

State Bar Court of California
Hearing Department
San Francisco

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Counsel For The State Bar Tammy M. Albertsen-Murray 180 Howard Street San Francisco, CA 94105 (415) 538-2527 Bar # 154248	Case Number (s) 09-O-10331; 09-O-10703; 09-O-12211 and unfiled case number 10-O-05631	(for Court's use) PUBLIC MATTER FILED SEP 20 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Harlan Antler 331 "J" Street, #200 Sacramento, CA 95814 (916) 443-1824 Bar # 166873	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: HARLAN R. ANTLER Bar # 166873 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 13, 1993.
- (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 **14** 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):
- ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: **three (3) years following the effective date of the imposition of discipline herein.**
(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. **See Attachment, 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.
- (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. **See "Additional Mitigating Circumstances" at Attachment, page 11.**
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☒ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct. **See Attachment, page 11.**
- (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

See Attachment, page 11.

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 **one (1) year**.

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

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

iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

(1) ☒ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the

probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state 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 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: See Attachment, pages 9-10.**

(Do not write above this line.)

Attachment language begins here (if any):

ATTACHMENT TO STIPULATION RE: FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: HARLAN R. ANTLER

CASE NUMBERS: 09-O-10331; 09-O-10703; 09-O-12211-LMA (and unfiled case
number 10-0-05631)

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

FACTS AND CONCLUSIONS OF LAW.

The Rios Matter - Case No. 09-O-10331

Facts.

COUNT ONE (A); Rules of Professional Conduct, rule 3-110(A) [Failure to Perform with Competence]

On October 13, 2006, respondent was hired by Armando Rios ("Rios") to represent Rios in the criminal matter, *People v. Rios*, Sacramento County Superior Court Case No. 06F08218 ("criminal case"). In the criminal case, Rios was charged with numerous felonies, included attempted murder and gang-related activities. On January 10, 2007, respondent became counsel of record on behalf of Rios in the criminal case.

Thereafter, respondent failed to perform with competence in the criminal case by:

- Performing little, if any, pre-trial case development, planning, or investigation on behalf of Rios.
- Failing to adequately argue motions *in limine*.
- Failing to make a coherent opening statement.
- Repeatedly failing to ask admissible and relevant questions.
- Repeatedly failing to assert proper objections.
- Repeatedly failing to move to exclude improper testimony.
- Failing to advance a defense theory.
- Repeatedly failing to adequately cross-examine witnesses.
- Failing to properly handle expert witness testimony on gang-related matters.
- Repeatedly failing to properly impeach witnesses' testimony.
- Failing to adequately prepare Rios for direct and cross examination.
- Repeatedly failing to present evidence or elicit facts on behalf of Rios.
- Failing to diligently perform the services for which he was hired.

On May 22, 2008, Rios was convicted of attempted murder. On December 8, 2008, Rios filed a motion of new trial based on respondent's ineffective assistance of counsel. On December 19, 2008, the court in the criminal case granted a new trial for Rios based on respondent's ineffective assistance of counsel.

Conclusion of Law.

By performing little, if any, pre-trial case development, planning, or investigation on behalf of Rios in the criminal case and by repeatedly failing to adequately represent Rios at the trial in the criminal case, respondent intentionally, recklessly and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

The Nelson matter – Case No. 09-O-10703

Facts.

COUNT TWO (A); Rules of Professional Conduct, rule 3-110(A) [Failure to Perform with Competence]

On April 20, 2007, respondent was hired by Christopher Nelson ("Nelson"), to represent Nelson in the criminal matter, *People v. Nelson*, Sacramento County Superior Court Case No. 07T02473 ("DUI case"). On May 21, 2007, respondent became counsel of record on behalf of Nelson in the DUI case.

Thereafter, respondent failed to perform with competence in the DUI case by:

- Performing little, if any, work on behalf of Nelson from April 20, 2007, through August 8, 2007, aside from appearing at three hearings to request a continuance.
- Obtained little, if any, discovery on behalf of Nelson in the DUI case.
- Failing to communicate with Nelson after on May 21, 2007.
- Failing to diligently perform the services for which he was hired.

On August 8, 2007, Nelson terminated respondent's services and retained new counsel in the DUI case. On or about August 16, 2007, respondent substituted out of the DUI case.

Conclusion of Law.

