



(Do not write above this line.)

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

<b>Counsel For The State Bar</b>  Mark Hartman Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2558  Bar # 114925	<b>Case Number (s)</b>  08-O-11054 08-O-10113 08-O-13683 09-H-13756	<b>(for Court's use)</b>  <p align="center"><b>PUBLIC MATTER</b></p> <p align="center"><b>FILED</b> <i>Rz</i></p> <p align="center">NOV 19 2009</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<b>In Pro Per Respondent</b>  Terry R. Collins 7677 Oakport St #1050 Oakland, CA 94621 (510) 562-4300  Bar # 225677		
<b>In the Matter Of:</b>  Terry R. Collins  Bar # 225677  A Member of the State Bar of California (Respondent)	Submitted to: <b>Assigned Judge</b>  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 June 9, 2003.
- (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 16 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."

(Do not write above this line.)

- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
  - ☒ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 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

**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 07-O-12116
  - (b) ☒ Date prior discipline effective July 31, 2008
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rules 3-700(D)(2), 4-100(B)(3), and 3-310(F) of the Rules of Professional Conduct and Section 6068, subdivision (i) of the Business and Professions Code. (The violation of rule 3-310(F) was mistakenly listed as a second violation of rule 4-100(B)(3).)
  - (d) ☒ Degree of prior discipline Public Reprimand
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See page 12.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See page 12.
- (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. See page 12.
- (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 (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 ninety (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 conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:

- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input checked="" type="checkbox"/> Financial Conditions  |

#### F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 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.
- (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:**

Attachment language begins here (if any):

## **FACTS AND CONCLUSIONS OF LAW**

### **CASE NO. 08-O-10113 (THE DAVIS MATTER)**

#### **Facts**

1. On November 11, 2005, respondent was hired by Chris Davis ("Davis") to represent him in a child custody matter involving Davis' minor son. On the same date, Davis advised respondent that Davis' mother, Myrtis Davis, was authorized to act on Davis' behalf in relation to respondent's representation of Davis in the child custody matter.
2. On November 14, 2005, Myrtis Davis, paid respondent \$2,500 as advanced fees for respondent's representation of Davis. On April 17, 2006, Myrtis Davis paid respondent \$5,200 as advanced fees for respondent's representation of Davis. At no time before accepting the \$2,500 or the \$5,200 from Myrtis Davis did respondent obtain Davis' informed written consent to his mother paying respondent's legal fees for his representation.
3. As of October 5, 2006, respondent had completed the legal work Davis had hired him to perform.
4. On October 5, 2006, Myrtis Davis sent a letter to respondent requesting an accounting and refund of unearned fees. Soon thereafter, respondent received the October 5, 2006 letter but failed to provide an accounting.
5. On November 1, 2006, Davis, through Myrtis Davis, sent a letter to respondent requesting an accounting and refund of unearned fees. Soon thereafter, respondent received the November 1, 2006 letter, but failed to provide an accounting.
6. On November 27, 2006, Myrtis Davis sent a letter to respondent requesting an accounting and refund of unearned fees. Soon thereafter, respondent received the November 27, 2006 letter, but failed to provide an accounting.
7. On December 18, 2006, Myrtis Davis sent a letter to respondent requesting an accounting and refund of unearned fees. Soon thereafter, respondent received the December 18, 2006 letter, but failed to provide an accounting.
8. To date, respondent has failed to provide an accounting to Davis.

#### **Conclusions of Law**

1. By accepting payment of his legal fees from Myrtis Davis for his representation of Davis without Davis's informed written consent, respondent accepted compensation for representing a client from one other than the client without the client's informed written consent, in wilful violation of rule 3-310(F) of the Rules of Professional Conduct.

