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State Bar Court of California
Hearing Department
San Francisco

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| <p>Counsel For The State Bar</p> <p>Wonder J. Liang Deputy Trial Counsel 180 Howard Street San Francisco, California 94105 (415) 538-2372</p> <p>Bar # 184357</p> | <p>Case Number (s)</p> <p>08-O-13742-PEM [08-O-14016; 08-O-10359]</p> | <p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED</p> <p>NOV 16 2010</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p> |
| <p>In Pro Per Respondent</p> <p>Afton L. Harrington 1830 Vernon Street, #6 Roseville, California 95678 (916)782-1568</p> <p>Bar # 155095</p> | <p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> | |
| <p>In the Matter Of:</p> <p>AFTON L. HARRINGTON</p> <p>Bar # 155095</p> <p>A Member of the State Bar of California (Respondent)</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 December 17, 1991.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 17 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."

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- (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
 - (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. Respondent's misconduct significantly harmed her three clients and 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.

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- (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:

SEE Attachement Pages 6 and 7.

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. Aside from the current misconduct, respondent had approximately sixteen years of practice without any record of discipline.
- (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. Due to the diagnosis of terminal illness of a family member, and at the time of the acts of professional misconduct, Respondent suffered extreme emotional difficulties.
- (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.

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(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: Payment of restitution as set forth on pages 8 and 9.

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of TWO (2) 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: Payment of restitution as set forth on pages 8 and 9.

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.

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- (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:
- | | |
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| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" 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**

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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:**

In the Matter of

Case number(s):

AFTON L. HARRINGTON,
SBN 155095

08-O-13742-PEM, ET AL.

Medical Conditions

- a. Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of **TWO (2)** times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for _____ days or _____ months or **TWO (2)** years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

| | |
|------------------------------------|------------------------|
| In the Matter of | Case number(s): |
| AFTON L. HARRINGTON, SBN 155095 | 08-O-13742-PEM, ET AL. |
| 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 |
|-----------------|------------------|-----------------------|
| Dee Arnold | \$5,100.00 | March 22, 2007 |
| William Vantine | \$5,000.00 | August 20, 2007 |
| | | |
| | | |

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **within one (1) year of the effective date of the Supreme Court order.**

b. Installment Restitution Payments

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

| Payee/CSF (as applicable) | Minimum Payment Amount | Payment Frequency |
|---------------------------|------------------------|-------------------|
| | | |
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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 12/16/2004; 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

IN THE MATTER OF: AFTON L. HARRINGTON, SBN 155095

CASE NUMBER(S): ET AL. 08-O-13742-PEM, ET AL.

FACTS AND CONCLUSIONS OF LAW.

Facts: Count One: Case no. 08-O-10359:

1. On or about March 21, 2007, Dee Arnold (hereinafter, "Arnold") hired respondent to file a domestic violence restraining order on her behalf. Subsequently, in or about April, 2007, Arnold requested a dissolution. In or about March, 2007, Arnold paid respondent \$5,100. The parties executed a fee agreement for the domestic violence restraining order on or about March 22, 2007. Respondent agreed to represent Arnold for the dissolution as well.
2. Thereafter, respondent failed to perform. Respondent failed to file for the domestic violence restraining order or a dissolution on Arnold's behalf.
3. On or about September, 2007, Arnold terminated respondent's services.

Conclusions of Law: Count One: Case no. 08-O-10359:

By failing to bring suit for dissolution and a restraining order for Arnold between April, 2007 and September, 2007, a period of five months, respondent failed to perform, in willful violation of Rules of Professional Conduct, rule 3-110(A).

Facts: Count Two: Case no. 08-O-10359:

4. The allegations of Count One are hereby incorporated by reference.
5. When Arnold terminated respondent's services, she requested a full refund of her \$5,100.
6. Respondent failed to refund any monies to Arnold.
7. Respondent's fees were not earned. Respondent provided no services of any value to Arnold.
8. Arnold eventually brought suit in pro per and completed her dissolution.

