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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar BRANDON K. TADY Office of Chief Trial Counsel 1149 South Hill Street Los Angeles, California 90015 Bar # 83045	Case Number(s): 07-O-12628, 07-O-14151, 09-O-12916 & 09-O-19421	For Court use only <div style="text-align: center;"> FILED MAY 11 2011  STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent MICHAEL HUGH ELAM In Pro Per P.O. Box 9608 Alta Loma, California 91701 Bar # 57703	PUBLIC MATTER	
In the Matter of: MICHAEL HUGH ELAM Bar # 156155 A Member of the State Bar of California (Respondent)	Submitted to: Settlement 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 December 16, 1991.
- (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 18 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):
 - ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: Three (3) billing cycles following the effective date of the Supreme Court Order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are 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.
- (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. See Stipulation of Facts and Conclusions of Law attached to this Stipulation.

- (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 Stipulation of Facts and Conclusions of Law attached to this Stipulation.
- (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. See Stipulation of Facts and Conclusions of Law attached to this Stipulation.
- (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 Stipulation of Facts and Conclusions of Law attached to this Stipulation.
- (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. See Stipulation of Facts and Conclusions of Law attached to this Stipulation.
- (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. See Stipulation of facts and Conclusions of Law attached to this Stipulation.
- (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 Three (3) years.
- 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 (3) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3) ☒ **Actual Suspension:**

- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of 18 months.
- 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 the 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 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: .

- (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 type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" 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 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason:
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, 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 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, 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:** See Stipulation Re Facts, Conclusions of Law and Disposition and Order Approving

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MICHAEL HUGH ELAM

CASE NUMBER(S): 07-O-12628, 07-O-14151, 09-O-12916 & 09-O-19421

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.

Case No. 07-O-12628 (Complainant: Rosendo Mesa)

FACTS (Counts 1-5 of the Notice of Disciplinary Charges):

1. Michael H. Elam ("Respondent") was admitted to the practice of law in the State of California on December 16, 1991, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2. On or about June 16, 2004, Rosendo Mesa ("Rosendo") hired Respondent to represent him in a divorce matter entitled *Maria L. Mesa v. Rosendo Mesa*, Superior Court of the State of California, Riverside County, Case number. HED008298 ("Mesa Divorce Matter").

3. On January 12, 2005, the Court ordered Mesa to give Respondent the proceeds from the sale of Rosendo's and Maria Mesas' real property in the amount of \$32,218 to be deposited into Respondent's client trust account. The court ordered Respondent to hold the money, for the benefit of the parties, in his client trust account pending future court orders. Respondent was present at the hearing and had personal knowledge of the order.

4. On or about July 2, 2005, Mesa gave Respondent a Washington Mutual Official Check no. 414634407 for \$30,000. On or about August 29, 2005, at Respondent's direction, the funds received from Mesa were deposited in a client trust account maintained by attorney John L. Benson ("Benson") at Foothill Independent Bank, account no. XXXX-XX1644¹.

¹ Account number has been redacted for privacy.

5. From September 14, 2005 through February 6, 2007, Respondent caused Benson to make sixteen (16) disbursements to Respondent from the Mesas' funds being held in Benson's client trust account without a court order, as follows:

<u>Date</u>	<u>Amount (\$)</u>	<u>Remaining Balance (\$)</u>
9/14/05	2,500	27,500
3/22/06	500	27,500
4/1/06	500	26,500
5/22/06	1,500	25,000
5/31/06	2,000	23,000
6/14/06	2,000	21,000
7/18/06	2,000	19,000
8/7/06	1,000	18,000
9/13/06	2,000	16,000
9/20/06	1,000	15,000
11/29/06	2,000	13,000
12/14/06	2,000	11,000
01/05/07	2,000	9,000
01/17/07	1,000	8,000
01/25/07	1,000	7,000
02/06/07	3,000	4,000

6. By not maintaining the \$30,000 received on behalf of the Mesas' in a client trust account, Respondent failed to maintain client funds in a client trust account.

7. On or about April 12, 2007, Respondent appeared in court on the Mesa Divorce Matter. At that time, the parties stipulated to an order that, among other things, required Respondent to disburse, from the Mesas' funds held in trust, \$19,049 to Maria L. Mesa and \$13,169 to Rosendo. The Court also ordered Respondent to pay \$9,083.47, from Rosendo's share of the funds held in trust, to the Department of Children Services for arrears in child support. During the hearing, Respondent did not inform the court that Mesa had not paid him the full \$32,218 as previously ordered. Respondent also did

not inform the court that he had at that time only the approximate sum of \$4,000 of the Mesas' funds in Benson's trust account.

