(Do not write above this line.)

State Bar Court of California
Hearing Department
San Francisco
ACTUAL SUSPENSION

Counsel For The State Bar	Case Number(s):	For Court use only
Erica L. M. Dennings Office of the Chief Trial Counsel 180 Howard Street, 7th Fl. San Francisco, CA 94105 (415) 538-2285 Bar # 145755	09-O-12928; 09-O-19197; 09-O-19440; 09-O-12927; 09-H-19304; 09-O-14426; 10-O-08822	PUBLIC MATTER FILED AUG 10 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Raymond Vaughn Patton Patton Law Offices 2420 Sand Creek Road, #C-1352 Brentwood, CA 94513 Bar # 196791	Submitted to: **Settlement Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of: Raymond Vaughn Patton Bar # 196791 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 November 23, 1998..

(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 26 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 5.130, Rules of Procedure.
☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

(1) ☒ **Prior record of discipline** [see standard 1.2(f)]

(a) ☒ State Bar Court case # of prior case 07-O-10388

(b) ☒ Date prior discipline effective November 14, 2008

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: rule 3-700(D)(1) and B&P section 6068(m)

(d) ☒ Degree of prior discipline private reproval

(e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.

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

(3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. Respondent failed to: return unearned fees to Carolyn Hannon and John Kelly. Respondent failed to pay court ordered sanctions in the Carmel and Contreras/Halbrook matters.

(5) ☒ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. Respondent has not taken any steps to refund unearned fees or pay court ordered sanctions.

(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. Respondent failed to cooperate in the State Bar investigations, and spradically participated in the disciplinary proceedings until the pretrial statements were filed.

(7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. Respondent committed thirty seven acts of misconduct in six client matters and failed to comply with his reproval conditions.

(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.

(5) ☐ **Restitution:** Respondent paid $ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.

(6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.

(7) ☐ **Good Faith:** Respondent acted in good faith.

(8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.

(9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

(10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.

(11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

(12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of 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 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 two 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:

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 the 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

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 5.162(A) & (E), 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:** Restitution (See Financial Conditions in attachment)

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: RAYMOND VAUGHN PATTON (#196791)

CASE NUMBER(S): ET AL. 09-O-12928; 09-O-19197; 09-O-19440; 09-O-14426; 09-O-12927; 09-H-19304; 10-O-08822

FACTS AND CONCLUSIONS OF LAW.

09-O-12928

FACTS

1. On or about December, 2007, respondent substituted in to Carolyn Contreras Halbrook's (hereinafter, "Halbrook") ongoing child custody litigation, in *Carolyn Contreras Halbrook v. Ricardo Contreras,* case no. CV016029, filed in Superior Court, County of Alameda. Ricardo Contreras had filed for a change of custody on or about October 6, 2006.

2. On or about April 5, 2008, respondent noted the deposition of Ricardo Contreras. Contreras's attorney, Rise Donlon, (hereinafter, "Donlon"), through her assistant, notified respondent that she was unable to appear, but did not provide any reason why she could not appear. On or about April 27, 2008, respondent appeared personally at Donlon's law offices without an appointment, but after calling to inquire when the deposition could be rescheduled.

3. On or about October 1, 2007, the matter had come before the Court for a long cause hearing. Halbrook's prior counsel requested a continuance on her behalf. The Court granted the continuance conditional on the temporary change of custody of the minor child from the petitioner's residence to the respondent's residence. The matter was further continued to March 13, 2008, with the custody order to remain the same. In the interim, Halbrook filed an appeal of the temporary order. On or about May 12, 2008, the Court ruled that the appeal did not deprive the Court of ongoing jurisdiction regarding the custody issues. On or about June 26, 2008, respondent filed an ex-parte motion for stay of the Court's temporary custody order (originally made October 1, 2007). Respondent served Donlon via fax with the ex-parte order as well as a Petition for Writ of Mandate Seeking Annulment of the Superior Court Custody Order. Respondent had been previously served with a Notice of Unavailability of Counsel, from Donlon, advising that Donlon was unavailable July 28, 2008 through August 3, 2008.

4. On or about April 27, 2009, the Court issued a Findings and Order, and sanctioned respondent's client $15,000 in sanctions for, in part, respondent's actions in filing the writ and serving Donlon one day before she was unavailable, as well as appearing at Donlon's law offices unannounced on April 27, 2008 and insisting that she cancel a dependency hearing to attend a deposition.

