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**State Bar Court of California**  
**Hearing Department**  
**Los Angeles**

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| Counsel For The State Bar<br><br>Larry DeSha<br>Deputy Trial Counsel<br>1149 S. Hill Street<br>Los Angeles, CA 90015<br>(213) 765-1336<br><br>Bar # 117910 | Case Number (s)<br><br>09-O-11706-LMA<br>09-O-11707-LMA<br><br><p align="center"><b>PUBLIC MATTER</b></p>  | (for Court's use)<br><br><br><p align="center"><b>FILED</b><br/> <b>SEP 24 2010</b><br/>         STATE BAR COURT<br/>         CLERK'S OFFICE<br/>         LOS ANGELES</p> |
| In Pro Per Respondent<br><br>Michael Stuart Pratter<br>1147 Merritt Dr.<br>El Cajon, CA 92020<br>(310) 391-3311<br><br>Bar # 40277                         | Submitted to: <b>Settlement Judge</b><br><br>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND<br>DISPOSITION AND ORDER APPROVING<br><br><p><b>ACTUAL SUSPENSION</b></p> <input type="checkbox"/> PREVIOUS STIPULATION REJECTED |   |
| In the Matter Of:<br><br>MICHAEL STUART PRATTER<br><br>Bar # 40277<br><br>A Member of the State Bar of California<br>(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 June 6, 1967.
- (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."
- (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 billing cycles following the effective date of the Supreme Court order.  
See Stipulation Attachment, page 16, for grounds for extension of time.  
(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 93-O-20134-MSW, 95-O-15380-MSW, 95-O-15643-MSW, 95-O-16231-MSW, 96-O-03066-MSW, 96-O-03115-MSW, 97-O-11578-MSW.
  - (b) ☒ Date prior discipline effective March 5, 1998.
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rules 1-300(B), 3-700(D)(2), and 4-100(A). State Bar Act sections 6068(a), 6125, 6126(b), and 6103.
  - (d) ☒ Degree of prior discipline Actual Suspension of One Year.
  - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.

State Bar Court case no. 01-O-01231-RAH

Date prior discipline effective: February 26, 2004

Rules of Professional Conduct / State Bar Act violations: Rule 4-100(A)

Degree of prior discipline: Stayed Suspension of Three Years and until satisfactory proof of rehabilitation, present fitness to practice, and present learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

- (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 Stipulation Attachment, page 14.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (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. see Stipulation Attachment, page 14.
- (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. See Stipulation Attachment, page 10, paragraph 11.

- (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 three (3) years.
- i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☒ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.
- (2) ☒ **Probation:**
- Respondent must be placed on probation for a period of three (3) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) ☒ **Actual Suspension:**
- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of ninety (90) days.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

### E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

☐ Substance Abuse Conditions

☐ Law Office Management Conditions

☐ Medical Conditions

☒ Financial Conditions

See restitution conditions of  
probation in Stipulation  
Attachment, pp. 14-15.

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

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason:
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

Attachment language begins here (if any):

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

**IN THE MATTER OF:           MICHAEL STUART PRATTER**

**CASE NOS.:                 09-O-11706-LMA; 09-O-11707-LMA**

**FACTS FOR CASE NO. 09-O-11706-LMA:**

1. On February 3, 1998, the Supreme Court of California issued an Order imposing discipline ("Disciplinary Order #1") on Respondent in case no. S066014. The Disciplinary Order placed Respondent on probation for four (4) years as recommended by the State Bar Court in case nos. 93-O-20134-MSW, et al. Respondent was properly served with the Disciplinary Order, Respondent received it, and it became effective as of March 5, 1998.

2. The terms and conditions of probation imposed on Respondent by Disciplinary Order #1 included the following:

a. 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, with the first report due on July 10, 1998, and submit a final report between February 12, 2002 and March 4, 2002.

b. Make quarterly restitution payments to former client Dorothy Wyatt, or to the Client Security Fund ("CSF") if it has paid, in the principal amount of \$22,313.89 plus interest at the rate of 10 percent per annum from August 19, 1994. Complete restitution no later than December 31, 2001. Submit satisfactory evidence of each installment payment with each probation report.

c. Make quarterly restitution payments to former client Vlady Lancry, or to the CSF if it has paid, in the principal amount of \$4,544.00 plus interest at the rate of 10 percent per annum from February 26, 1996. Complete restitution no later than December 31, 2001. Submit satisfactory evidence of each installment payment with each probation report.

