

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

<b>Counsel For The State Bar</b>  <b>Wonder J. Liang</b> <b>Deputy Trial Counsel</b> <b>180 Howard Street</b> <b>San Francisco, California 94105</b> <b>(415) 538-2372</b>  <b>Bar # 184357</b>	<b>Case Number (s)</b>  <b>07-O-11363-PEM</b>	<b>(for Court's use)</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <b>JUN 10 2008</b>  <b>STATE BAR COURT CLERK'S OFFICE</b> <b>SAN FRANCISCO</b>
<b>Counsel For Respondent</b>  <b>Dennis Roberts</b> <b>370 Grand Avenue</b> <b>Oakland, California 94610</b> <b>(510) 465-6363</b>  <b>Bar # 36651</b>	<b>Submitted to: Settlement Judge</b>	
<b>In the Matter Of:</b>  <b>BARRY L. MORRIS</b>  <b>Bar # 48368</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>	<b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	

**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 **11** 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."



- (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: **2009, 2010, & 2011**  
(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.
- (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. **Respondent has no prior record of discipline in his approximate 35 years of practice prior to his current misconduct.**
- (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 (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:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is placed on probation for a period of **ONE (1) YEAR**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 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.

- (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: .
- (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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☐ **Other Conditions:**

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

IN THE MATTER OF:      BARRY L. MORRIS, SBN 48368

CASE NUMBER(S):      07-O-11363-PEM

**FACTS AND CONCLUSIONS OF LAW.**

**Facts: Count One (A):**

1.      On August 23, 2006, respondent was hired by Carolyn R. Gorman to file a writ against the Department of Motor Vehicles ("DMV") to reduce her two-year driver's license suspension to one-year because of an alleged mistake in law made by the hearing officer and to obtain retroactive credit for her voluntary relinquishment of her driver's license on November 4, 2005.
2.      On August 23, 2006 respondent and Carolyn Gorman agreed that Carolyn Gorman's husband, Steve Gorman, was authorized to communicate with respondent regarding the preparation and filing of the writ.
3.      On August 24, 2006 Stephen Gorman paid respondent \$2,500 in advanced fees to file a writ on behalf of Carolyn Gorman to reinstate her license and obtain retroactive credit for her voluntary relinquishment of her driver's license. Respondent received the \$2,500.
4.      On August 28, 2006, respondent, in an e-mail requested that Steve Gorman obtain a print out of Carolyn Gorman's DMV driving record.
5.      On August 30, 2006, Steve Gorman faxed to respondent Carolyn Gorman's DMV driving record printout.
6.      On September 4, 5, 13, 14 and 15, 2006, respondent and Steve Gorman exchanged e-mails relating to the DMV writ for Carolyn Gorman.
7.      On September 25, 2006, Steve Gorman e-mailed respondent requesting an e-mail copy of the pleading to be filed to reinstate Carolyn Gorman's license and obtain retroactive credit for her voluntary relinquishment of her driver's license.
8.      On September 26, 2006, respondent replied to Steve Gorman's September 25, 2006 e-mail. Respondent stated that he would be working on the matter and would copy Steve Gorman on everything that he filed.

9. On September 29, 2006, Steve Gorman e-mailed respondent stating that "November 3, 2006, may be a watershed date as being the 1 year anniversary date when Carolyn voluntarily surrendered her license to DMV. It strikes me that an action should be filed before that date since any withholding of her driver's privilege past that date is without legal basis." Respondent received the e-mail, but did not respond in any way.
10. On October 25, 2006, Steve Gorman faxed respondent a letter requesting that respondent file the writ prior to November 3, 2006, in an effort to restore Carolyn Gorman's driving privilege. Respondent received the fax, but did not respond in any way.
11. On November 1, 2006, respondent forwarded material from the DMV to Steve Gorman.
12. On December 2, 2006, respondent and Steve Gorman spoke regarding the writ to be filed for Carolyn Gorman. Respondent stated that he would file the writ by December 11, 2006.
13. On or about December 11-12, 2006, respondent prepared a writ of prohibition/mandate on behalf of Carolyn Gorman.
14. On December 13, 2006, respondent and Carolyn Gorman spoke regarding the writ. Respondent told Carolyn Gorman that the writ had been completed.
15. On or about December 24, 2006, respondent inadvertently put Carolyn Gorman's file in storage without having filed the writ.
16. On January 13, 2007, Steve Gorman wrote a letter to respondent requesting that respondent file the writ on behalf of Carolyn Gorman.
17. On August 28, 2007, Steve Gorman e-mailed respondent thanking him for the refund of the \$2,500 in advanced fees and the writ. Steve Gorman asked respondent why the writ had not been filed and renewed his request that the writ be filed even though the license suspension would be ending on December 22, 2007. Respondent received this e-mail, but did not respond in any way.
18. On September 2, 2007, Steve Gorman e-mailed respondent requesting information regarding Carolyn Gorman's writ.
19. On September 2, 2007, respondent e-mailed Steve Gorman and stated that he would file the writ that week.
20. To date respondent has failed to file the writ on behalf of Carolyn Gorman.