5. On or about December 10, 2008, the parties executed a "Stipulation and Order re: Global Settlement" resolving all pending issues in the child custody matter. Respondent and respondent's client executed the global settlement document.

6. On or about January 30, 2009, Donlon, counsel for Ricardo Contreras, filed an Order to Show Cause and Affidavit for Contempt, alleging that Halbrook had failed to comply with the terms of the global settlement agreement. The hearing was noticed for April 3, 2009. On or about March 13, 2009, Donlon served Halbrook with the Order to Show Cause and Affidavit for Contempt.

7. On or about February 23, 2009, attorney Mary Oaklund, (hereinafter, "Oaklund") who represented the minor child, filed a Notice of Motion for attorney's fees and costs. Oaklund duly served respondent with a copy of her motion. Respondent received the motion and was aware of its contents.

8. On or about March 23, 2009, respondent signed a substitution of attorney and Halbrook substituted herself in pro per. Halbrook filed the substitution with the Court on or about March 24, 2009.

9. On or about April 3, 2009, the Court held a hearing on the Order to Show Cause and Affidavit for Contempt and the Notice of Motion for Attorneys Fees. The Court indicated that it would re-issue its intended findings that the Court originally issued prior to the global settlement. The Court further ordered that respondent be served with a copy of the Court's minutes of the hearing, because the Court's intended findings and order included provisions that applied to the respondent (namely, sanctions). On or about April 3, 2009, the Court clerk duly served respondent with Notice of the Minutes of the April 3, 2009 hearing. Respondent received the minutes and was aware of their contents.

10. On or about April 8, 2009, the Court issued its "Reissued Intended Findings and Order" and gave the parties ten days to file and serve requests for modification or correction. The Court clerk duly served respondent with a copy of the Reissued Intended Findings and Order. Respondent received the Reissued Intended Findings and Order and was aware of its contents.

11. Respondent did not file any objections or corrections to the Reissued Intended Findings and Order.

12. On or about April 27, 2009, the Court issued its Findings and Order. The Court sanctioned respondent the sum of $15,000 payable to respondent Richard Contreras and his counsel, pursuant to Code of Civil Procedure Section 128.7, for going to Donlon's office and demanding that she change a dependency hearing to maintain a date in the Contreras litigation. The sanctions were payable within thirty days of the date of the Court's mailing of the order.

13. The Court further sanctioned respondent the sum of $5,895, payable to counsel for the minor, Oaklund, for the attorneys fees for Oaklund to respond to an unwarranted ex-parte application. The Court ordered that the sanction be paid within thirty days of the date of the mailing of the order.

14. On or about April 28, 2009, the Court clerk duly served respondent with a copy of the Court's Findings and Order. On or about April 29, 2009, Lauren Garcia, of the Donlon law firm, served respondent via mail, postage prepaid, with a copy of the Court's Findings and Order, to an alternate address of respondent's.

15. Respondent received the Court's April 27, 2009 Findings and Order in or about April, 2009, and was aware of its contents.

16. Respondent failed to pay the $15,000 payable to Richard Contreras and his counsel, Donlon, within thirty days of the court's mailing of the Findings and Order, or at anytime thereafter.

17. Respondent failed to pay the $5, 895 to Oaklund, within thirty days of the Court's mailing of the Findings and Order, or at anytime thereafter.

18. Respondent failed to report the Court's sanctions of $15,000 and $5,895 against him, to the State Bar, by May 27, 2009 or at any time thereafter.

19. On or about April 23, 2009, Contreras complained to the State Bar regarding respondent. The State Bar opened an investigation against respondent based upon Contreras' complaint.

20. On or about September 4, 2009, State Bar Investigator Mike Maacks sent a letter via United States Mail, postage pre-paid, to respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1. This address was, and still is, 14850 Highway 4, Suite A-323, Discovery Bay, California, 94505. Respondent received the letter and was aware of its contents.

21. In his September 4, 2009 letter, Investigator Maacks informed respondent of the Contreras complaint and requested a written response no later than September 18, 2009.

22. Respondent failed to respond to Investigator Maacks' September 4, 2009 letter and respondent failed to otherwise respond to the State Bar investigation of this matter.

23. On or about September 30, 2009, Investigator Maacks sent respondent a second letter, via United States Mail, postage pre-paid, to respondent at his official membership records address,

maintained by the State Bar pursuant to Business and Professions Code, section 6002.1. This address was, and still is, 14850 Highway 4, Suite A-323, Discovery Bay, California, 94505. Respondent received the letter and was aware of its contents.