3. As of June 6, 2000, Respondent had not made any of the ordered restitution payments. On June 6, 2000, CSF paid \$4,544.00 to former client Landry. On June 13, 2000, CSF paid \$18,500.00 to former client Wyatt. Respondent then owed CSF \$23,408.00, which included an administrative charge of \$364.00.

4. The probation period was extended three times by the State Bar Court, so that by May 1, 2003, the probation period was set to end on March 10, 2006.

5. In May 2003, Respondent paid \$190.00 to CSF. On July 8, 2003, Respondent paid \$5,000.00 to CSF. This was used to pay off completely his obligation to CSF for former client Landry, but left an unpaid balance for former client Wyatt of \$17,854.00 plus accrued interest.

6. On September 15, 2003, the State Bar Court approved a fourth stipulation of the parties to extend probation by a completely new period of four years, ending on September 17, 2007. The approval order fixed the restitution balances on June 25, 2003 as \$29,851.67 owed to CSF, \$17,961.56 owed to Dorothy Wyatt, and \$1,944.58 owed to Vlady Lancry, for a total restitution of \$49,757.81 still owed under Disciplinary Order #1. The grounds for this modification of probation were that Respondent had previously been medically unable to comply with his probation conditions, but had become able to work fulltime in 2003.



7. The reporting requirements continued as stated in Disciplinary Order #1, as modified for the new final report date of September 17, 2007.

8. The new restitution terms effective as of September 18, 2003, were as follows:

a. Respondent shall pay \$3,813.89 to former client Dorothy Wyatt no later than December 17, 2003.

b. Respondent shall pay a minimum of \$1,186.11 to CSF no later than December 31, 2003.

c. Beginning in 2004, Respondent shall pay \$2,500.00 per quarter to CSF until all principal and interest is paid. Thereafter, Respondent shall pay the \$2,500.00 per quarter to the two former clients until all principal and interest owing to them are paid off. Submit satisfactory evidence of each quarterly payment with each probation report.

d. All restitution shall be paid no later than September 17, 2007.

9. Respondent made the restitution payments required of him in December 2003.

10. During the remaining 15 quarters of probation, Respondent made only five payments to CSF, totaling \$10,500.00. On August 14, 2004, he paid \$2,500.00. On April 16, 2005, he paid \$2,000.00. On September 10, 2005, he paid \$2,500.00. On October 19, 2005, he paid \$2,500.00. On June 8, 2007, he paid \$1,000.00.

11. On March 31, 2006, Respondent was diagnosed with bipolar disorder and started taking lithium. By June 2006, he was experiencing harmful side effects of the lithium, which included slurred speech, unsteady gait, and an altered mental state, which included mental confusion and slow thought processes. In July 2006, Respondent sought medical attention for his mental and physical problems, but the lithium problem was not diagnosed. In August 2006, Respondent was hospitalized for his condition, and a trio of doctors promptly diagnosed the lithium problem. Respondent was prescribed a substitute for the lithium, and was released after four days of hospitalization. The mental and physical problems caused by the lithium disappeared by the end of September 2006. Respondent has produced the medical reports from August 2006 from all three doctors, and additional medical reports from July 2006, all of which show mental and physical impairment during June, July, and August of 2006 sufficient to prevent the proper practice of law. All three doctors are available to testify concerning their examinations of Respondent during his hospitalization in August 2006, their diagnoses of the lithium problem, and their opinions concerning the debilitation caused by the lithium.

12. When the probation period ended on September 17, 2007, Respondent still owed CSF a principal amount of \$6,167.89, plus accrued interest. Although he and CSF had paid all principal owing to his two clients, he still owed former client Dorothy Wyatt the sum of \$14,381.07 for interest accrued as of February 4, 2004, and he still owed former client Vlady Lancry \$1,944.54 for interest accrued as of June 6, 2000. Respondent made no more payments to either former client after February 4, 2004.

