



(Do not write above this line.)

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

<p>Counsel For The State Bar</p> <p><b>TREVA R. STEWART</b> Deputy Trial Counsel 180 Howard Street, 7<sup>th</sup> Floor San Francisco, CA 94105</p> <p>Bar # 239829</p>	<p>Case Number (s) 07-O-14750</p>	<p>(for Court's use)</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b> <i>R</i></p> <p>MAY 14 2009</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p><b>LEWIS N. NELSON</b></p> <p>Bar # 87954</p>	<p>Submitted to: <b>Settlement Judge</b></p>	
<p>In the Matter Of: <b>LEWIS N. NELSON</b> 4809 Reinhardt Drive Oakland, CA 94619-2949</p> <p>Bar # 87954</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

**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 **November 29, 1979**.
- (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 **13** 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):
- 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: **three billing cycles following the effective date of the Supreme Court Order**  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - costs entirely waived

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case **06-O-15116**
  - (b)  Date prior discipline effective **September 27, 2007**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Rules 3-700(D)(1) and 4-100(B)(3)**
  - (d)  Degree of prior discipline **private reproof**
  - (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. **Respondent has been candid and cooperative with the State Bar in the current proceeding.**
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

#### D. Discipline:

(1)  **Stayed Suspension:**

- (a)  Respondent must be suspended from the practice of law for a period of **two 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 **two 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 **90 days**.
- 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

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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: **Respondent completed Ethics School August 2008.**
- (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 951-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason: **Respondent took and passed the MPRE in November 2008.**

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- (2)  **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, 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 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, 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 Attachment.**

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

IN THE MATTER OF:                      Lewis N. Nelson

CASE NUMBER:                            07-O-14750

**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.

**FACTS**

In October 2005, Sharon Montgomery ("Montgomery") consulted with respondent regarding her potential claims against her homeowner's insurance carrier ("Farmer's Insurance") related to fire damage to her real property in Oakland, California. Montgomery had received a check from Farmer's Insurance in the amount of \$199,194.25, issued to her and Ameriquest, the mortgagee of the property. Montgomery disputed the amount of the payment.

Respondent prepared a summons and complaint entitled, *Sharon Montgomery v. Sallie R. Witt, Farmer's Insurance Exchange, Farmer's Insurance Group of Companies et. al.*, fee waiver forms, and a case cover sheet, for Montgomery. Montgomery filed the complaint, in pro per, in Alameda County Superior Court on January 6, 2006.

On May 22, 2006, respondent substituted into the case on behalf of Montgomery. Respondent agreed to represent Montgomery on a contingent fee basis. At that time, Montgomery gave respondent the \$199,194.25 check.

On June 6, 2006, opposing counsel for Farmer's Insurance, Paul Wayne served respondent with a Demand for Inspection and Copying and Form and Special Interrogatories on behalf of defendant Sallie R. Witt ("Witt discovery"). Respondent received the Witt discovery and was aware of its contents. Responses to the Witt discovery was due on or before July 11, 2006.

Respondent did not timely respond to the Witt discovery.

On August 17, 2006, Farmers brought Motions to Compel Responses to the Witt discovery (Motion to Compel Responses to the Demand for Inspection and Copying and Motion to Compel Responses to Form and Special Interrogatories). Respondent received the Motions to Compel Responses and was aware of their contents and the date of hearing of said motions. Respondent failed to respond to either motion.

On September 15, 2006, the Court granted Farmers Motions to Compel Responses to the Witt discovery and ordered Montgomery to provide verified responses and produce all responsive documents within three weeks of the date of service of the order. The Court also granted sanctions against Montgomery and her counsel in the total amount of \$410, payable to Farmers within ten days.

The Court's Orders granting the Motions to Compel Responses and granting sanctions were served on respondent on September 15, 2006 and respondent received them shortly thereafter. Respondent did not advise Montgomery of the court ordered sanctions against her and respondent jointly, in the sum of \$410.00 for failure to respond to the Witt discovery.

Respondent did not respond to the Witt discovery within the timeframe as ordered by the Court. Respondent also did not pay the sanctions within ten days as ordered by the Court or at anytime thereafter.

On September 19, 2006, Farmers served respondent with additional Form and Special Interrogatories on behalf of defendant Farmers Insurance Exchange ("Farmers discovery"). The responses were due October 24, 2006. Respondent received the Farmers discovery shortly after service, however he did not object or otherwise provide responses by October 24, 2006. Further, respondent ignored Farmers' October 25, 2006 effort to meet and confer regarding the overdue Farmers discovery.

On October 16, 2006, Farmers filed and served a Motion to Dismiss the complaint for failure to provide answers to the Witt discovery and a Motion to Compel Responses to the Farmers discovery. Respondent received the Motion to Dismiss the complaint and the Motion to Compel shortly after they were served.

On November 8, 2006, respondent filed an Opposition to the Motion to Dismiss the complaint and Motion to Compel Responses to the Farmers discovery on the basis that he had had an (unspecified) illness for six weeks. On November 15, 2006, Farmers filed a reply to respondent's opposition which advised the Court that Farmers had been unable to communicate with respondent for five months, despite repeated phone calls.