Conclusions of Law: Count Two: Case no. 08-O-10359:

By failing to refund the \$5,100 to Arnold, respondent failed to refund promptly any part of a fee paid in advance which had not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Facts: Count Three: Case no. 08-O-14016:

9. On or about November 17, 2006, William Vantine (hereinafter, "Vantine") hired respondent to represent him in his family law matter. He wanted respondent to file a petition for legal separation on his behalf. Vantine paid the respondent the sum of \$6250 between November and June, 2006. On or about November 17, 2006, the parties executed a written fee agreement for a legal separation. However, Vantine subsequently requested a dissolution and respondent represented Vantine for the dissolution.

10. On or about November 21, 2006, respondent filed a petition for legal separation on behalf of Vantine, in case no. 06FL08504, filed in Superior Court, County of Sacramento.

11. On or about January 16, 2007, respondent filed an Amended Petition for Dissolution in case no. 06FL08504, on William Vantine's behalf (hereinafter, "case no. 05804"). She identified herself on the pleadings as William Vantine's counsel.

12. Thereafter, she took no further action to move the dissolution in case no. 08504 forward. Respondent filed no additional pleadings in case no. 08504.

13. While case no. 08504 was still pending, on or about August 14, 2007, Donna Vantine filed for divorce against Vantine in a new case, *Donna Lee Vantine v. William Joseph Vantine*, case no. 07FL05827, filed in Superior Court, County of Sacramento (hereinafter, "case no. 05827"). Vantine notified respondent of the second dissolution matter, case no. 05827.

14. On or about August 20, 2007, Vantine faxed a copy of the divorce action filed by Donna Vantine, case no. 05827, to respondent, for her response. Respondent received the August 20, 2007 fax from Vantine.

15. On or about May 29, 2008, Vantine faxed a copy of the Income and Expense Declaration he received from Donna Vantine in case no. 05827, and provided a list of objections and questions to respondent, regarding the Income and Expense Declaration. Respondent received the May 29, 2008 fax.

16. On or about August 7, 2008, Vantine received a Request to Enter Default from Donna Vantine, in case no. 05827. Vantine faxed this document to respondent. Respondent received the August 7, 2008 fax.

17. Respondent failed to take action in response to any of Vantine's faxes regarding case no. 05827.

18. On or about September 15, 2008, Donna Vantine obtained a Judgment of Dissolution against William Vantine, by way of default, in case no. 05827.

Conclusions of Law: Count Three: Case no. 08-O-14016:

By failing to respond to the second dissolution action, case no. 05827, filed by Donna Vantine, letting the matter go by way of default; and by failing to take any action in the 08504 case, to consolidate the cases or move the dissolution forward, respondent failed to perform, in willful violation of Rules of Professional Conduct, rule 3-110(A).

Facts: Count Four: Case no. 08-O-14016:

19. The allegations of Count Three are hereby incorporated by reference.

20. On or about September 16, 2008, Vantine called and spoke to respondent regarding his case. Vantine spoke to respondent about the default pleadings and respondent assured Vantine that she would take care of the matter. Vantine requested an appointment and respondent set an appointment with him for three p.m. that day. However, respondent thereafter cancelled the appointment.

21. Thereafter, Vantine was unable to communicate with respondent.

22. Vantine telephoned respondent on several occasions in September, 2008, but was unable to leave a message for respondent because her voice mail was full.

23. Vantine received no additional contact from respondent.

Conclusions of Law: Count Four: Case no. 08-O-14016:

By failing to contact Vantine after she cancelled the September 16, 2008 appointment, respondent failed to respond to the reasonable status inquiries of a client in a matter in which she agreed to perform legal services, in willful violation of Business and Professions Code, section 6068(m).

Facts: Count Five: Case no. 08-O-14016:

24. Respondent sent Vantine several billings. She dated her last billing August, 2007, and showed that Vantine had a credit balance of \$2,356.68.

25. By abandoning Vantine's matter, taking no action after filing the Amended Petition in case no. 08504 and letting case no. 05827 go by way of default, respondent, in effect, terminated her services to Vantine.

26. Respondent failed to pay any refund to Vantine upon her termination of her services.

27. Respondent's fee was not earned. By failing to proceed with the divorce in case no. 08504, and by failing to respond to case no. 05827, respondent provided no services of any value to Vantine. Vantine suffered a divorce by default.