#### **CONCLUSIONS OF LAW FOR CASE NO. 09-O-11706-LMA:**

1. Respondent's failures to pay restitution during the second and third quarters of 2006 were not willful, due to his mental and physical impairment from lithium ingestion.

2. By failing to make any restitution payments to CSF for the first, second, and fourth quarters of 2004, the first quarter of 2005, the first and fourth quarters of 2006, and the first and third quarters of 2007; by paying CSF only \$2,000.00 of the \$2,500.00 required in the second quarter of 2005; by paying CSF only \$1,000.00 of the \$2,500.00 required in the second quarter of 2007; and by failing to complete all restitution by September 17, 2007, Respondent failed to comply with all conditions of his probation set forth in Disciplinary Order #1, and willfully violated section 6068(k) of the Business and Professions Code.

**FACTS FOR CASE NO. 09-O-11707-LMA:**

1. The facts set forth above in paragraphs 1, 2, 4, 6, 7, and 11 for case no. 09-O-11706-LMA are incorporated by reference.

2. On January 27, 2004, the Supreme Court of California issued an Order imposing discipline ("Disciplinary Order #2") on Respondent in case no. S120267. The Disciplinary Order placed Respondent on probation for four (4) years as recommended by the State Bar Court in case no. 01-O-01231-RAH. Respondent was properly served with the Disciplinary Order, Respondent received it, and it became effective as of February 26, 2004.

3. The terms and conditions of probation imposed on Respondent by Disciplinary Order #2 included the following:

a. 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, with the first report due on April 10, 2004, and submit a final report between February 5, 2008 and February 25, 2008.

b. The probation periods in Disciplinary Order #2 shall run concurrently with the probation period set forth in Disciplinary Order #1, as modified on September 18, 2003. By a separate written agreement executed by the parties on September 4, 2003, it was agreed that only one written probation report would be required for each quarter covered by both probation periods.

4. Respondent submitted the following quarterly probation reports late as indicated below:

| <u>Date Due</u> _____: | <u>Date Filed</u> _____: |
|------------------------|--------------------------|
| July 10, 2004          | August 7, 2004           |
| October 10, 2004       | October 13, 2004         |
| January 10, 2005       | March 2, 2005            |
| April 10, 2005         | April 12, 2005           |
| July 10, 2005          | September 8, 2005        |
| October 10, 2005       | October 18, 2005         |
| January 10, 2006       | February 8, 2006         |
| April 10, 2006         | June 5, 2006             |
| October 10, 2006       | October 11, 2006         |
| January 10, 2007       | February 6, 2007         |
| April 10, 2007         | April 27, 2007           |
| July 10, 2007          | December 12, 2007        |
| October 10, 2007       | December 12, 2007        |
| January 10, 2008       | July 9, 2010             |

5. Respondent submitted the two final reports late as indicated below:

| <u>Date Due</u> _____: | <u>Date Filed</u> _____: |
|------------------------|--------------------------|
| September 17, 2007     | December 12, 2007        |
| February 26, 2008      | July 8, 2010             |

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**CONCLUSIONS OF LAW FOR CASE NO. 09-O-11707-LMA:**

1. By not timely filing the 12 quarterly reports as listed above through July 10, 2007 and by not timely filing the final report due on September 17, 2007, Respondent failed to comply with all conditions of his probation in Disciplinary Order #1.

2. By not timely filing all 14 of the quarterly reports as listed above and by not timely filing the final report due on February 26, 2008, Respondent failed to comply with all conditions of his probation in Disciplinary Order #2.

3. Respondent willfully violated section 6068(k) of the Business and Professions Code by his failures to comply with the probation reporting conditions set forth in Disciplinary Orders #1 and #2.

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### **AGGRAVATING CIRCUMSTANCES:**

Facts supporting paragraph B. (4) for Significant Harm to Client.