On November 22, 2006, the Court reset the Motion to Dismiss to December 22, 2006, so that respondent could pay the sanctions previously ordered on September 15, 2006, and complete the discovery responses. The Court indicated it would entertain a dismissal at that time if respondent failed to comply with the Court's orders. Respondent was aware of the Court's order.

On December 6, 2006, the Court granted Farmers Motion to Compel Responses to Farmers discovery. The Court sanctioned Montgomery an additional \$205.00 to be paid to Farmers within ten days of the date of the Court order. The Court further ordered Montgomery to provide responses within ten days. Respondent received the order and was aware of its contents. Respondent did not advise Montgomery of the court ordered sanctions against her in the sum of \$205.00 for failure to respond to the Farmers discovery. Respondent did not respond to the Farmers discovery within the timeframe as ordered by the Court.

On December 22, 2006, the Court held the hearing on the Motion to Dismiss. Respondent appeared with Montgomery. The Court imposed sanctions of \$500.00 against respondent for failing to timely file responses to the Farmers discovery. Respondent was ordered to make payment to Farmers within 30 days. Respondent was present in court and aware of the order. Respondent did not pay the sanctions within 30 days as ordered by the Court or at anytime thereafter.

On January 30, 2007, Farmers filed a Motion to Compel Further Responses to the Witt discovery and the Farmers discovery on the basis that respondent had provided deficient answers to the discovery requests just prior to the Court's hearing on December 22, 2006. Respondent did not respond to the January 30, 2007 Motion to Compel Further Responses.

Respondent attended Montgomery's deposition on February 15, 2007. Following Montgomery's deposition, respondent urged her to put forth his proposed settlement offer. Montgomery did not accept respondent's advice regarding settlement and wished to pursue the matter further. Montgomery called respondent several times after her deposition to ascertain the status of her case. She left several messages on respondent's telephone voice mail. Respondent received the messages and failed to return the call or otherwise apprise Montgomery of the status of her case. Respondent withdrew from the case by taking no further action after Montgomery's deposition. Respondent did not move the Court to withdraw, nor did he advise Montgomery of his intention to withdraw.

On February 23, 2007, the Court ordered respondent to pay Farmers \$1,000.00 no later than March 1, 2007, as a sanction for failure to timely respond to discovery. Respondent received the court order. Respondent did not pay the sanction by March 1, 2007 as ordered by the Court or at anytime thereafter.

On April 18, 2007, Farmers filed a Motion for Summary Judgment. Respondent received the Motion for Summary Judgment and was aware of its contents and the date of the hearing. On May 7, 2007, the Court issued a notice of hearing for the Motion for Summary Judgment. The Court set the hearing for July 2, 2007. The Court notified the parties to appear at the hearing. Respondent received the notice of hearing on the Motion for Summary Judgment and was aware of its contents. Respondent did not notify Montgomery of the Motion for Summary Judgment or the hearing date.

Respondent did not file an opposition to the Motion for Summary Judgment and did not appear at the hearing on July 2, 2007. Respondent did not advise Montgomery of his decision not to file an Opposition to Motion for Summary Judgment, nor of his decision not to appear at the hearing on the Motion for Summary Judgment.

On July 27, 2007, the Court granted the Motion for Summary Judgment, dismissed Montgomery's case against Farmers and issued a Notice of Entry of Judgment. Respondent received the Notice of Entry of Judgment and was aware of its contents. Respondent did not advise Montgomery of the granting of the Motion for Summary Judgment, the dismissal of her case and the Judgment against her. Montgomery found out about the case's dismissal by reviewing the court records.

On September 21, 2007, Montgomery had an appointment with respondent to receive the return of her remaining papers and property. On the date of the appointment, respondent called Montgomery and cancelled the meeting. Montgomery was unable to meet the next day as requested by respondent. Since September 21, 2007, Montgomery telephoned respondent on several occasions, repeatedly requesting the return of her papers and file. Respondent returned a portion of Montgomery's papers and file, however, to date, has not returned all of her papers and file.

### **Conclusions of Law**

By failing to timely respond to the discovery propounded by Farmers, on behalf of Witt; by failing to timely respond to the discovery propounded by Farmers, on behalf of Farmer's Insurance Exchange; by failing to respond to the August 17, 2006 and January 30, 2007 Motions to Compel Responses; and by failing to respond to the Motion for Summary Judgment, respondent failed to perform, in willful violation of the Rules of Professional Conduct, rule 3-110(A).

By failing to pay the court ordered sanctions totaling \$410.00 ordered September 15, 2006; by failing to produce the discovery within three weeks of the Court's order, as ordered on September 15, 2006; by failing to pay the Court ordered sanction of \$500.00 ordered on December 22, 2006; by failing to pay the Court ordered sanction of \$1,000.00 ordered on February 23, 2007; and by failing to appear at the Motion for Summary Judgment, respondent failed to abide by the orders of the Court in a matter in which he agreed to provide legal representation, in willful violation of Business and Professions Code § 6103.