2. By failing to provide an accounting to Davis after Davis requested him to provide one, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession, in wilful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

#### **CASE NO. 08-O-11054 (THE LAWSON-BRASWELL MATTER)**

##### **Facts**

1. On July 6, 2007, Nikol Lawson-Braswell ("Lawson-Braswell") hired respondent to represent her in an estate planning matter. Specifically, respondent was hired to draft a living will and trust for Lawson-Braswell. On the same date, Lawson-Braswell paid respondent \$3,000 in advanced fees.
2. From October 2007 through December 2007, Lawson-Braswell called the telephone number provided by respondent and left several voicemail messages requesting respondent to schedule a meeting to discuss the estate planning matter. Respondent received Lawson-Braswell's voicemail messages, but failed to schedule a meeting, or otherwise contact Lawson-Braswell and discuss the estate planning matter with Lawson-Braswell.
3. On February 11, 2008, Lawson-Braswell sent a letter by certified mail to respondent terminating his services and requesting a refund of unearned fees. Soon thereafter, respondent received the February 11, 2008 letter, but failed to respond to it and failed to provide a refund to Lawson-Braswell.
4. At the time respondent's employment was terminated, respondent had not earned any portion of the advanced fee paid by Lawson-Braswell.
5. On March 3, 2008, the State Bar opened an investigation in this matter pursuant to a complaint ("complaint") filed by Lawson-Braswell.
6. On April 1, 2008, State Bar Investigator, Amanda Gormley ("Gormley"), sent respondent a letter regarding the allegations in the complaint, including the failure to promptly refund unearned fees. Soon thereafter, respondent received Gormley's April 1, 2008 letter.
7. It was not until May 28, 2009, more than a year after his client's request and only after the State Bar became involved in the matter, that respondent provided a refund to Lawson-Braswell in the amount of \$3,000.

##### **Conclusions of Law**

1. By not refunding the \$3,000 to Lawson-Braswell until May 28, 2009, respondent failed, upon termination of employment, to refund unearned fees promptly to a client, in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.



2. By failing to respond to Lawson-Braswell's telephone calls, respondent failed to respond to a client's reasonable status inquiries, in wilful violation of Business and Professions Code section 6068, subdivision (m).

## **CASE NO. 08-O-13683 (THE BELL MATTER)**

### **Facts**

1. On March 7, 2008, Ramon Bell ("Bell") hired respondent to represent him in the dissolution/child custody matter, *Bell v. Bell*, San Bernardino County Superior Court Case No. FAMSS703731 ("dissolution matter").
2. On March 7, 2008, respondent substituted in as counsel for Bell in the dissolution matter.
3. On March 14, 2008, opposing counsel in the dissolution matter served written discovery on respondent. Soon thereafter, respondent received the written discovery, but failed to respond to it.
4. On March 27, 2008, opposing counsel in the dissolution matter served additional written discovery on respondent. Soon thereafter, respondent received the additional written discovery, but failed to respond to it.
5. On May 9, 2008, at the request of the parties in the dissolution matter, the Court continued pretrial and trial dates to June 27, 2008 and July 8, 2008, respectively.
6. On May 21, 2008, opposing counsel in the dissolution matter filed a motion to compel discovery and request for sanctions in the amount of \$790 against Bell ("motion to compel"). Respondent received a copy of the motion to compel, but failed to file a response to it.
7. On May 21, 2008, a hearing on the motion to compel was scheduled to take place on June 24, 2008, in the dissolution matter. Soon thereafter, respondent received notice of the June 24, 2008 hearing date.
8. On June 24, 2008, the Court held a hearing on the motion to compel in the dissolution matter. Respondent failed to attend the June 24, 2008 hearing. On the same date, the Court issued an order granting the motion to compel and imposing sanctions against Bell. In the June 24, 2008 order, the Court ordered Bell to pay attorney's fees in the amount of \$750 to opposing counsel as a discovery sanction in the dissolution matter. In the June 24, 2008 order, the Court also ordered respondent to respond to discovery within 15 days of the order. Soon thereafter, respondent received notice of the Court's June 24, 2008 order, but failed to notify Bell about the Court's June 24, 2008 order requiring Bell to pay sanctions and failed to comply with the Court's June 24, 2008 order compelling discovery.
9. On June 27, 2008, the pretrial conference was held in the dissolution matter. Respondent failed to appear for the pretrial conference. On the same date, the Court ordered respondent to appear for a hearing on August 11, 2008, on the issue of sanctions against respondent for his failure to appear at the pretrial conference on June 27, 2008. Soon thereafter, respondent received notice of the August 11, 2008 hearing.