Respondent completed the refund of all of the unearned fee principal to former client Dorothy Wyatt on February 4, 2004, but he has never paid any of the interest on her judgment against him. As of February 4, 2004, the accrued interest was \$14,381.07. The client has gone without the use of those funds for more than six years. [Standard 1.2(b)(iv).]

### **MITIGATING CIRCUMSTANCES:**

1. Candor/Cooperation. On August 13, 2010, Respondent agreed to all of the material facts for this case, and agreed to sign the Stipulation of Facts which was signed and filed on August 16, 2010. Respondent has now stipulated to all material facts, to culpability for both counts in the filed charges as amended, and to the appropriate discipline. [Standard 1.2(e)(v).]
2. Objective Steps Demonstrating Remorse and Atonement. At all times during the pendency of this matter, Respondent admitted his failure to complete the restitution conditions required of him by Disciplinary Order #1 and expressed his intention to complete restitution to CSF and his two former clients even though his probation expired on September 17, 2007 and the clients' legal rights to collect from him have expired. As part of his atonement for his past failure to complete restitution, Respondent has agreed to complete restitution as part of his probation for this matter, as set forth in the following paragraph under the heading of "Restitution Conditions of Probation." This restitution consists of (1) a one-time payment of \$1,944.58 to one client for unpaid interest owed since June 6, 2000; (2) a series of seven quarterly payments to a second client until she has received \$14,381.07 for unpaid interest owed since February 4, 2004; and (3) full restitution to CSF, by the end of his probation period of three years, which obligation is \$20,111.31 as of August 16, 2010 and still earning interest. [Standard 1.2(e)(vii).]

### **RESTITUTION CONDITIONS OF PROBATION:**

1. During the first 30 days of probation, Respondent shall pay the sum of \$1,944.58 to former client Vlado Lancry. In the event this former client cannot be located by reasonable efforts, this sum shall be paid to CSF during the first 30 days of probation. Satisfactory proof of this first payment shall be attached to the first quarterly report submitted to the Office of Probation.
2. During the second through seventh quarters of probation, Respondent shall pay at least \$2,000.00 per quarter to former client Dorothy Wyatt. In the event this former client cannot be located by reasonable efforts, at least \$2,000.00 shall be paid to CSF for each of those quarters. Satisfactory proof of each payment shall be attached to the quarterly reports submitted to the Office of Probation.

3. During the eighth quarter of probation, Respondent shall complete his restitution to former client Dorothy Wyatt by a payment of \$2,381.07, or such other amount necessary to complete restitution to her of \$14,381.07. In the event this former client cannot be located by reasonable efforts, this final payment amount shall be paid to CSF. Satisfactory proof of the payment shall be attached to the quarterly report submitted to the Office of Probation.

4. During the ninth and subsequent quarters of probation, Respondent shall pay at least \$2,000.00 per quarter to CSF and attach satisfactory proof of each payment to his quarterly reports submitted to the Office of Probation. The total amount owed to CSF is \$20,111.31 as of August 16, 2010, and earns interest at the annual rate of 10 percent on the unpaid principal balance, which was \$6,167.89 on August 16, 2010.

5. Respondent shall complete restitution to CSF no later than the filing of his final report to the Office of Probation. Respondent is aware that the foregoing restitution schedule, if followed, will require a final balloon payment of \$14,111.31 plus accrued interest.

6. Respondent may accelerate his payments as to frequency and/or amount as set forth above, but he shall not make any payments to CSF before he has completed restitution to the two former clients.

#### **WAIVER OF VARIANCE:**

The parties waive any variance between the First Amended Notice of Disciplinary Charges filed on August 16, 2010, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

#### **SUPPORTING AUTHORITY:**

Standard 1.7(b) provides that a third imposition of discipline shall be disbarment unless the most compelling circumstances clearly predominate. Respondent has strong mitigating circumstances by his commitment to pay his two former clients \$16,325.65 for which he is no longer civilly liable. In *Arm v. State Bar* (1990) 50 Cal.3d 763, the California Supreme Court held that it was not appropriate to impose disbarment where the latest offense was rather minor, did not repeat an earlier offense, and did not demonstrate "a common thread" among the various disciplinary proceedings. The Supreme Court held that the appropriate discipline was only that which was necessary to assure better understanding of one's professional responsibilities.

