establish that he complied with the mental health treatment condition. Based on respondent's failure to provide said evidence, the State Bar alleges that respondent has not obtained the required mental health treatment.

Conclusions of Law: By willfully failing to file his quarterly written probation reports in a timely manner, failing to file proof that he had obtained mental health treatment, and failing to obtain mental health treatment as ordered by the Supreme Court, respondent failed to comply with the terms and conditions attached to his disciplinary probation, in violation of Business and Professions Code section 6068(k).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was May 17, 2007.

AGGRAVATING FACTORS:

Prior Record of Discipline: As set forth in the stipulation herein, respondent has had one prior imposition of discipline.

Multiple Acts of Misconduct: By committing the misconduct set forth above, respondent committed multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Candor and cooperation. Respondent has been candid and cooperative with the State Bar in resolving this case.

Family Problems: Respondent was the caretaker for his elderly mother, and she died on December 25, 2003. His grandmother also died in July 2004. Respondent continued to grieve their deaths for some time after they died.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Participation in Lawyer's Assistance Program: On August 8, 2006, respondent contacted the State Bar Lawyer Assistance Program (LAP). On August 18, 2006, respondent signed a pre-enrollment evaluation plan with LAP. On March 16, 2007, respondent signed a long-term participation plan with the LAP.

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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.

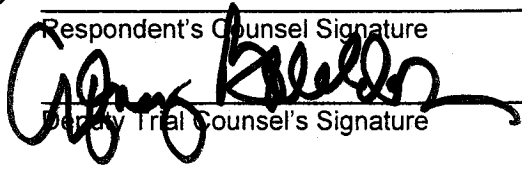
If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement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

5/18/2007
Date


Respondent's Signature

Jeffrey A. Nelson
Print Name

5/21/07
Date


Respondent's Counsel Signature

Cydney Batchelor
Print Name

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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 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.)

Sept 4, 2007
Date

Pat Mc Elroy
Judge of the State Bar Court