By performing little, if any, work on behalf of Nelson in the DUI case and by failing to communicate with Nelson after about May 21, 2007, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

Facts and Conclusion of Law.

COUNT TWO (B); Business and Professions Code, section 6068(m) [Failure to Respond to Client Inquiries]

From May 2007, through August 2007, Nelson repeatedly called the telephone number provided to him by respondent and left numerous messages for respondent inquiring about the status of his case. Respondent received the messages, but failed to respond to them.

By failing to respond to Nelson's numerous messages inquiring about the status of his cases, respondent failed to respond promptly to reasonable status inquiries of a client, in willful violation of section 6068(m) of the Business and Professions Code.

Facts and Conclusion of Law.

COUNT TWO (C); Rules of Professional Conduct, rule 3-310(F) [Accepting Fees From a Non-Client]

Respondent wilfully violated Rules of Professional Conduct, rule 3-310(F), by accepting compensation for representing a client from one other than the client without complying with the requirement(s) that [1] there was no interference with respondent's independence of professional judgment or with the client-lawyer relationship; and [2] information relating to representation of the client was protected as required by Business and Professions Code section 6068(e); and [3] respondent obtained the client's informed written consent, as follows:

On April 20, 2007, Nelson's fiancée, Barbara Winn ("Winn"), paid respondent \$5,500. The \$5,500 represented \$5,000 in advanced fees for respondent's representation of Nelson and \$500 for investigative costs.

At no time before accepting the \$5,500 from Winn did respondent obtain Nelson's informed written consent to his fiancée paying respondent's legal fees for Nelson's representation.

By accepting payment of his legal fees from Winn for respondent's representation of Nelson without Nelson's informed written consent, respondent wilfully accepted compensation for representing a client from one other than the client without complying with the requirements of rule 3-310(F) of the Rules of Professional Conduct.

Facts and Conclusion of Law.

COUNT TWO (D); Rules of Professional Conduct, rule 4-100(A) [Failure to Deposit Client Funds in Trust Account]

Respondent was required to deposit into a client trust account the \$500 paid on behalf of Nelson as costs.

Respondent failed to deposit into a client trust account the \$500 paid on behalf of Nelson as costs.

By failing to deposit the \$500 for costs into a client trust account, respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of rule 4-100(A) of the Rules of Professional Conduct.

Facts and Conclusion of Law.

COUNT TWO (F); Rules of Professional Conduct, rule 4-100(B)(3) [Failure to Render Accounts of Client Funds]

Nelson's request for a refund of unearned fees triggered respondent's duty to provide an accounting to Nelson justifying his entitlement to fees in the DUI case.

To date, respondent has failed to provide an accounting to Nelson his fees in the DUI case.

By failing to provide an accounting of his fees to Nelson, respondent failed to render appropriate accounts to a client regarding all funds or other properties coming into respondent's possession in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

The Christensen matter; Case No. 09-O-12211

Facts.

COUNT THREE (A); Rules of Professional Conduct, rule 3-700(D)(2) [Failure to Refund Unearned Fees]

On July 15, 2008, respondent was hired by Curtis Christensen ("Christensen") to represent Christensen in the criminal matter, *People v. Christensen*, Placer County Superior Court Case No. 62-082785 ("DUI case"). Thereafter, respondent became counsel of record on behalf of Christensen in the DUI case.

During respondent's representation of Christensen in the DUI case, Christensen paid respondent a total of \$10,750 as advanced fees in the DUI case.

On January 22, 2009, Christensen met with respondent at respondent's office. At the meeting, Christensen terminated respondent's services and requested return of his client file, an accounting of respondent's fees and a refund of unearned fees. At that time, respondent refunded \$750 paid as advanced fees to Christensen.

Thereafter, respondent failed to return the client file, failed to provide an accounting and failed to provide any additional refunds to Christensen.

On February 3, 2009, Christensen sent a letter to respondent again requesting a refund of unearned fees. Soon thereafter, respondent received the February 3, 2009 letter, but failed to refund unearned fees.

As of January 22, 2009, respondent had not earned the entire \$10,000 paid by Christensen as advanced fees. The State Bar and respondent agree that as of January 22, 2009, respondent had earned only \$5,000.00 for the services he had performed for Christensen as of that date. Respondent has agreed, as a condition of this stipulation, to refund \$5,000.00 of the unearned fees respondent has collected from Christensen.

