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<b>State Bar Court of California</b> <b>Hearing Department</b>		
<b>Counsel For The State Bar</b> <b>Eli D. Morgenstern</b> Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015-2299 Bar # 190560                      Tel. (213) 765-1334	<b>Case Number (s)</b> 07-O-14408 - DFM; 08-O-11666; and 08-O-12712	(for Court's use)  <div style="text-align: center; font-size: 1.2em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.1em;">DEC 21 2009 <i>YJC</i></div> <div style="text-align: center; font-size: 0.8em;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold; margin-top: 10px;">PUBLIC MATTER</div>
<b>Paul J. Virgo</b> Post Office Box 67682 Los Angeles, California 90067-0682  Bar # 67900                      Tel. (310) 642-6900	Submitted to: Settlement Judge	
In the Matter Of:  <b>HARVEY RAYMOND HASSON</b>  Bar # 37346  A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <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 September 1, 1965.
- (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 (20) 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.



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(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.

costs to be paid in equal amounts prior to February 1 for the following membership years:\*\*  
(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

\*\* three (3) billing cycles following the effective date of the Supreme Court Order.

**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.

(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.
- (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**

Although the present misconduct is deemed serious, Respondent has been a member of the Bar since September 1965, and has no prior discipline.

**D. Discipline:**

- (1)  **Stayed Suspension:**

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- (a)  Respondent must be suspended from the practice of law for a period of two (2) 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 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:

#### E. Additional Conditions of Probation:

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the 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

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension

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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 321(a)(1) & (c), 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.

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- (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:**

In the Matter of <b>HARVEY RAYMOND HASSON</b> Member #37346 A Member of the State Bar	Case number(s): 07-O-14408 - DFM; 08-O-11666; and 08-O-12712
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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
Grossmont Hospital, or its Agent	\$3,796.50	April 14, 2004

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 preapproval), 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
Grossmont Hospital, or its Agent	\$110.00	One (1) payment / month on or before the 15th of each month

**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:
- a. 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";

(Financial Conditions form approved by SBC Executive Committee 10/16/2000. Revised 12/18/2004; 12/13/2006.)

- 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.

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

<b>IN THE MATTER OF:</b>	<b>HARVEY RAYMOND HASSON</b>
<b>CASE NUMBER(s):</b>	07-O-14408-DFM; 08-O-11666; and 08-O-12712

**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-14408**

**Facts**

1. On October 31, 2003, Warner B. Daniels (“Daniels”) sustained 3<sup>rd</sup> degree burns over 20% of his body, including his face, when clothing he was wearing manufactured by Ghillie Suits, Inc., caught on fire.
2. On December 6, 2003, Daniels employed Respondent to represent him for a contingency fee on any recovery.
3. On October 31, 2005, Respondent complaint on behalf of Daniels in the Superior Court of California, County of Riverside (“Superior Court”), titled *Warren Brett Daniels v. Todd Muirhead, et al*, Case No. INC 054485 (“*Daniels v. Muirhead*”).
4. On February 28, 2006, the attorney for the defendants filed and served a motion to quash service of the summons and complaint on the defendants for lack of personal jurisdiction in *Daniels v. Muirhead*. On June 28, 2006, Respondent filed and served an opposition to the motion. On July 6, 2006, the attorney for the defendants filed and served a reply to Respondent’s opposition.
5. On July 14, 2006, Respondent and the attorney for the defendants appeared for the hearing on the motion to quash service in *Daniels v. Muirhead*. The Superior Court granted the motion to quash and dismissed the complaint with prejudice. On August 18, 2006, the Superior Court signed the Order granting the motion to quash service and dismissing the complaint with prejudice in *Daniels v.*

*Muirhead*. On August 26, 2006, the attorney for the defendants filed and served on Respondent a Notice of Entry of Order that the Superior Court signed the Order granting the motion to quash service and dismissing the complaint with prejudice in *Daniels v. Muirhead*. Respondent received the order.

6. On September 22, 2006, Respondent filed and served a notice of appeal in *Daniels v. Muirhead* (the "*Daniels Appeal*"). Respondent did not inform Daniels that he had filed an appeal on his behalf.