10. On July 25, 2008, Bell terminated respondent's services and respondent substituted out of the dissolution matter.

11. On August 11, 2008, the Court held a hearing on the issue of sanctions against respondent for his failure to appear at the pretrial conference on June 27, 2008. Respondent failed to appear at the August 11, 2008 hearing. On the same date, the Court imposed sanctions against respondent in the amount of \$250. Soon thereafter, respondent received notice of the Court's August 11, 2008 order, but failed to pay the sanction.

12. As a requirement for this stipulation, respondent paid the \$250 sanction.

### **Conclusions of Law**

1. By failing (1) to respond to two sets of written discovery, (2) to file a response to the opposing counsel's motion to compel discovery, (3) to attend the June 24, 2008 hearing on the motion to compel, and (4) to appear for the pretrial conference, respondent intentionally, recklessly, and repeatedly failed to perform competent legal services, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By failing to notify Bell of the \$750 sanction order against Bell, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068, subdivision (m).

3. By failing (1) to respond to written discovery, in violation of the Court's June 24, 2008 order, (2) to appear at the August 11, 2008 hearing, in violation of the Court's June 27, 2008 order, and (3) to pay the \$250 sanction promptly, in violation of the Court's August 11, 2008 order, respondent disobeyed court orders requiring him to do acts connected with or in the course of his profession which he ought in good faith to have done, in wilful violation of section 6103 of the Business and Professions Code.

### **CASE NO. 09-H-13756 (VIOLATION OF THE CONDITIONS OF A PUBLIC REPROVAL)**

#### **Facts**

1. On July 31, 2008, the State Bar Court of California issued a decision imposing a public reproof upon respondent in Case No. 07-O-12116.

2. Pursuant to California Rule of Court 956, the State Bar Court decision ordered respondent to comply with certain conditions attached to the reproof.

3. The July 31, 2008 State Bar Court decision became final on August 21, 2008, and at all times thereafter has remained in full force and effect.

4. On July 31, 2008, the State Bar Court Clerk served the decision upon respondent by mail. Respondent received the decision shortly thereafter.

5. The decision required respondent to comply with the specified conditions for a period of one year (i.e., from August 21, 2008, until August 21, 2009).

6. As conditions of the reproof, respondent was required to do the following:

- (1) Contact the Office of Probation by September 20, 2008.
- (2) File quarterly reports on October 10, 2008, January 10, 2009, April 10, 2009, and July 10, 2009.
- (3) File a final report by August 21, 2009.
- (4) Attend Ethics School and provide proof of attendance to the Office of Probation by August 21, 2009.
- (5) Pass the MPRE and provide proof of compliance to the Office of Probation by August 21, 2009;
- (6) Pay restitution of \$1,330 to Herece Tuggles with interest from April 11, 2007, and provide proof of payment to the Office of Probation by August 21, 2009.

7. Respondent failed to comply with the conditions of his reproof as follows:

- (1) He failed to contact the Office of Probation by September 20, 2008.
- (2) He failed to file a timely quarterly report by October 10, 2008.
- (3) He failed to file quarterly reports by April 10, 2009, and July 10, 2009.
- (4) He failed to file a final report by August 21, 2009.
- (5) He failed to attend Ethics School and provide proof of attendance to the Office of Probation by August 21, 2009.
- (6) He failed to pass the MPRE and provide proof of compliance to the Office of Probation by August 21, 2009.
- (7) He failed to pay restitution of \$1,330 to Herece Tuggles with interest from April 11, 2007, and to provide proof of payment to the Office of Probation by August 21, 2009.