In *In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 220, the Review Department declined to recommend disbarment for a fourth imposition of discipline following two actual suspensions of six months each and a stayed suspension of two years. The Review Department found it significant that the Supreme Court approved a stayed suspension for the third discipline, even though it involved failure to

perform and communicate in three client matters and was similar to four client matters in the second imposition of discipline. The Review Department also found it significant that Mr. Trousil had practiced law for nearly four years after his last actual suspension and no client had complained to the State Bar. Id., at 241. Mr. Trousil's fourth discipline was for unauthorized practice of law for one bankruptcy client during his first disciplinary actual suspension and during an earlier suspension for failure to pay State Bar membership fees.

The Review Department in Trousil expressed a second and independent reason for declining disbarment, which was finding that the lack of harm to the client was "most compelling mitigation" under Standard 1.7(b). Here, there is some significant harm to the client, but only by failure to pay accrued interest of \$14,381.07 owed since payment of all of the principal (total of \$18,500.00) on February 4, 2004. However, the parties have agreed that Respondent's failure to pay restitution is excused for two calendar quarters, as set forth in paragraph 11 on page 10 above. Moreover, the harm to the client is significantly diminished by Respondent's agreement to pay all of the \$14,381.07 as a condition of the probation to be imposed in this matter.

The Review Department concluded that an actual suspension of 30 days was appropriate for the protection of the public, the integrity of the bar and, and the integrity of the courts from Mr. Trousil's unauthorized practice of law. Id., at 242. Respondent's two counts of multiple failures to comply with court-ordered probation are more serious than Mr. Trousil's single count of the unauthorized practice of law for one client. The parties agree that an actual suspension of 90 days, with its attendant probation conditions for three years, is appropriate under the guidelines enunciated in the Trousil case.

#### **PENDING PROCEEDINGS:**

The disclosure date referred to on page 2, paragraph A.(7), was August 17, 2010.

#### **COSTS:**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that, as of August 17, 2010, the costs in this matter are approximately \$5,539.00. 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.


Pursuant to rule 284 of the Rules of Procedure, the parties have agreed to an extension of time for the payment of costs over three years due to hardship or special circumstances. The grounds for this extension are that Respondent is being ordered to make restitution payments of at least \$8,000.00 per year during his three years of probation.

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| In the Matter of<br><br><b>MICHAEL STUART PRATTER</b> | Case number(s):<br><br><b>09-O-11706-LMA; 09-O-11707-LMA</b> |
|---|--|

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.

  
Respondent's Signature

Michael J. Smith  
Print

Michael Stuart Pratter  
Print Name

Respondent's Counsel Signature  
*Larry Desha*  
 Deputy Trial Counsel's Signature

Print Name \_\_\_\_\_

Larry DeSha \_\_\_\_\_

Print Name \_\_\_\_\_

(Do not write above this line.)

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|--|---|
| In the Matter Of<br>MICHAEL STUART PRATTER | Case Number(s):<br>09-O-11706-LMA; 09-O-11707-RAH |
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### ORDER

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

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

1) On page 4 of the stipulation, the "X" in box D(1)(a)(i) is deleted to remove the "and until" standard 1.4(c)(ii) condition.

2) On page 4 of the stipulation, the "X" in box D(1)(a)(ii) is deleted to remove the "and until" restitution condition.

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.)**

9-22-10  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
RICHARD A. HONN  
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 Los Angeles, on September 24, 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 Los Angeles, California, addressed as follows:

MICHAEL STUART PRATTER  
PRATTER & YOUNG  
11664 NATIONAL BLVD STE 416  
LOS ANGELES, CA 90064

- ☐ 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:

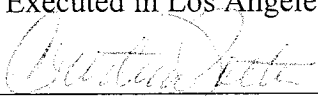
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.

- ☐ 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:

Ernest Larry DeSha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 24, 2010.

  
Cristina Potter  
Case Administrator  
State Bar Court