7. On September 29, 2006, the Superior Court filed and served on Respondent a letter titled notice of default that stated that Respondent was in default for failure to submit fees for the appeal pursuant to rule 1(b) of the California Rules of Court ("Rule(s)"), and that the *Daniels Appeal* would be dismissed by the Court of Appeal if Respondent failed to submit the fee within 15 days. Respondent received the letter.

8. On October 11, 2006, the Court of Appeal received the notice of appeal. On October 11, 2006, the Court of Appeal filed and served on Respondent a letter stating that Respondent had 10 days to file a case information statement in the *Daniels Appeal*. The Court of Appeals also filed and served on Respondent a notice of default that stated that Respondent was in default for failure to pay the filing fee pursuant to Rule 1(c). Respondent received the letter and notice.

9. At no time did Respondent file the case information statement, submit the filing fee, or inform Daniels that fees needed to be paid to file the appeal.

10. On October 24, 2006, the Superior Court filed and served on Respondent a letter titled notice of entry of default on appeal that stated that Respondent had failed to pay the fees for the appeal and failed to respond to the Superior Court's notice of default issued on September 29, 2005, and that the Superior Court would file an entry of default with the Court of Appeal for failure to deposit the fees for preparing the record on appeal pursuant to rule 8(b). Respondent received the notice.

11. On October 26, 2006, the Court of Appeal filed and served on Respondent an order dismissing the appeal for failure to timely deposit costs for preparing the record on appeal pursuant to rule 8(b) in the *Daniels Appeal*. Respondent received the order.

12. Respondent did not file any pleadings with the Superior Court or Court of Appeal to reinstate the appeal after it was dismissed.

13. On January 3, 2007, the Court of Appeal filed and served on Respondent a remittitur in the *Daniels Appeal* that stated that the order issued on October 26, 2006 was final and that the defendants could recover their costs on appeal. Respondent received the remittitur.

14. In May of 2007, Respondent visited Daniels at his home. Respondent told Daniels that *Daniels v. Muirhead* had been dismissed. However, Respondent did not advise Daniels that he had filed a Notice of Appeal in *Daniels v. Muirhead* or that the *Daniels Appeal* had been dismissed. During the meeting, Daniels requested that Respondent release Daniels' file to Daniel and thereby, constructively terminated Respondent.

15. In or about May or June of 2007, Daniels called Respondent's office, spoke with Respondent, and instructed Respondent to send Daniels' file to Daniels' new attorney Thomas T. Anderson ("Anderson"). Daniels provided Anderson's office address and telephone number to Respondent.

16. On or about June 12, 2007, Daniels faxed a letter to Respondent that requested, *inter alia*, that Respondent send Daniels' file to Anderson at Anderson's office address, which Daniels provided. Respondent received the letter. Respondent never provided Daniels' file to Daniels or Anderson.

17. At no time did Respondent provide Daniels' file to Daniels or Anderson, because Respondent had misplaced the file.

### **Conclusions of Law**

By failing to file the case information statement, pay the fees, and/or file the pleadings necessary to perfect the *Daniels Appeal*, and file any pleadings with the Superior Court or Court of Appeal to reinstate the *Daniels Appeal* after it was dismissed, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to advise Daniels that the Superior Court had dismissed *Daniels v. Muirhead*, until May 2007, and by failing to advise Daniels at any time that he had filed a Notice of Appeal and that the

*Daniels Appeal* had been dismissed, Respondent failed to keep a client reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services in wilful violation Business and Professions Code section 6068(m).

By failing to provide Daniels' file to Daniels or Anderson upon repeated request to do so, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, in wilful violation of rule 3-700(D)(1).