24. In his second letter of September 30, 2009, Investigator Maacks again advised respondent of the pending complaint and requested a written response.

25. Respondent failed to respond to Investigator Maacks' September 30, 2009 letter and respondent failed to otherwise respond to the State Bar investigation of this matter.

CONCLUSIONS OF LAW

1. By appearing unannounced at Donlon's law offices on or about April 27, 2008, to insist that Donlon change a dependency hearing; and by serving Donlon with a Writ on the day before respondent knew Donlon would be unavailable in the matter, respondent frustrated settlement and increased the costs of the litigation of the parties, and caused his client to be sanctioned, and he thereby intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

2. By failing to pay the Court ordered sanctions in the Contreras matter, respondent willfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear, in willful violation of Business and Professions Code, section 6103.

3. By failing to report the Findings and Order of April 27, 2009 imposing sanctions against him to the State Bar, respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of any judicial sanctions against Respondent, in willful violation of Business and Professions Code, section 6068(o)(3).

4. By failing to respond to Investigator Maacks's letters of September 4, 2009 and September 30, 2009, and by failing to otherwise respond to the State Bar investigation of this matter, respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of Business and Professions Code, section 6068(i).

<u>09-O-19197</u>

FACTS

1. On or about May 16, 2008, Charles Carmel petitioned to have Peter Carmel's power of attorney revoked as to their father, William J. Carmel Jr. *Charles Carmel vs. Peter Carmel*, Contra Costa County Superior Court case number MSP08-00638.

2. On or about July 21, 2008, respondent filed an objection to the petition on behalf of Peter Carmel, identifying himself as counsel for Peter Carmel.

3. In or about January, 2009, the Court ordered the parties, with counsel, to appear on May 28, 2009. Janice Crosetti-Titmus, attorney for William J. Carmel, Jr. provided respondent with notice of the hearing via email. Respondent received the email and was aware of its contents.

4. Respondent failed to appear on May 28, 2009 as ordered by the Court.

5. On or about July 16, 2009, the Court ordered a hearing on August 11, 2009 as to the imposition of sanctions against respondent for his failure to appear on May 28, 2009. The Court duly served respondent with notice of the hearing by mailing the order to respondent at three different addresses. Mail sent to two of the three addresses was not returned by the postal authorities.

6. Respondent received notice of the Court's July 16, 2009 order and failed to appear on August 11, 2009 as ordered by the Court.

7. On or about August 28, 2009, (Order file dated September 4, 2009) the Court issued an "Order Imposing Sanctions Pursuant to CCP §177L5" and thereby imposed a sanction of $500 against respondent for failure to appear. The Court ordered respondent to make payment within thirty days of the Court's order.

8. On or about August 28, 2009, the Court clerk duly served respondent with a copy of the Court's Order Imposing Sanctions Pursuant to CCP §177L5. Respondent received a copy of the Order Imposing Sanctions Pursuant to CCP §177L5 and was aware of its contents.

9. Respondent failed to pay the sanctions of $500 as ordered by the Court. Respondent did not pay them within thirty days or at anytime thereafter.

10. On or about November 2, 2009, the Court held a hearing on Peter Carmel's Motion for Relief from Minute Order of May 28, 2009. Respondent was duly notified of this hearing when Peter Carmel's new counsel, Barr & Li, on or about September 22, 2009, served respondent with Carmel's Motion for Relief from Minute Order with attached supporting documents. Respondent received the Motion for Relief from Minute Order of May 28, 2009 and was aware of its contents.

11. On or about November 10, 2009, the Court issued an "Order After November 2, 2009 Hearing" and thereby ordered respondent to pay $1,000 to Charles Carmel, c/o the Law Offices of Jeffrey P. Rosenberg.

12. On or about November 10, 2009, respondent was duly served with a copy of the Court's Order After November 2, 2009 Hearing. Respondent received the Order After November 2, 2009 Hearing and was aware of its contents.

13. Respondent failed to abide by the Court's order of November 10, 2009. Respondent failed to pay $1000 to Charles Carmel as he was ordered to do so. As of August 19, 2010, respondent had still not made payment to the Law Offices of Jeffrey P. Rosenberg for Charles Carmel.

14. On or about July 18, 2008, Peter Carmel retained respondent to represent him in *Carmel vs. Carmel* case.

15. The May 28, 2009 hearing, at which respondent failed to appear, was a hearing to remove Peter Carmel as attorney-in-fact for William J. Carmel. The Court granted this motion due, in part, to respondent's failure to appear in opposition.

