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State Bar Court of California
Hearing Department
San Francisco

PUBLIC MATTER

Counsel For The State Bar **Robin Brune** **Deputy Trial Counsel** **180 Howard Street** **San Francisco, California 94105** Bar # **149481**	Case Number (s) **08-O-14248;09-O-17879;** **09-O-18141**	(for Court's use) **FILED** JAN 03 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent **Julius Harmond Hughey** **3145 Geary Blvd. #735** **San Francisco, California 94118** Bar # **151196**	Submitted to: **Assigned Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **STAYED SUSPENSION; NO ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter Of: **Julius Harmond Hughey** Bar # **151196** A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

(1) Respondent is a member of the State Bar of California, admitted **December 12, 1990**.

(2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.

(3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **10** pages, not including the order.

(4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

(7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

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

- ☐ costs added to membership fee for calendar year following effective date of discipline.
- ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: **2012, 2013, 2014**
  (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 or a separate attachment entitled "Prior Discipline.

(2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(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. **Respondent committed misconduct in three separate matters.**

(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 cooperative in reaching a stipulation in this matter.**

(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. **Respondent required back surgery. See attachment.**

(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 **one year**.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

(1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) ☒ 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.

(3) ☒ 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.

(4) ☒ 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.

(5) ☐ 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.

(6) ☒ 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.

(7) ☒ 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 State Bar Ethics School, and passage of the test given at the end of that session.

☐ No Ethics School recommended. Reason: .

(8) ☐ 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.

(9) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☐ 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 within one year. **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) ☐ **Other Conditions:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Julius Harmond Hughey

CASE NUMBER(S): ET AL. 08-O-14248; 09-O-17879; 09-O-18141

FACTS AND CONCLUSIONS OF LAW.

1. 09-O-18141 (Leticia Graves)

The client hired respondent in March, 2009 and paid him the sum of $2,500 for a loan modification. Respondent advised the client that the modification would likely be completed by August 1, 2009. Respondent wrote a letter to the bank and thereafter failed to pursue the matter on behalf of the client. The client made numerous efforts to contact the respondent to ascertain the status of the case. She called respondent on at least five occasions between March, 2009 and December, 2009. Respondent received the messages. Commencing in or about August, 2009, respondent failed to return the calls. The client enlisted a friend, Badillo, who sent respondent an email on her behalf. Respondent advised Badillo that he would not speak to Badillo, about the client's case, but advised Badillo that he would get back to the client directly. Thereafter, respondent failed to do so in a timely fashion. On several occasions, respondent sought to communicate to the client by giving verbal messages to a third party, directing the third party to convey the messages to the client, but these efforts were unsuccessful. The client sent respondent a certified letter on January 10, 2010, in which she terminated respondent and requested her file and information regarding her fee ("itemization"). Respondent failed to respond to the phone messages and letter. Respondent refunded the client's full retainer in September, 2010.

Conclusions of Law

1. By failing to take action on behalf of Graves' loan modification after his initial letter to the bank, respondent failed to perform, in willful violation of the Rules of Professional Conduct, rule 3-110(A).

2. By failing to respond to the client's letter, and the client's contact efforts made in and after August, 2009, respondent failed to respond to the reasonable status inquiries of a client in a matter in which he agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

3. By failing to refund Graves the $2,500 until September, 2010, when she terminated him in January, 2010, respondent failed to promptly refund an unearned fee in willful violation of the Rules of Professional Conduct, rule 3-700(D)(2).

09-O-17897 (Carmelita Adimora)

The client hired respondent on 3/30/09 to bring one or more suits related to her home mortgage and allegations of a fraudulent loan, including claims that her business partner absconded with the loan proceeds. She paid respondent the sum of $2,500. The respondent made an initial contact with the bank, (Bank of America) on the client's behalf in April, 2009. He made approximately three additional phone calls to the bank but thereafter failed to pursue either the loan fraud or home mortgage matter to completion. Respondent spoke to the client in June, 2009. The client then called respondent in July, and August 2009 in an effort to ascertain the progress on her case. Respondent received her messages but failed to return her calls. On several occasions, respondent sought to communicate to the client by giving verbal messages to a third party, directing the third party to convey the messages to the client, but these efforts were unsuccessful. The client enlisted a friend, Badillo to assist her. In August, 2009, Badillo sent respondent an email on behalf of the client, requesting the return of the client's money. Respondent replied to the email, refusing to further communicate with Badillo since he was not the client, but not otherwise responding directly to the client regarding her inquiries. Respondent refunded the full sum to the client in September, 2010.