8. At the time that Respondent entered into the stipulation, Respondent knew that he did not have \$32,218 in a client trust account on behalf of the Mesas.

9. By concealing from the Court that he did not have \$32,218 in a client trust account on behalf of Rosendo and Maria Mesa at the time he stipulated to disburse that amount, Respondent sought to mislead a judge or judicial officer by an artifice or false statement of the law.

10. On or about June 27, 2007, Respondent caused Benson to disburse to him the remaining \$4,000 of the Mesas' funds from Benson's trust account. Respondent did not pay those funds to Maria Mesa or to the Department of Children Services as ordered by the court.

11. Respondent dishonestly or with gross negligence misappropriated the Mesas' \$30,000.

12. From April 12, 2007 through May 2008, Mesa called Respondent at least four times a week at Respondent's law office, but was never able to contact Respondent. Mesa left numerous telephone messages asking Respondent to call Mesa and pay the money as ordered by the Court. Respondent did not return any of these telephone calls until after May, 2008, more than one year later.

13. By not contacting Mesa for over one year, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services.

CONCLUSIONS OF LAW:

14. In Count One of the Notice of Disciplinary Charges ("NDC"), Respondent admits that he is culpable of wilfully violating Rules of Professional Conduct, rule 4-100(A)(1), by failing to maintain client funds in a client trust account by failing to maintain \$30,000 he received from Rosendo Mesa.

15. In Count Two of the NDC, Respondent admits that he is culpable of wilfully violating Business and Professions Code, section 6068(d), by seeking to mislead the judge or judicial officer by an artifice or false statement of fact or law by concealing from the Court, during a Court hearing, that Respondent did not have \$32,218 in a client trust account when he stipulated during the hearing that he would disburse this amount that was being held in trust.

16. In Count Three of the NDC, Respondent admits that he is culpable of wilfully violating Business and Professions Code, section 6103, by wilfully disobeying or violating an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear when Respondent asked attorney Benson to disburse the Mesas' funds to Respondent and when Respondent received those funds from attorney Benson in violation of the Court's Order that the Mesas' funds be held in trust. Respondent also willfully disobeyed or violated an order of the Court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear by failing to pay funds to Maria Mesa and the Department of Children's Services after the Court ordered these disbursements.

17. In Count Four of the NDC, Respondent admits that he is culpable of wilfully violating Business and Professions Code, section 6106, by committing an act involving moral turpitude, dishonesty or corruption by misappropriating \$30,000 from Rosendo Mesa and Maria Mesa.

18. In Count Five of the NDC, Respondent admits that he is culpable of willfully violating Business and Professions Code, section 6068 (m), by failing to respond promptly to reasonable status inquiries of a client, in a matter in which Respondent agreed to provide legal services, by failing to return Mesa's numerous telephone calls for over one year after Mesa began leaving telephone messages for Respondent.

Case No. 07-O-14151 (Complainant: Maria Mesa)

FACTS:

19. On September 7, 2007, a State Bar Investigator sent Respondent a letter requesting his response to a complaint filed by Maria L. Mesa. On September 24, 2007, a State Bar Investigator sent Respondent a second letter to his official membership address requesting his response to the complaint.

20. Both letters were returned to the State Bar marked unable to forward. Respondent did not maintain with the State Bar a current address where he could be reached for State Bar purposes.

21. On or about October 9, 2008, Respondent provided a new address to the State Bar where he could be contacted.

22. By Respondent not notifying the State Bar of his new contact information, Respondent failed to maintain on the official membership records of the State Bar a current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes.

CONCLUSIONS OF LAW:

23. Respondent admits that he is culpable of wilfully violating Business and Professions Code, section 6068(j), by failing to comply with the requirements of section 6002.1, which requires a member of the State Bar to maintain on the official membership records of the State Bar, the member's current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes or purposes of the agency charged with attorney discipline.

Case No. 09-O-12916 (Complainant: Ashley Mockett)

FACTS:

24. On or about February 8, 2007, Ashley Mockett ("Mockett") hired Respondent to initiate court proceedings in a custody modification matter. Mockett executed a written fee agreement and paid Respondent \$3,000 as an advanced fee for services.

25. Respondent never performed any work on Mockett's case.

26. In or about February 2008, Respondent assured Mockett that he would perform on her matter. Thereafter, Respondent took no action on behalf of Mockett regarding her custody modification matter.

27. By not taking any action on behalf of Mockett in her custody modification matter for a one year period despite assuring Mockett that he would take action, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.