16. Respondent failed to advise Peter Carmel that he failed to attend the hearing on May 28, 2009.

17. On or about November 12, 2009, Attorney Jeffrey Rosenberg complained to the State Bar regarding respondent. The State Bar opened an investigation against respondent based upon Rosenberg's complaint.

18. On or about January 20, 2010 and February 8, 2010, State Bar Investigator Mike Maacks sent letters via United States Mail, postage pre-paid, to respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1. This address was 14850 Highway 4, Suite A-323, Discovery Bay, California, 94505. Respondent received the letters and was aware of their contents. In his letters, Investigator Maacks informed respondent of the Rosenberg complaint and requested a written response.

19. Respondent failed to respond to Investigator Maacks's letters or otherwise respond to the State Bar investigation of this matter.

CONCLUSIONS OF LAW

1. By failing to appear in Court as ordered on May 28, 2009 and August 11, 2009, and by failing to pay the Court ordered sanctions of $500 payable to the Court and the Court ordered sanction of $1,000 payable to Charles Carmel, c/o Jeffrey Rosenberg, respondent disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of respondent's

profession which he ought in good faith to do or forbear, in willful violation of Business and Professions Code, section 6103.

2. By repeatedly violating the Court's orders, respondent failed to maintain the respect due to the courts of justice and judicial officers, in willful violation of Business and Professions Code, section 6068(b).

3. By failing to appear on May 28, 2009, resulting in the removal of his client as attorney-in-fact for William J. Carmel, respondent failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

4. By failing to advise Peter Carmel that he did not attend the May 28, 2009 hearing, respondent failed to keep his client informed of significant developments in a matter in which he agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

5. By failing to respond to Investigator Maacks' letters of January 20, 2010 and February 8, 2010, or otherwise respond to the State Bar investigation of this matter, respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of Business and Professions Code, section 6068(i).

09-O-19440

FACTS

1. On or about February 15, 2008, Carolyn Hannon (hereinafter, "Hannon") hired respondent to prepare an estate plan on behalf of her mother, Leota Cottrell. Hannon had a power of attorney for Cottrell, who was elderly, and was authorized to act on Leota Cottrell's behalf. Hannon executed an Attorney Client Fixed Fee Agreement which specified that respondent would represent Leota Cottrell for preparation and asset protection planning for Leota Cottrell to become eligible for Medi-Cal benefits. The fee agreement specified a payment of $7,500. Hannon paid respondent the sum of $7,500 on or about February 15, 2008.

2. On or about December 4, 2008, Hannon met with respondent. Respondent advised that a Conservatorship for Leota Cottrell would be necessary. On or about December 4, 2008, Hannon gave respondent a check for $320 issued to Stanislaus Superior Court for the filing fee for a conservatorship. On or about December 8, 2008, Hannon paid respondent $3,000 for the legal services of preparing and filing for a conservatorship.

3. Thereafter, respondent took no action on Leota Cottrell or Hannon's behalf. Respondent failed to complete the estate planning and respondent failed to file or obtain a conservatorship for Leota Cottrell.

4. On or about October 23, 2008, respondent relocated his offices from 18 Crow Canyon Court, suite 325, San Ramon, California 94583, to 2603 Camino Ramon, Suite 200, San Ramon, California, 94583. Respondent failed to advise Hannon or Cottrell of his change of address to Camino Ramon Street.

5. On or about February 9, 2009, Hannon hand-delivered, mailed, and faxed a letter to respondent at his law offices, (she discovered his new address) requesting information regarding the status of the case. On or about February 11, 2009, Hannon faxed and mailed a second letter to respondent, requesting, on behalf of Cottrell, the status of her case. Respondent received the February 9, 2009, and February 11, 2009, faxes and letters from Hannon and failed to respond or otherwise apprize Hannon of the status of her matter.

6. On or about June 24, 2009, respondent relocated from 2603 Camino Ramon Street, Suite 200, San Ramon, California 94583, to 14850 Highway 4, Suite A #323, Discovery Bay, California, 94505. Respondent failed to advise Hannon of his new address and the relocation of his office.

7. On or about May 18, 2009, Hannon wrote and mailed and faxed another letter to respondent. Respondent received this letter and was aware of its contents.