**Case No. 08-O11666**

**Facts**

1. On June 21, 2003, Jacqueline Lockhart ("Lockhart") was injured in a motor vehicle accident with a vehicle owned and/or operated by Randy Kaforey ("Kaforey"). The vehicle owned and/or operated by Kaforey was insured by Mercury Insurance Group ("Mercury").
2. On June 21 and 22, 2003, Lockhart sought medical attention from Grossmont Hospital for the injuries that she sustained in the motor vehicle accident. Lockhart signed a medical lien agreeing to pay Grossmont Hospital for the medical treatment she received from it, which totaled the approximate sum of \$7,759.50.
3. In or about June of 2003, Lockhart employed Respondent to represent her regarding the motor vehicle accident for a contingency fee of 33 $\frac{1}{3}$ % of the gross recovery prior to commencement of suit.
4. On or about December 21, 2003, Grossmont Hospital faxed and mailed a notice of its medical lien for \$7,758.50 to Mercury. Mercury received the lien.
5. On or about March 19, 2004, Respondent settled Lockhart's claims against Kaforey with Mercury prior to commencement of a lawsuit for \$13,000.
6. In April 2004, Grossmont agreed to accept \$3,796.50 in satisfaction of the lien.
7. On or about April 7, 2004, Mercury mailed to Respondent a check for \$13,000 payable to Respondent, Lockhart, and Grossmont Hospital. Respondent obtained Lockhart's signature on back of the check. Respondent obtained oral and written permission from a representative of Grossmont

Hospital to sign the check for the hospital on the condition that he honor its medical lien.

8. On or about April 14, 2004, Respondent deposited the \$13,000 into his client trust account at Washing Mutual Bank, Account No. xxx-xxx888-2 (“CTA”).<sup>1</sup>

9. After subtracting Respondent’s contingency fee of \$4,333.33 from the \$13,000, Respondent was required to maintain in his CTA the sum of \$8,666.67 in trust on behalf of Lockhart.

10. On or about May 3, 2004 and prior to making any disbursement to Lockhart and/or anyone else on behalf of Lockhart, the balance in the CTA fell to approximately \$3,244.32.

11. On or about May 5, 2004, Respondent deposited \$14,000 into his CTA, which was not received on behalf of Lockhart.

12. On or about May 5, 2004, Lockhart presented for payment a check in the sum of \$4,870.50 issued by Respondent from his CTA. Thereafter, Respondent was required to maintain in his CTA the sum of \$3,796.50 in trust on behalf of Lockhart.

13. On or about October 8, 2004 and without making any further disbursements to Lockhart or anyone else on behalf of Lockhart, the balance in the CTA fell to approximately \$5.54.

14. Respondent did not pay any additional sum of money to Lockhart or anyone else on behalf of Lockhart.

15. Respondent misappropriated at least \$5,422.35 of the settlement funds received on behalf of Lockhart prior to paying Lockhart a disbursement of funds on or about May 5, 2004, and thereafter misappropriated at least \$3,790.96 of the remaining settlement funds withheld from Lockhart’s settlement to pay the medical lien of Grossmont Hospital.

**Conclusions of Law**

By not maintaining on behalf of Lockhart at least \$8,666.67 in the CTA between on or about April 14, 2004 and on or about May 5, 2004, and not maintaining on behalf of Lockhart at least \$3,796.50 thereafter, Respondent failed to maintain funds received on behalf of a client in a trust account, in wilful violation of rule 4-100(A) of the Rules of Professional Conduct

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<sup>1</sup> The account number has been redacted to protect the account and account holder.

By misappropriating at least \$5,422.35 between on or about April 14, 2004 and on or about May 5, 2004, and thereafter misappropriating at least \$3,790.96, Respondent committed acts involving moral turpitude, dishonesty or corruption.

**Case No. 08-O-12712**

**Facts**

1. On January 2, 2006, Jack Ma ("Ma") slipped, fell, and fractured his kneecap while on the premise of Harrah's Rincon Resort and Casino ("Harrah's). Ma incurred over \$20,000 in medical expenses as a result of his injuries.

2. Between in or about June of 2006 and in or about October of 2007, Ma was represented by attorney Melanie Yang ("Yang") with regards to the injuries he sustained at Harrah's.

3. On or about October 14, 2006, Jack Ma ("Ma") was involved in a motor vehicle accident with a vehicle owned and/or operated by Kris Raman ("Raman"). Ma employed Yang to represent him in the motor vehicle accident.

4. In or about October of 2007, Ma met employed Respondent to represent him in both matters. At their initial meeting, Ma provided Respondent with the client file with respect to the slip and fall case that occurred at Harrah's. At no time did Respondent prepare a retainer agreement for Ma with respect to either matter.

5. In or about October of 2007, Yang sent Ma's file concerning the motor vehicle accident to Respondent. In or about November of 2007, Yang spoke with Respondent, confirmed that Respondent had received the file concerning the motor vehicle accident, and was told by Respondent that he was working on both of Ma's matters.