28. On or about February 12, 2008, Mockett mailed a letter to Respondent at his law office by which she effectively terminated his services and requested that he provide an itemized accounting of the any work performed and a refund of unearned fees. Respondent received Mockett's letter.

29. Respondent did not provide Mockett with an accounting for the \$3,000 in advanced fees received from Mockett or otherwise respond to Mockett's letter requesting an accounting and refund.

30. By not providing Mockett with an accounting for the \$3,000 in advanced fees upon request by Mockett, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession.

31. Respondent provided no services of value to Mockett. Respondent did not earn any of the fees paid by Mockett. Respondent refunded the fees to Mockett but did not do so promptly.

32. By not promptly refunding to Mockett the \$3,000 in unearned fees, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned.

CONCLUSIONS OF LAW:

33. In Count Seven of the NDC, Respondent admits that he is culpable of willfully violating Rules of Professional Conduct, rule 3-110 (A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence by failing to take any action on behalf of Mockett in her custody modification matter.

34. In Count Eight of the NDC, Respondent admits that he is culpable of wilfully violating Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds coming into Respondent's possession including the \$3,000 in advanced fees paid by Mockett.

35. In Count Nine of the NDC, Respondent admits he is culpable of wilfully violating Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned including the \$3,000 advanced fee paid by Mockett.

Case No. 09-O-19421 (Complainant: Ronald M. Parker)

FACTS:

36. On or about July 28, 2005, Ronald M. Parker ("Parker") hired Respondent to file a petition to probate the estate of Eva St. John. Thereafter, Parker paid Respondent \$2,000 in advanced fees for the representation.

37. Sometime during 2006, Respondent met with Parker and had him sign papers to initiate the probate. Thereafter, Respondent did not initiate a probate of the St. John estate. Whenever Parker contacted Respondent, Respondent provided excuses why he had not yet taken action.

38. In or about March 2009, Respondent prepared a Petition For Probate of the Will of Eva St. John ("Petition") under the Independent Administration of Estates Act and identified Parker as the

executor of the Will. On or about March 30, 2009, Parker signed the Petition. Respondent assured Parker that he would file it with the court. Thereafter, Respondent did not file the Petition.

39. On or about December 1, 2009, Parker employed another attorney to initiate the probate with the court.

40. By not initiating the probate of the Eva St. John estate, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.

41. By collecting \$2,000 in advanced fees from Parker to represent him in a probate without the approval of a court, Respondent collected an illegal fee.

42. In or about February 2010, Parker's new counsel spoke to Respondent and requested on behalf of Parker that Respondent refund the fees paid by Parker. Respondent promised to refund \$2,000 to Parker.

43. Respondent had not provided any services of value to Parker. Respondent had not earned any of the \$2,000 fees received from Parker

44. On or about July 14, 2010, Respondent refunded \$2,000 to Parker.

45. By not refunding the \$2,000 unearned fees to Parker for approximately five months after the request for the refund, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned.

CONCLUSIONS OF LAW:

46. In Count Ten of the NDC, Respondent admits that he wilfully violating Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence by not initiating the probate of Eva St. John's estate. as follows:

47. In Count Eleven of the NDC, Respondent admits he is culpable of wilfully violating Rules of Professional Conduct, rule 4-200(A), by entering into an agreement for, charging, or collecting an illegal fee by accepting \$2000 from Parker as advanced fees without Court approval.

48. In Count Twelve of the NDC, Respondent admits he is culpable of wilfully violating Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned by not refunding the \$2,000 advanced fee until July 14, 2010.

CIRCUMSTANCES IN AGGRAVATION.

1. Respondent's misconduct significantly harmed Rosendo and Maria Mesa, Ashley Mockett, and Ronald M. Parker (Standard 1.2 (b) (iv)) Respondent's misconduct caused harm to Rosendo and Maria Mesa because he misappropriated \$30,000 of their funds. Maria experienced financial distress because Respondent did not promptly pay the monies he held in trust for her and her children. Rosendo experienced financial distress because Respondent's failure to pay child support arrears for Rosendo caused Rosendo to lose potential employment in construction. Respondent caused harm to Mockett because his failure to take action in Mockett's custody modification matter caused delay. Respondent caused harm to Parker because his failure to file the Petition to probate the estate of Eva St. John caused delay.

2. Respondent's current misconduct evidences multiple acts of wrongdoing. Respondent committed misconduct in four matters identified above (Standard 1.2 (b) (ii)).

CIRCUMSTANCES IN MITIGATION.