Conclusion of Law.

By failing in January, 2009 to refund promptly upon termination of the attorney/client relationship any portion of the remaining \$10,000 paid as unearned fees to Christensen, respondent failed to promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Facts and Conclusion of Law.

COUNT THREE (B); Rules of Professional Conduct, rule 4-100(B)(3) [Failure to Render Accounts of Client Funds]

On February 3, 2009, Christensen sent a letter to respondent again requesting an accounting of respondent's fees. Soon thereafter, respondent received the February 3, 2009 letter, but failed to provide an accounting to Christensen for his fees in the DUI case.

To date, respondent has failed to provide an accounting to Christensen for his fees in the DUI case.

By failing to provide an accounting of his fees to Christensen, respondent failed to render appropriate accounts to a client regarding all funds or other properties coming into respondent's possession in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

Facts and Conclusion of Law.

COUNT THREE (C); Rules of Professional Conduct, rule 3-700(D)(1) [Failure to Release File]

On January 23, 2009, Christensen hired attorney Thomas Leupp ("Leupp") to represent him in the DUI case.

On February 3, 2009, Christensen sent a letter to respondent again requesting return of his client file. Soon thereafter, respondent received the February 3, 2009 letter, but failed to respond to it.

On March 3, 2009, Leupp sent a letter to respondent requesting return of Christensen's client file. Soon thereafter, respondent received the March 3, 2009 letter.

Thereafter, respondent returned the client file to Christensen.

By failing to return the client file to Christensen for more than two months after it was first requested, 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 rule 3-700(D)(1) of the Rules of Professional Conduct.

DISMISSALS

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
09-O-10331	Count One (B) ¹	RPC, rule 3-700(D)(2)
09-O-10703	Count Two (E) ²	RPC, rule 3-700(D)(2)
10-O-05631 [UNFILED] ³	N/A	N/A

ADDITIONAL MITIGATING CIRCUMSTANCES.

1) Respondent suffers from significant medical problems, other than as set forth in Section C. (8), from which he is not recovered, but for which he is receiving ongoing medical care. Respondent has suffered from several strokes, as verified by medical documentation, including during the course of the Rios trial. Respondent's physical health is the subject of ongoing monitoring by his physician(s).

2) Respondent has no prior record of discipline in approximately 14 years of practice as of the commencement of misconduct.

3) Respondent displayed candor to and was cooperative with the State Bar during the course of these proceedings.

4) Respondent agreed to the imposition of discipline, thus relieving the State Bar and State Bar Court from expenditure of additional resources and expenses.

5) Respondent's good character is attested to by a particularly wide range of references in the legal community which included, *inter alia*, several judges, opposing counsel, and members of the lay and non-legal/professional community.

¹ Count One (B) of case number 09-O-10331 is being dismissed in favor of the respondent's and State Bar's agreement that respondent will offer to arbitrate and to participate in any such arbitration that may occur as a result regarding respondent's and former client's disputes regarding whether and to what extent respondent must return fees and interest to former client.

² Count Two (E) of case number 09-O-10703 is being dismissed in favor of the respondent's and State Bar's agreement that respondent will repay this former client the sum of \$2,500, plus 10% interest per annum interest accruing from August 8, 2007 and that respondent waives any and all objection(s) to the Client Security Fund's payment of the principal sum owing to Mr. Nelson in the event respondent is not personally able – within 30 days – to repay Mr. Nelson.

³ Although case number 10-O-05631 has not yet been filed with the State Bar Court, it is a matter currently in the investigation stage which is pending at the time of this stipulation. The State Bar has determined that it will not further pursue this complaint and includes it under "DISMISSALS" in an effort to fully resolve all open enforcement matters currently pending against respondent. It is the intention of the State Bar to issue a closing letter to the complainant in case number 10-O-05631 no later than 15 days from the date this Stipulation is executed by all parties and approved by the State Bar Court.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.2(b); Standard 2.4(b); Standard 2.6; Standard 2.10; and

- *Borre v. State Bar* (1991) 52 Cal.3d 1047 [two years' actual suspension for abandonment of one incarcerated client; no prior record of discipline]; and
- *In the Matter of Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459 [six months' actual suspension in default case for abandonment of one incarcerated client; no prior record of discipline].