6. In or about January of 2008, Ma met with Respondent. Respondent told Ma that he was in the process of moving and his telephone number would be disconnected, but provided Ma with his mobile telephone number.

7. Between in or about January of 2008 and in or about May of 2008, Ma called Respondent's mobile telephone number approximately once a week. Respondent did not answer the

calls, and so Ma left a message on the voice message system each time that he called identifying himself, providing his telephone number, and requesting that Respondent call him and provide a status report. The messages left by Ma in April and May of 2008 requested that Respondent release Ma's file to Ma if Respondent was not going to provide a status report. Respondent received the messages.

8. On or about April 26, 2008 and May 26, 2008, Ma wrote letters to Respondents requesting that Respondent call Ma and provide a status report in response to Ma's messages. The May 26, 2008 letter also requested that Respondent return Ma's files if Respondent did not provide a status report within five days. The letters were correctly addressed and properly mailed to Respondent at his then current State Bar membership address. Respondent received the letters.

9. Respondent did not provide a written or oral response to Ma telephone messages or letters, or release Ma's file to Ma.

10. On or about June 14, 2008, Respondent changed his State Bar official membership address from 224 Lake Shore Drive, Rancho Mirage, California 92270-4000 ("Rancho Mirage address"), to 293 Desert Falls Dr. N, Palm Desert, California 92211 ("Palm Desert address").

11. Respondent did not inform Ma that he had changed his State Bar official membership address.

12. On or about June 14, 2008, Ma wrote a letter to Respondent that requested that Respondent return Ma's file. The letter was addressed and properly mailed to Respondent at the Rancho Mirage address. The letter was returned by the U.S. Post Office as unable to forward.

13. Respondent did not take any action to pursue claims or file lawsuits against Harrah's or Raman.

14. In or about June 2008, Respondent withdrew from representation of Ma without informing Ma of his intent and without contacting Ma to arrange for the release of Ma's client file.

### **Conclusions of Law**

By withdrawing from representation in or about June 2004 without informing Ma and without releasing the client file as requested by Ma, Respondent failed, upon termination of employment, to take

reasonable steps to avoid reasonably foreseeable prejudice to his client, in wilful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

#### **DISMISSALS.**

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

<b>Case No.</b>	<b>Count</b>	<b>Alleged Violation</b>
07-O-14408	One	Rules of Professional Conduct, Rule 1-400(B)
07-O-14408	Two	Business and Professions Code § 6106
07-O-14408	Four	Business and Professions Code § 6068(m)
07-O-14408	Five	Business and Professions Code § 6106
07-O-14408	Seven	Business and Professions Code § 6068(i)
08-O-11666	Ten	Business and Professions Code § 6106
08-O-11666	Eleven	Business and Professions Code § 6068(m)
08-O-11666	Twelve	Business and Professions Code § 6068(i)
08-O-12712	Fourteen	Business and Professions Code § 6068(i)

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

The parties waive any variance between the Notice of Disciplinary Charges herein filed on June 19, 2009, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges.

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(6), was December 1, 2009.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of December 1, 2009, the prosecution costs in this matter are approximately \$2,915. The costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective

date of the Supreme Court Order. Respondent 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.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 286.)

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 1.6 of the Standards for Attorney Sanctions for Professional Misconduct (“Standards”) provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed must be the most severe of the applicable sanctions.

Standards 2.2(a), 2.2(b), 2.3, 2.6(a), and 2.10 apply in this matter. The most severe sanction is found at Standard 2.2(a) which mandates disbarment for willful misappropriation of entrusted funds unless the amount misappropriated is insignificantly small or unless the most compelling mitigating circumstances clearly predominate, in which case the minimum discipline shall be one year actual suspension.

The State Bar submits that disbarment is unnecessary in this case to further the purposes of attorneys discipline, which are “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.” (Std. 1.3)

Respondent has been a member of the State Bar since September 1, 1965, and has no prior record of discipline. At the time that he misappropriated Lockhart's funds, he had been a member of the State Bar for almost 39 years. In addition, Respondent engaged in no acts of deceit. Respondent has been candid with the State Bar with respect to the misconduct committed herein, and as evidenced by this stipulation, cooperative. The State Bar believes that the recommended discipline consisting of a period of one year actual suspension will be sufficient to protect the public, the courts, and the profession.