Conclusions of Law

1. By failing to complete the representation on behalf of Adimora's loan modification or her potential lawsuit for loan fraud, respondent failed to perform, in willful violation of the Rules of Professional Conduct, rule 3-110(A).

2. By failing to respond to the client's numerous phone calls commencing in or about August, 2009, and by failing to provide the client with updated information after Badillo informed him of the client's concerns in an email, respondent failed to respond to the reasonable status inquiries of a client in a matter in which he agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

3. By failing to refund Adimora the $2,500 until September, 2010, when she terminated him in August, 2009 (through Badillo) respondent failed to promptly refund an unearned fee in willful violation of the Rules of Professional Conduct, rule 3-700(D)(2).

08-O-14248 (Emiliano Acepio)

This client hired respondent in March, 2008 to prepare and file a bankruptcy. She paid respondent $1500. Respondent delayed for over one year before filing the bankruptcy, filing it in October, 2010. Respondent is continuing to represent this client and has recently filed schedules in the bankruptcy proceeding.

Conclusions of Law

1. By failing to take action on behalf of Acepio's bankruptcy for over a one year period, respondent failed to perform, in willful violation of the Rules of Professional Conduct, rule 3-110(A).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was November 15, 2010.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 15, 2010, the prosecution costs in this matter are $3,251.00 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.

Standards for Attorney Sanctions for Professional Misconduct

The Standards call for reproval or suspension for willful failures to communicate and perform (Standard 2.4(b)).

Case Law

Case law for abandonment of more than one matter demonstrates a range of discipline from stayed suspension through actual suspension. In *Stuart v. State Bar* (1985) 40 Cal. 3d. 838, the attorney failed to answer defense interrogatories in one client matter, resulting in the dismissal of his client's case, and he received thirty days of actual suspension. In *Franklin v. State Bar* (1986) 41 Cal. 3d. 700, the attorney abandoned two matters, resulting in a 45-day actual suspension. In *Wren*, the attorney had 22 years with no prior discipline. He nonetheless misrepresented to the client that his matter was proceeding when in fact the case had never been filed. He received two years stayed suspension and forty-five days of actual suspension. (*Wren v. State Bar* (1983) 34 Cal.3d. 81) In *Van Sloten v. State Bar (1989)* 48 Cal. 3d. 921, the attorney received six months of suspension, stayed, for taking no action in a dissolution matter in a one year period. In *In re Riordan (2007)* 5 Cal. State Bar Ct. Rptr, 41, the attorney abandoned a criminal appeal and disregarded Supreme Court orders. He was sanctioned by the Supreme Court in discipline for failure to perform, failure to abide by court orders, and failure to report the sanctions to the Bar, the attorney received six months of suspension, stayed. His failure to take action on the case spanned a two year period and he had seventeen years of discipline free practice.

In *In the Matter of Aguiluz* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32, the attorney was representing the clients in a Department of Social Services action to revoke the license for their residential care home. He obtained one continuance due to the fact that his son was murdered. Thereafter, the hearing was again postponed, the attorney left on some travels, and the court found his further inaction on the case was tantamount to a withdrawal. The Court imposed a stayed suspension. The Court took into account the attorney's emotional mitigation due to the death of his son.

Additional Information on Mitigation

Respondent was admitted in 1990 and has no priors. He reports debilitating back pain which commenced in or about July 2009 and culminated with surgery in February, 2010. The surgery was delayed due to financial constraints. During the period of illness respondent would be incapacitated for 2-3 days a week and would try to work from a bedridden condition. Respondent's illness impacted his practice.

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.

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

(Do not write above this line.)

In the Matter of **JULIUS HARMOND HUGHEY**	Case number(s): **08-O-14248; 09-O-17879; 09-O-18141**

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

12/02/2010 Date	Respondent's Signature	JULIUS HARMOND HUGHEY Print Name
Date	Respondent's Counsel Signature	Print Name
12/9/2010 Date	Deputy Trial Counsel's Signature	ROBIN BRUNE Print Name

(Do not write above this line.)

In the Matter Of **JULIUS HARMOND HUGHEY**	Case Number(s): **8-O-14248; 09-O-17879; 09-O-18141**

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:

- [x] 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.)**

Jan. 3, 2011
Date

Pat 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, January 3, 2011, 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:

JULIUS H. HUGHEY
J. HARMOND HUGHEY,
ATTORNEY AT LAW
3145 GEARY BLVD #735
SAN FRANCISCO, CA 94118

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

ROBIN BRUNE , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 3, 2011.

Lauretta Cramer
Case Administrator
State Bar Court