Aggravation affecting discipline: Respondent's numerous counts of misconduct reflect multiple acts of wrongdoing (Standard 1.2(b)(ii); respondent's egregious misconduct in the *Rios* matter caused significant harm to his client and the administration of justice; his failure to refund unearned fees in all three matters significantly harmed his clients (Standard 1.2(b)(iv).

PENDING PROCEEDINGS.

The disclosure date referred to on page 2, paragraph A(6), was August 11, 2010.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 9, 2010, the prosecution costs in this matter are \$6100.80. 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.

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.

ADDITIONAL CONDITIONS – THERAPY.

Respondent hereby stipulates and agrees to continue to see his current therapist or other licensed mental health professional on a weekly basis for the term of this probation. Respondent need not participate in the Lawyer's Assistance Plan or other State Bar program, but must continue on his current weekly therapy protocol. Any modification to any portion of this condition may only occur by way of properly noticed motion to the State Bar Court, which is thereafter successful. Respondent shall report to the Office of Probation on his Quarterly Reports his compliance with this condition.

FINANCIAL CONDITIONS, RESTITUTION.

Within 30 days from the effective date of discipline in this matter, respondent must make restitution to 1) Christopher Nelson in the amount of **\$2,500.00, plus 10% interest per anum** accruing from August 8, 2007, and within the same time frame to 2) Curtis Christensen in the amount of **\$5,000.00, plus 10% interest per anum** accruing from January 22, 2009. Respondent expressly waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein as "restitution" and/or "unearned fees" in the event respondent fails, within 30 days of the effective date of discipline in this matter, to repay Mr. Nelson and/or Mr. Christensen as set forth in this condition. Respondent shall include, in each quarterly report required

pursuant to this Stipulation, satisfactory evidence of all restitution payment(s) made by him or her during that reporting period.

This Stipulation does not preclude or stay the independent review and payment of applications for reimbursement filed against the respondent pursuant to the Rules of Procedure, Client Security Fund Matters.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES – ARBITRATION.

Respondent stipulates and agrees that within **30 days** of the effective date of this stipulation, he will offer to arbitrate the former client's claim for a refund of \$54,582 in attorney's fees from the Rios matter (case number 09-O-10331), plus ten percent interest from December 23, 2008. Respondent further stipulates and agrees to abide by the terms and conditions of any such arbitration and to report to the Office of Probation ("OP") with proof that he has 1) written and mailed, by certified mail, the offers to arbitrate; 2) any former client response regarding the offers to arbitrate; 3) each client may choose whether the arbitration will be binding or non-binding upon respondent; 4) respondent will abide by the client's choice regarding whether the arbitration will be binding or non-binding upon respondent; 5) respondent will report to OP when any such arbitration(s) is/are scheduled and the results thereof; 6) respondent waives any objection to any payment that may be made by the Client Security Fund ("CSF") pursuant to any arbitration decision as a result of this condition; and 7) to repay to the CSF any amounts paid out on his behalf related to any such arbitration, including interest and fees assessed by CSF.

Respondent understands and agrees that his failure to abide by any section or subsection of this arbitration condition may constitute a violation of this stipulation which may subject respondent to separate and further disciplinary proceedings and discipline.

(Do not write above this line.)

In the Matter of HARLAN R. ANTLER	Case number(s): 09-O-10331; 09-O-10703; 09-O-12211 and unfiled case number 10-O-05631
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SIGNATURE OF THE PARTIES

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

3-27-10
Date


Respondent's Signature

Harlan R. Antler
Print Name

9/7/10
Date


Respondent's Counsel Signature

Tammy M. Albertsen-Murray
Print Name

(Do not write above this line.)

In the Matter Of
HARLAN R. ANTLER

Case Number(s):
**09-O-10331; 09-O-10703; 09-O-12211 and unfiled
case no. 10-O-05631**

ORDER

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

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

1. On page 4 of the stipulation, the "X" in the box next to paragraph E.(1) is deleted."

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.)**

Sept. 20, 2010
Date

Pat E. McElroy
Pat E. McElroy
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 20, 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:
- HARLAN ROY ANTLER
331 "J" ST #200
SACRAMENTO, CA 95814
- ☐ 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:

Tammy Albertsen-Murray, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 20, 2010.


George Hue
Case Administrator
State Bar Court