1. Respondent was admitted to the practice of law in California on December 16, 1991 and he does not have a prior record of State Bar discipline (Standard 1.2 (e) (i)).

2. Respondent demonstrated spontaneous candor and cooperation to the State Bar during its investigation and in the present disciplinary proceeding. Respondent entered into the present Stipulation resolving all of the allegations against him in the Notice of Disciplinary Charges (Standard 1.2 (e) (v)).

3. Respondent experienced severe financial stress which resulted from circumstances not reasonably foreseeable and which were beyond Respondent's control and which were directly responsible for the misconduct (Standard 1.2 (e) (iv)). Respondent's wife became terminally ill with colon cancer from which she passed away. During Respondent's wife's illness, Respondent acted as his wife's sole care giver. This included caring for her at home, taking her to frequent medical appointments, and doing all of the work necessary to maintain their household. Before her illness, Respondent's wife was employed full-time. When Respondent's wife was diagnosed with colon cancer, she stopped work. Respondent experienced severe emotional and financial problems caused by his wife's illness. These problems are the primary causes of respondent's misconduct.

4. Respondent was prepared to call at trial good character witnesses from a wide range of references in the legal and general communities who are aware of the full extent of Respondent's misconduct (Standard 1.2 (e) (vi).)

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.2 (a) provides that culpability of a member of wilful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than one-year actual suspension, irrespective of mitigating circumstances.

In the present proceeding, the stipulated discipline of 18 months actual suspension with the requirement of a Standard 1.4 (c) (ii) hearing is consistent with Standard 2.2 (a). Respondent's misappropriation was caused by severe emotional and financial problems attributable to his wife's terminal illness.

Respondent's years in practice without prior discipline, his severe emotional and financial difficulties, and his evidence of good character are important mitigating circumstances.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.

The parties waive any variance between the Notice of Disciplinary Charges filed on November 18, 2010 and the facts contained in this Stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the Notice of Disciplinary Charges.

PENDING PROCEEDINGS.

None. The disclosure date referred to, on page 2, paragraph A (7), was April 21, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 5, 2011, the prosecution costs in this matter are \$8019.42. 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.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

1. See Law Financial Conditions attached to this Stipulation.
2. Respondent is required to complete eight (8) additional hours of Continuing Legal Education ("CLE") in Legal Ethics. These eight (8) hours of CLE are in addition to the required number of MCLE hours Respondent is required to complete to meet the requirements of the State Bar.

(Do not write above this line.)

In the Matter of: MICHAEL HUGH ELAM	Case Number(s): 07-O-12628, 07-O-14151, 09-O-12916 & 09-O-19421
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Financial Conditions

a. Restitution

- ☐ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

- ☒ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School


- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

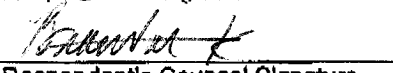

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In the Matter of: MICHAEL HUGH ELAM	Case number(s): 07-O-12628, 07-O-14151, 09-O-12916 & 09-O-19421
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SIGNATURE OF THE PARTIES

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, Conclusions of Law, and Disposition.

<u>4/7/2011</u>		<u>MICHAEL HUGH ELAM</u>
Date	Respondent's Signature	Print Name

<u>4/11/2011</u>		<u>BRANDON K. TADY</u>
Date	Respondent's Counsel Signature	Print Name
<u>4/11/2011</u>		<u>BRANDON K. TADY</u>
Date	Deputy Trial Counsel's Signature	Print Name

In the Matter of: MICHAEL HUGH ELAM	Case Number(s): 07-O-12628, 07-O-14151, 07-O-12916 & 09-O-19421
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ACTUAL SUSPENSION ORDER

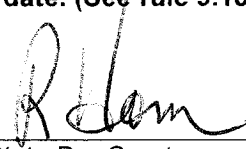
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ 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.

1. On page 4, item D.(1)(a)(i), remove the "X" in the box for "and until" std. 1.4(c)(ii) condition.

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 5.58(E) & (F), 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.)**

5/9/11
Date


Judge of the State Bar Court

RICHARD A. NELSON

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 11, 2011, I deposited a true copy of the following document(s):

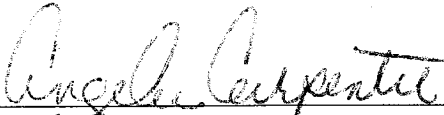
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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 H ELAM ESQ
P O BOX 9608
ALTA LOMA CA 91701
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

BRANDON TADY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 11, 2011.



Angela Carpenter
Case Administrator
State Bar Court