28. Respondent owed a refund of at least \$2,356.68, the sum noted on her last bill to Vantine dated August 8, 2007, up unto the full \$5,000 amount.

29. On or about November 14, 2009, Vantine made a formal, written request to respondent for a return of all his fees. Respondent received Vantine's request.

Conclusions of Law: Count Five: Case no. 08-O-14016:

By failing to refund between \$2,356.68 and \$5,000 to Vantine, respondent failed, upon termination of her services, to promptly refund a fee in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Facts: Count Six: Case no. 08-O-13742:

30. On or about January 7, 2007, Melissa Thaxton hired respondent to represent her in a dissolution, *Thaxton v. Thaxton*, case no. 07FL00368, filed in Superior Court, County of Sacramento.

31. Thereafter, respondent directed Thaxton to liquidate her IRA account to perform improvements on her home to prepare it for sale. This advice was contrary to the Automatic Family Law Restraining Orders. (See California Family Code, section 2040, which specifies that upon service of the summons, parties are restrained from disposing of community property.)

32. On or about September 26, 2007, Thaxton appeared at a mandatory settlement conference in the dissolution proceeding. Respondent failed to appear.

33. Respondent failed to file a Statement of Issues, Contentions, and Proposed Disposition of the Case, in preparation for the settlement conference. Preparing and submitting these documents was required by Placer Court Local rule 14.18(I). At the settlement conference, trial was confirmed for October 11 and 12, 2007.

34. On or about October 5, 2007, respondent terminated her representation of Thaxton.

Conclusions of Law: Count Six: Case no. 08-O-13742:

By advising Thaxton to liquidate her IRA account in violation of Automatic Family Law Restraining Orders; by failing to appear at the mandatory settlement conference of September 26, 2007; and by failing to file the appropriate Statement Contentions, and Proposed Disposition of the Case, respondent failed to perform, in willful violation of Rules of Professional Conduct, rule 3-110(A).

Facts: Count Seven: Case no. 08-O-13742:

35. The allegations of Count Six are hereby incorporated by reference.

36. On or about a September 27, 2007, Thaxton requested a complete copy of her client file from respondent.

37. In or about October 5, 2007, after respondent terminated her services to Thaxton, Thaxton hired new counsel, Brian Mayer.

38. On behalf of Thaxton, Mayer made several attempts to obtain Thaxton's file from respondent. Mayer sent respondent mail, faxes, requesting the return of the file. Mayer also left respondent telephone messages.

39. Respondent received the request from Thaxton September 27, 2007 and the numerous additional requests from Mayer subsequent to October 5, 2007.

40. Respondent failed to promptly return the file to Thaxton. The file was eventually returned, over one year later, during the course of the litigation in *Thaxton v. Harrington*, case no. SCV23622, filed in Superior Court, County of Placer, in September, 2008.

Conclusions of Law: Count Seven: Case no. 08-O-13742:

By failing to return Thaxton's file to her, 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).

Facts: Count Eight: Case no. 08-O-13742:

41. On January 12, 2007, respondent charged Thaxton \$300 an hour in legal fees, for 3 hours, a portion of which (approximately one and a half hours) was billed for time used for respondent to show Thaxton the rental property.

42. On or about March, 2007, Thaxton moved to the rental property in Roseville. Thaxton remained in the rental until on or about February, 2008.

43. Respondent received \$87,000 from Thaxton when Thaxton liquidated her IRA account. Respondent placed these funds in her attorney client trust account. On or about May 4, 2007, respondent removed \$4,400 of the funds for rental payments for respondent's rental to Thaxton.

44. By renting her rental property to Thaxton, respondent entered into a business transaction with Thaxton.

45. By retaining Thaxton's funds in her attorney-client trust account, and applying them to costs related to the rental property, respondent obtained a pecuniary interest adverse to Thaxton.

46. The business transaction was not fair and reasonable to the client for reasons including, but not limited, to the following: 1) it was not fair and reasonable to charge Thaxton attorney's fees for actions related to the rental property; 2) Thaxton did not independently authorize respondent to remove trust account funds for rental related matters; 3) there was no written rental agreement.

