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

Counsel For The State Bar Susan I. Kagan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2037 Bar # 214209	Case Number (s) 07-O-14219 <p align="center">PUBLIC MATTER</p>	(for Court's use) <p align="center">FILED </p> <p align="center">JUL 15 2009</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
Counsel For Respondent Jonathan I. Arons, Esq. 101 Howard St. #310 San Francisco, CA 94105 (415) 957-1818 Bar # 111257	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: James C. Holland Bar # 134233 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 **6/14/88**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **10** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

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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):
- costs added to membership fee for calendar year following effective date of discipline (public reproof)
 - case ineligible for costs (private reproof)
 - costs to be paid in equal amounts for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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.

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- (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 page 8.**
- (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. **See page 9.**
- (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 page 9.**
- (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. **See page 9.**
- (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.

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- (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) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of **one (1) year**.
- (2) During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the condition period and no later than the last day of the condition period.

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- (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 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 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 conditions attached to the reprobation.
- (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) 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 of the effective date of the reprobation.
- No MPRE recommended. Reason:
- (11) 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:

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW

Facts

1. Prior to April 10, 2001, respondent was hired by Yongge Vang and Mao Lee Vang, Nhia Sou Lo and Meevang Lo, and several other members of the Fresno Hmong community to represent them in a civil rights matter based on a claim that the Multi-Agency Gang Enforcement Consortium ("MAGEC") performed raids of their homes pursuant to invalid and/or overbroad search warrants aimed at their sons.
2. On April 10, 2001, respondent filed a complaint in the matter, *Vang v. MAGEC*, U.S. District Court, Eastern District of California, Case No. CV-F-01-5437-REC ("*Vang* matter"). Thereafter, respondent named the following parties as defendants in the *Vang* matter: 1) County of Fresno, City of Fresno, City of Sanger, City of Clovis and various individually named officers, employees and/or agents ("Fresno County and Cities Defendants"); 2) City of Coalinga and Michael Gilmore; and 3) various named officers and/or employees of the California Highway Patrol and the California Department of Corrections ("State Defendants"). Respondent's research and investigation led him to believe that the suit hinged on both a "group liability" theory and "conditional res ipsa loquitur."
3. Between April 10, 2001 and August 13, 2002, respondent amended the complaint in the *Vang* matter four times.
4. On May 20, 2002, the defendants filed a motion to dismiss the fourth amended complaint and for a more definite statement pursuant to FRCP 12.
5. On August 13, 2002, the court issued an order dismissing the fourth amended complaint without prejudice. Respondent opposed the motion. After hearing on the motion, the court converted the motion to dismiss to a motion for summary judgment under FRCP 56. In the order, the court determined that MAGEC was not a properly named party since it had no legal existence apart from the agencies participating under it. Respondent received the court's August 13, 2002 order.
6. On September 6, 2002, respondent filed a fifth amended complaint in the *Vang* matter. In the fifth amended complaint, respondent again named MAGEC as a defendant.
7. On October 10, 2002, the parties entered into a stipulation whereby the respondent agreed to allow defendants an extension of time within which to file a response to the fifth amended complaint.
8. Between February 17, 2004 and July 27, 2004, over 110 depositions were taken in the *Vang* matter. Respondent attended each deposition.
9. On July 14, 2004, the court ordered respondent to file a sixth amended complaint deleting all references to MAGEC by July 28, 2004. Respondent received the court's July 14, 2004 order, but did not file the sixth amended complaint until September 1, 2004.
10. On September 21, 2004, respondent agreed and stipulated to extend time for defendants to file a response to the sixth amended complaint.

11. On October 8, 2004, the City of Coalinga filed a motion to dismiss the sixth amended complaint and a motion for summary judgment in the *Vang* matter. Respondent received copies of the City of Coalinga's motions, opposed the motion to dismiss, but failed to file an opposition to the motion for summary judgment.
12. On October 13, 2004, the parties entered into a "Joint Stipulation to Extend Time for Defendants to Respond to Plaintiffs' Sixth Amended Complaint and Filing Pretrial Dispositive Motions." Pursuant to the Joint Stipulation, all pretrial dispositive motions were to be filed on or before January 3, 2005, and a hearing on the dispositive motions was to be conducted no later than February 14, 2005.
13. On October 25, 2004, the court held a hearing on the City of Coalinga's motion to dismiss. Respondent attended the hearing on behalf of his clients.
14. On October 26, 2004, the court issued an order denying the City of Coalinga's motion to dismiss, but awarding attorney's fees to defendant's counsel as a sanction against respondent for failing to timely file the sixth amended complaint. In the order, the court stated: "Mr. Holland is advised that it is his responsibility to timely and fully comply with the court orders. Given the scope of this action and the number of parties involved, Mr. Holland is advised that any future failure to timely comply with court orders or to seek an extension of time to comply prior to the date will result in the dismissal of the action." Respondent received the court's October 26, 2004 order.
15. On October 29, 2004, the State Defendants filed a motion for summary judgment. Respondent received a copy of the motion for summary judgment, but failed to file an opposition to the motion.
16. On November 19, 2004, the Fresno County and Cities Defendants filed approximately ten separate motions for summary judgment. Respondent received copies of the motions, but failed to file oppositions to the motions.
17. On December 1, 2004, the court determined the amount of the attorney's fees respondent was to pay pursuant to the October 26, 2004 order was \$1,688.50 to be paid divided between defendants' respective counsel by January 3, 2005. In the order, the court stated: "Failure to timely comply with this Order will result in the dismissal of this action." Respondent received the court's December 1, 2004 order, but failed to pay the sanction by January 3, 2005, and failed to request an extension of time to pay the sanction.
18. On January 7, 2005, Fresno County and Cities Defendants filed a motion to dismiss, set for hearing on February 7, 2005, based on respondent's failure to pay the sanction by January 3, 2005. Respondent received a copy of the motion, but filed an untimely opposition to it. On January 26, 2005, respondent asserted, in large part, that the failure to timely pay the sanction was due to financial pressure occurring as a result of the failure of other clients to pay attorney's fees that had been earned.
19. On January 10, 2005, respondent paid the \$1,688.50 sanction.
20. On January 26, 2005, respondent filed an untimely opposition to Fresno County and Cities Defendants' motion to dismiss.