Conclusions of Law: Count One (A):

21. By failing to file the writ on behalf of Carolyn Gorman, respondent recklessly and repeatedly failed to perform legal services with competence.

Facts: Count One (B):

22. The allegations contained in Count One (A) are hereby incorporated by reference.

23. At no time after August 23, 2006, did respondent inform Carolyn Gorman that he would not file the writ, for which he was hired, in an attempt to reinstate Carolyn Gorman's license and obtain retroactive credit for her voluntary relinquishment of her driver's license.

24. At no time since August 23, 2006, has respondent filed a writ or any other legal document on behalf of Carolyn Gorman.

Conclusions of Law: Count One (B):

25. By not informing Carolyn Gorman that he would not file the writ, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services.

Facts: Count One (D):

26. On January 31, 2007, the State Bar opened an investigation, case no. 07-O-11363, pursuant to a complaint filed by Carolyn Gorman.

27. On May 30, 2007, State Bar investigator Crystal Velazco wrote to respondent regarding the Carolyn Gorman matter. The investigator's letter was placed in a sealed envelope correctly addressed to respondent at his State Bar of California membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason. Respondent received Crystal Velazco's letter by on or about June 4, 2007.

28. The investigator's letter of May 30, 2007, requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Carolyn Gorman matter. Respondent did not respond to the investigator's letter.

29. On July 23, 2007, State Bar Investigator Crystal Velazco wrote to respondent regarding the Carolyn Gorman matter. The investigator's letter was placed in a sealed envelope correctly addressed to respondent at his State Bar of California membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason. Respondent received Crystal Velazco's letter by on or about July 28, 2007.



30. The investigator's letter of July 23, 2007, requested that respondent respond in writing to specified allegations of misconduct contained in the May 30, 2007 letter, which was enclosed. Respondent did not respond to the investigator's letter.

31. On July 29, 2007, respondent spoke to State Bar Investigator Crystal Velazco by telephone and informed her that he would be refunding the \$2,500 fee paid by Carolyn Gorman. On August 26, 2007, respondent mailed the refund to Ms. Gorman.

Conclusions of Law: Count One (D):

32. By not providing a written response to the allegations in the Carolyn Gorman matter, respondent failed to cooperate in a disciplinary investigation.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was May 21, 2008.

**DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Count</u>	<u>Alleged Violation</u>
One (C)	Section 6106 of the Business and Professions Code

**AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.4(b) provides that culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6 provides, in pertinent part, that culpability of a member of a violation of 6068 of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 21, 2008, the costs in this matter are \$4,920.00. 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.

**STATE BAR ETHICS SCHOOL.**

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

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

(Do not write above this line.)

In the Matter of  <b>BARRY L. MORRIS, SBN 43368</b>	Case number(s):  <b>07-O-11363-PEM</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 Fact, Conclusions of Law and Disposition.

<u>5/30/08</u> Date	 Respondent's Signature	<u>Barry L. Morris</u> Print Name
<u>5/30/08</u> Date	 Respondent's Counsel Signature	<u>Dennis Roberts</u> Print Name
<u>6/4/08</u> Date	 Deputy Trial Counsel's Signature	<u>Wonder J. Liang</u> Print Name

(Do not write above this line.)

In the Matter Of  <b>BARRY L. MORRIS, SBN 48368</b>	Case Number(s):  <b>07-O-11363-PEM</b>
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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 9.18(a), California Rules of Court.)**

Date June 10, 2008 Pat McElroy  
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 10, 2008, 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:

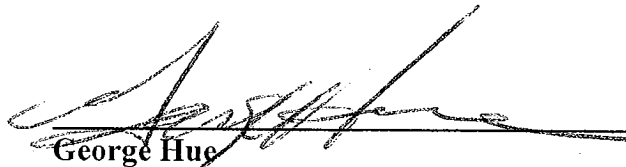
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**DENNIS JULIAN ROBERTS  
370 GRAND AVENUE  
OAKLAND, CA 94610**

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

**WONDER LIANG, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **June 10, 2008.**

  
**George Hue**  
Case Administrator  
State Bar Court