### **Conclusion of Law**

Respondent failed to comply with the conditions attached to a public reproof, in wilful violation of rule 1-110 of the Rules of Professional Conduct, insofar as he:

- (1) He failed to contact the Office of Probation by September 20, 2008.
- (2) He failed to file a timely quarterly report by October 10, 2008.
- (3) He failed to file quarterly reports by April 10, 2009, and July 10, 2009.
- (4) He failed to file a final report by August 21, 2009.
- (5) He failed to attend Ethics School and provide proof of attendance to the Office of Probation by August 21, 2009.
- (6) He failed to pass the MPRE and provide proof of compliance to the Office of Probation by August 21, 2009.
- (7) He failed to pay restitution of \$1,330 to Herece Tuggles with interest from April 11, 2007, and to provide proof of payment to the Office of Probation by August 21, 2009.

### **PENDING PROCEEDINGS**

The disclosure date referred to on page two, paragraph A (7) was November 12, 2009.

### **AGGRAVATING CIRCUMSTANCES**

- Standard 1.2(b)(i): Respondent has a prior record of discipline.
- Standard 1.2(b)(ii): Respondent's eight ethical violations involved multiple acts of wrongdoing.
- Standard 1.2(b)(iv): Respondent's failure to promptly refund unearned fees to Lawson-Braswell, a client who respondent knew was diagnosed with terminal cancer, caused significant harm to his client.

### **MITIGATING CIRCUMSTANCES**

- Standard 1.2(e)(v): Respondent displayed spontaneous candor and cooperation with the State Bar by entering into this stipulation.

### **SUPPORTING AUTHORITY**

The following standards apply to the current cases:

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

Standard 2.6 requires that a violation of Business and Professions Code 6103 shall result in disbarment or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Standard 2.9 requires suspension for a respondent who has wilfully violated rule 1-110 of the Rules of Professional Conduct shall result in suspension.

Standard 2.10 requires that a violation of any provision of the Rules of Professional Conduct not specified in the standards (e.g., rule 3-310(F)) shall result in reproof or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Standard 1.7(a) provides that if a member is found culpable of professional misconduct in any proceeding which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior proceeding was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

In his prior record of discipline, respondent wilfully violated rules 3-700(D)(2), 3-310(F), and 4-100(B)(3) of the Rules of Professional Conduct. In the current cases, respondent again wilfully violated these rules. Also, in the current cases, respondent wilfully violated rules 1-110 and 3-110(A) of the Rules of Professional Conduct and section 6068, subdivision (m) and section 6103 of the Business and Professions Code.

Respondent's repeated misconduct demonstrates that he lacks understanding of his professional obligations. Such misconduct generally results in an actual suspension. (See *In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380-381 [six months' actual suspension for respondent's lack of diligence in handling a probate case after prior discipline for the same type of misconduct].)

Respondent's misconduct warrants stayed suspension for two years and probation for three years, conditioned on actual suspension for ninety days and until he pays restitution to Herece Tuggles.

In the Matter of

Case number(s):

Terry R. Collins,  
No. 225667,

08-0-11054 [08-0-10113; 08-0-13683; 09-H-1375]

A Member of the State Bar

### 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
Herece Tuggles	\$1,330.00	April 11, 2007

- ☐ 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 reproval), 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

#### 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";

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.

**In the Matter of  
Terry R. Collins,  
No. 225677**

**Case number(s):**  
08-O-11054 [08-O-10113; 08-O-13683; 09-H-13756]

**A Member of the State Bar**

**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.**

11/13/09  
Date

  
Respondent's Signature

Terry r. Collins  
Print Name

Date \_\_\_\_\_

**Respondent's Counsel Signature**

---

**Print Name**

11/16/09  
Date

Mark Hartman  
Deputy Trial Counsel's Signature

Mark P. Hartman  
Print Name



(Do not write above this line.)

In the Matter Of Terry R. Collins, No. 225677  A Member of the State Bar	Case Number(s): 08-O-11054 [08-O-10113; 08-O-13683; 09-H-13756]
--	--

**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

Nov. 18, 2009

Judy Armenta  
Judge of the State Bar Court

Lucy Armenta

## 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 November 19, 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:

**TERRY R. COLLINS  
LAW OFFICES OF TERRY R. COLLINS  
7677 OAKPORT ST #1050  
OAKLAND, CA 94621**

- ☐ 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:

**MARK HARTMAN**, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 19, 2009.



Bernadette C.O. Molina  
Case Administrator  
State Bar Court