21. On January 31, 2005, the Fresno County and Cities Defendants filed a notice advising the court that respondent had not filed timely oppositions to the motions for summary judgment and had not timely requested an extension of time to file oppositions.
22. On February 4, 2005, respondent filed a request for a 30-day extension of time to file oppositions to the defendants' motions for summary judgment. In the request, respondent asserted that several factors had impeded him from timely filing oppositions to the motions and also cited his cooperation in allowing the defense each extension of time that they had requested of him.
23. On February 7, 2005, the court held a hearing on the Fresno County and Cities Defendants' motion to dismiss. Respondent appeared at the hearing on behalf of his clients.
24. On February 10, 2005, the court issued an order granting defendants' motions to dismiss pursuant to rule 41(b) of the Federal Rules of Procedure and directing the entry of judgment for defendants.
25. On March 14, 2005, respondent filed a motion for relief from the February 10, 2005 order. Thereafter, respondent filed several amendments to the motion for relief. Ultimately, respondent's motion was denied on May 15, 2005.
26. On March 14, 2005, respondent filed a notice of appeal in the matter *Yang v. Multi-Agency Gang Enforcement Consortium*, U.S. Court of Appeals for the Ninth Circuit, Case No. 05-15462. On February 20, 2007, the Court of Appeal affirmed the trial court's February 10, 2005 order.
27. Respondent satisfied the litigation costs of the defense.

Conclusions of Law

By failing to file a motion for reconsideration of the court's August 13, 2002 order, by failing to file the sixth amended complaint by July 28, 2004, by failing to file an opposition to the City of Coalinga's October 8, 2004 motion for summary judgment, by failing to file an opposition to the State Defendant's motion for summary judgment, by failing to file oppositions to the Fresno County and Cities Defendants motions for summary judgment, by failing to pay the sanctions by January 3, 2005 and by failing to file a timely opposition to defendants' motions to dismiss and failing to timely request an extension of time to file an opposition, respondent recklessly and repeatedly failed to perform with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

PENDING PROCEEDINGS

The disclosure date referred to on page two, paragraph A (7) was June 23, 2009.

MCLE

Because respondent has agreed to participate in MCLE courses as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of the MCLE courses.

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FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES

AGGRAVATING CIRCUMSTANCES

Standard 1.2(b)(iv). Respondent's misconduct resulted in his clients' case being dismissed, causing significant harm to his clients.

MITIGATING CIRCUMSTANCES

Standard 1.2(e)(i). Respondent has been in practice since 1988. He has no prior record of discipline.

Standard 1.2(e)(v). Respondent displayed spontaneous candor and cooperation to the State Bar during the disciplinary proceedings.

Standard 1.2(e)(vii). Respondent displayed remorse for his misconduct.

SUPPORTING AUTHORITY

Standard 2.4(b) requires reproof or suspension for a respondent who has willfully failed to perform services in which he was retained.

Based on the mitigation in this matter, which, in totality, outweighs the aggravating circumstance, a public reproof is the appropriate level of discipline.

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In the Matter of James C. Holland	Case number(s): 07-O-14219
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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.

6/29/09
Date


Respondent's Signature

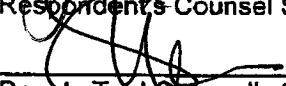
James C. Holland
Print Name

June 30 2009
Date


Respondent's Counsel Signature

Jonathan I. Arons, Esq.
Print Name

6/30/09
Date


Deputy Trial Counsel's Signature

Susan I. Kagan
Print Name

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In the Matter Of
James C. Holland

Case Number(s):
07-O-14219

ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reapproval, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- 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. (See rule 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reapproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date

July 13, 2009

Cathy 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 July 15, 2009, 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:

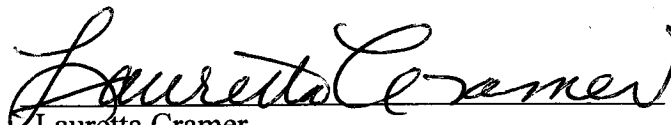
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JONATHAN IRWIN ARONS
LAW OFC JONATHAN I ARONS
221 MAIN ST STE 740
SAN FRANCISCO, CA 94105**

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

DONALD STEEDMAN , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 15, 2009.


Lauretta Cramer
Case Administrator
State Bar Court