47. Respondent did not fully disclose and transmit in writing to Thaxton all the terms and conditions of the business rental transaction.

48. There was no written rental agreement.

49. Respondent did not advise Thaxton in writing that Thaxton may seek the advice of an independent lawyer of the client's choice; respondent did not give Thaxton a reasonable opportunity to seek that advice.

50. Thaxton did not consent in writing to the terms of the business/ rental transaction or respondent's use of the funds in the trust account for the rental costs. Nor did Thaxton consent to being charged respondent's legal rates for actions related to the rental property.

Conclusions of Law: Count Eight: Case no. 08-O-13742:

For the aforementioned reasons, respondent willfully violated Rules of Professional Conduct, rule 3-300(A)(B)&(C).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was October 8, 2010.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 8, 2010, the prosecution costs in this matter are \$5,781.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

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 2.8 provides that culpability of a member of a wilful violation of rule 3-300, Rules of Professional Conduct, shall result in suspension unless the extent of the member's misconduct and the harm to the client are minimal, in which case, the degree of discipline shall be reproof.

AGGRAVATING CIRCUMSTANCES.

ADDITIONAL AGGRAVATING CIRCUMSTANCES.

Uncharged Misconduct:

At her September 9, 2010 deposition, Respondent testified that she ceased practicing law in April 2010 and stopped using the firm name of Harrington and Bartkiewicz which was a "name association" only. However, as of October 6, 2010, the greeting on Respondent's Membership Records telephone number still states Law Offices of Harrington and Bartkiewicz. By using the firm name of Law Offices of Harrington and Bartkiewicz when no relationship exists with the other lawyer, respondent has willfully violated rule 1-400(D)(1) of the Rules of Professional Conduct. (See Rules Prof. Conduct, rule 1-400(E), defining "communication", Standards no. (7); See also *Arm v. State Bar* (1990) 50 Cal.3d 763 *Edwards v. State Bar* (1990) 52 Cal.3d 28, 35-36.)

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

FINANCIAL CONDITIONS, RESTITUTION.

Respondent waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein.

Neither this Stipulation, nor participation in the Attorney Diversion and Assistance Program precludes or stays the independent review and payment of applications for reimbursement filed against the Respondent pursuant to the Rules of Procedure, Client Security Fund Matters.

VARIANCE BETWEEN THE NDC AND STIPULATION

Any variance between the language of the Notice Disciplinary Charges filed March 5, 2010, and the language of this Stipulation is waived.

Respondent admits that the above facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

(Do not write above this line.)

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| In the Matter of AFTON L. HARRINGTON, SBN 155095 | Case number(s): 08-O-13742-PEM, ET AL. |
|--|--|

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.

10/26/10
Date


Respondent's Signature

Afton L. Harrington
Print Name

n/a
Date

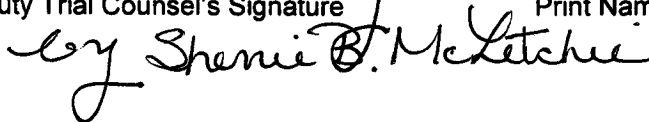
Respondent's Counsel Signature

n/a
Print Name

10-28-10
Date


Deputy Trial Counsel's Signature

Wonder J. Liang
Print Name



(Do not write above this line.)

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|---|--|
| In the Matter Of AFTON L. HARRINGTON, State Bar Number 155095 | Case Number(s): 08-O-13742, ET AL. |
|---|--|

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.


Delete the "x" next to paragraph 1(a)(iii) on page⁴ of the Stipulation.

On pages 1 and 10 of the Stipulation, 08-O-10359, should read 09-O-10359.

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.)**

November 16, 2010

Date



Lucy Armendariz
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 November 16, 2010, 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:

AFTON L. HARRINGTON
HARRINGTON . BARTKIEWICZ
1830 VERNON ST STE 6
ROSEVILLE, CA 95678

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:

Wonder Liang, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 16, 2010.


George Hue
Case Administrator
State Bar Court