### **MITIGATING CIRCUMSTANCES.**

#### **FACTS SUPPORTING MITIGATING CIRCUMSTANCES.**

As discussed above, Respondent has been a member of the State Bar since 1965, and has no prior record of discipline. Respondent's approximately 39 years of discipline-free practice is a strong mitigating factor. (*In the Matter of McCarthy* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364, 383, 385 [40 years of discipline-free practice was "strong mitigating factor"].)

Respondent has furnished evidence of his record of involvement in community service activities that demonstrate his good moral character and his commitment to the legal profession. (Std. 1.2(e)(vi).) Since 2006, Respondent has been a attorney volunteer with Desert Legal Aid, a 501(c)(3) public nonprofit corporation. Desert Legal Aid provides legal services to low-income residents of the Coachella Valley. Since 2006, Respondent has provided volunteer legal services through Desert Legal Aid once or twice per week; and Respondent is currently a board member.

### **AGGRAVATING CIRCUMSTANCES.**

By failing to satisfy Grossmont Hospital's lien, Respondent potentially jeopardized Lockhart's credit, and harmed Grossmont Hospital by failing to compensate them for their services. However,

Respondent has agreed to make restitution to Grossmont Hospital as a condition of probation.

By misappropriating Lockhart's funds, Respondent harmed his client and the legal profession. (See, *Howard v. State Bar* (1990) 51 Cal.3d 215, 221) As a result of his improper withdrawal from employment with Ma, the statute of limitations on Ma's personal injury case stemming from the slip and fall at Harrah's lapsed. Respondent also harmed Daniels by abandoning the *Daniels Appeal*.

**OTHER FACTORS IN CONSIDERATION.**

In May 2007, Respondent lost his home in a foreclosure and he filed for Chapter 7 Bankruptcy. Between May 2007 and October 2008, Respondent moved to different homes six times. During this period, Respondent practiced law out of his home; and consequently, moved offices six different times as well. It was during this period that Respondent misplaced Daniels' file (Case No. 07-O-14408) and improperly withdrew from employment with Ma (Case No. 08-O-12712).

**STATE BAR ETHICS AND TRUST ACCOUNT SCHOOLS.**

Because Respondent has agreed to attend the State Bar Ethics and Trust Account Schools as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of the courses.

(Do not write above this line.)

In the Matter of <b>HARVEY RAYMOND HASSON</b> Member #37346	Case number(s): 07-O-14408 - DFM; 08-O-11666; and 08-O-12712
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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.

12-5-09  
 Date  
 12/7/09  
 Date  
 12/8/09  
 Date

  
 Respondent's Signature  
  
 Respondent's Counsel Signature  
  
 Deputy Trial Counsel's Signature

**HARVEY R. HASSON**  
 Print Name  
**PAUL J. VIRGO**  
 Print Name  
**ELI D. MORGENSTERN**  
 Print Name

(Do not write above this line.)

In the Matter Of <b>HARVEY RAYMOND HASSON</b> Member #37346	Case Number(s): <b>07-O-14408 - DFM;</b> <b>08-O-11666; and</b> <b>08-O-12712</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.
  1. Box D.(1)(b) on page 4 should be checked;
  2. Box E.(1) on page 4 should not be checked because there is no and/until condition that would trigger a conditional 1.4(c)(ii);
  3. Page 9, numbered paragraph 3, "Respondent complaint on behalf" should be deleted and replaced with "Respondent filed a complaint on behalf"; and
  4. Page 15, numbered paragraph 8, "wrote letters to Respondents" should be deleted and replaced with "wrote letters to Respondent".

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.)

12-10-09  
Date

*R. Honn*  
Judge of the State Bar Court  
**RICHARD A. HONN**

**CERTIFICATE OF SERVICE**

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 21, 2009, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS AND CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING ACTUAL SUSPENSION**

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:

**PAUL JEAN VIRGO  
PO BOX 67682  
LOS ANGELES, CA 90067 - 0682**

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

**ELI MORGENSTERN, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 21, 2009.



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Tammy Cleaver  
Case Administrator  
State Bar Court