By failing to advise Montgomery of the court ordered sanctions totaling \$410.00, the Motion for Summary Judgment, the hearing date for the Motion for Summary Judgment, and the dismissal and Judgment against her, respondent failed to keep a client reasonably informed in a matter in which he agreed to perform legal services, in willful violation of Business and Professions Code § 6068(m).

By failing to respond to Montgomery's telephone messages requesting the status of her case, respondent failed to promptly respond to reasonable status inquiries of a client in a matter in which he agreed to perform legal services, in willful violation of Business and Professions Code § 6068(m).

By failing to advise Montgomery of his withdrawal, resulting in prejudice to Montgomery, respondent failed to properly withdraw, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

By failing to seek and obtain the Court's permission to withdraw, respondent failed to properly withdraw, in willful violation of Rules of Professional Conduct, rule 3-700(A)(1).

By failing to return Montgomery's remaining papers despite her repeated requests, 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 willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

#### **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 October 17, 2008 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 and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

#### **AGGRAVATION**

Standard 1.2(b)(i) states that the existence of a prior record of discipline and the nature and extent of that record is an aggravating circumstance. Respondent has a prior record of discipline.

Standard 1.2(b)(ii) states that the current misconduct found or acknowledged by the member to evidence multiple acts of wrongdoing or demonstrates a pattern of misconduct is an aggravating circumstance. The instances matters involves multiple acts of misconduct.

Standard 1.2(b)(iv) states that an attorney's misconduct that significantly harms the client, the public, or the administration of justice shall be considered an aggravating circumstance. Montgomery suffered significant harm as a result of respondent's misconduct.

## **PRIOR DISCIPLINE**

On May 29, 2007, respondent stipulated in case number 06-O-15116 to violating rules 3-700(D)(1) and 4-100(B)(3) of the rules of Professional Conduct. He agreed to a private reproof.

## **MITIGATION**

### **CANDOR AND COOPERATION**

Respondent has been candid and cooperative with the State Bar in the Current proceeding.

## **DISCIPLINE**

### Standards

Standard 1.6(a) provides that if two or more acts of professional conduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the most severe of the different applicable sanctions.

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

Standard 2.6 provides that violation of Business & Professions Code Sections 6068 and/or 6103 "shall result in disbarment or suspension depending on the gravity of the offense of the harm, if any, to the victim."

Standard 2.10 states that violation of any provision of the Business and Professions Code or willful violation of any Rule of Professional Conduct not otherwise specified in the standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim.

### Case Law

In *Wren v. The State Bar of California* (1983) 34 Cal. 3d 81, Wren was found to have, inter alia, willfully failed to communicate with his client and willfully failed to perform all services for which he had been retained. Wren, who had no prior disciplinary record, was suspended for two years, stayed, and placed on probation for two years, conditioned upon him being suspended for the first 45 days of the probation period.

In *Calvert v. The State Bar of California* (1991) 54 Cal. 3d 765, it was determined that Calvert failed to perform competently and withdrew from employment without protecting her client's interests. Calvert was suspended for three years, stayed and placed on probation for one year with the condition that she would be actually suspended for 60 days.

In *Harris v. State Bar of California* (1990) 51 Cal. 3d 1082, Harris was found culpable of abandoning her client and causing substantial prejudice thereby. Harris was suspended for three years, stayed and placed on probation for three years, conditioned on an actual suspension of 90 days.

## **RESTRICTIONS WHILE ON ACTUAL SUSPENSION.**

1. During the period of actual suspension, respondent shall not:
  - a. Render legal consultation or advice to a client;
  - b. Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;
  - c. Appear as a representative of a client at a deposition or other discovery matter;
  - d. Negotiate or transact any matter for or on behalf of a client with third parties;
  - e. Receive, disburse, or otherwise handle a client's funds; or
  - f. Engage in activities which constitute the practice of law.

## **PENDING PROCEEDINGS.**

The disclosure date referred to, on page two, paragraph (7), was April 8, 2009

## **MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.**

It is recommended that respondent not be required to take the Multistate Professional Responsibility Examination because he was ordered to take and pass the examination on September 12, 2007, in connection with case number 06-O-15116. He took and passed the examination on August 21, 2008.

## **FINANCIAL CONDITION**

Respondent must provide proof of satisfaction of all sanctions imposed by the Alameda County Superior Court in case number RG06249724 within 90 days of the effective date of this Stipulation.

## **COSTS OF DISCIPLINARY PROCEEDINGS**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 13, 2009, the estimated costs in this matter are \$4336.55. 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.

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In the Matter of Lewis Nelson	Case number(s): 07-O-14750
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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.

4/13/2009  
Date

  
Respondent's Signature

Lewis N. Nelson  
Print Name

4/14/09  
Date

  
Respondent's Counsel Signature

Treva R. Stewart  
Print Name

(Do not write above this line.)

In the Matter Of <b>LEWIS N. NELSON</b>	Case Number(s): <b>07-O-14750</b>
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**ORDER**

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

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date

May 13, 2009

Pat E. McElroy  
Pat E. 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 May 14, 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:

**LEWIS NATHANIEL NELSON  
4809 REINHARDT DR  
OAKLAND, CA 94619**

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:

**TREVA R. STEWART, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 14, 2009.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court