8. In her May 18, 2009 letter, Hannon terminated respondent's services and demanded a refund of the fees she had given respondent. Hannon had given respondent a total of $10,500: $7,500 on or about February 15, 2008 and $3,000 on or about December 8, 2008.[1]

9. Respondent earned a portion of the $10,500 he received from Hannon. Respondent did not obtain a conservatorship for Leota Cottrell. Respondent did not refund any fees to Hannon.

10. On or about December 9, 2008, Hannon signed an original Quitclaim Deed on Leota Cottrell's house. She signed it in the lobby of respondent's office building and left it with David Moyal, respondent's assistant.

11. In her letter of May 18, 2009, Hannon stated, " I WANT THE QUIT CLAIM DEED BACK!".

12. Respondent failed to return the quitclaim deed to Hannon as requested.

13. On or about October 21, 2009, Hannon complained to the State Bar regarding respondent. The State Bar opened an investigation against respondent based upon Hannon's complaint.

14. On or about February 3, 2010 and February 25, 2010, Investigator Maacks sent letters via United States Mail, postage pre-paid, to respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1. This address was, 14850 Highway 4, Suite A-323, Discovery Bay, California, 94505. Respondent received the letters and was aware of their contents.

15. In the letters Investigator Maacks informed respondent of the Hannon complaint and requested a written response.

16. Respondent failed to respond to Investigator Maacks's letters and respondent failed to otherwise respond to the State Bar investigation of this matter.

CONCLUSIONS OF LAW

1. By failing to complete the estate planning and by failing to file and obtain the conservatorship for Leota Cottrell, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

2. By failing, on two occasions, to notify Hannon of the relocation of his office and his new office address, respondent failed to inform his client of significant developments in a matter in which he agreed to perform legal services, in willful violation of Business and Professions Code, section 6068(m).

3. By failing to respond to Hannon's letters and faxes of February 9, 2009, February 11, 2009, and May 18, 2009, respondent failed to respond to the reasonable status inquires of a client in a matter in which he agreed to perform legal services, in willful violation of Business and Professions Code, section 6068(m).

5. By failing to respond to Investigator Maacks's letters of February 3, 2010 and February 25, 2010, and by failing to otherwise respond to the State Bar investigation of this matter, respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of Business and Professions Code, section 6068(i).

09-O-14426

FACTS

1. On or about September 1, 2008, John Kelly (hereinafter, "Kelly") hired respondent to prepare some estate planning documents for his mother, Helen Kelly. Helen Kelly authorized her son

[1] Hannon also gave respondent a check on or about December 4, 2008 for $320 for filing fees. However, this check was never cashed.

to act on her behalf in this matter. Kelly paid respondent the sum of $7500.00. Respondent provided Kelly with an unexecuted "Medi-Cal Planning Engagement Agreement" for services provided on Exhibit "A". However, no "Exhibit A" was attached.

2. Thereafter, in or about the end of 2008, respondent sent Helen Kelly a letter outlining respondent's recommendations regarding the estate planning matters. In addition, respondent visited Helen Kelly at the assisted living facility where she resided, and Helen Kelly executed some documents.

3. Thereafter, respondent performed no additional work on behalf of Helen Kelly. Respondent did not provide copies of any estate documents to Helen Kelly or to Kelly, on behalf of Helen Kelly.

4. In or about the end of 2008, after respondent's visit to Helen Kelly, Kelly telephoned respondent on numerous occasions, seeking the status of the case on behalf of his mother. As to each time he called, Kelly reached an answering machine or service, and he left messages for respondent.

5. Respondent received Kelly's messages and failed to respond or otherwise apprise Helen Kelly or Kelly of the status of the estate planning matter.

6. On or about June 4, 2009 Kelly e-mailed respondent and requested that respondent return the client file and money as soon as possible. Kelly was, in effect, terminating respondent's services on behalf of Helen Kelly.

7. Respondent received Kelly's June 4, 2009 e-mail and the parties exchanged several emails attempting to set up a meeting for respondent to deliver the file to Kelly.

8. In addition to the e-mail Kelly sent to respondent on June 4, 2009, Kelly also sent an e-mail on June 11, 2009, stating "What is it going to take to get my file and a closing statement from you and balance due?"

9. Respondent received Kelly's June 11, 2009 e-mail and failed to provide an accounting or return of any balance due.

10. On or about July 13, 2009, respondent e-mailed Kelly and stated that he would provide a FedEx confirmation tracking number the following day. This e-mail was referring to respondent returning the file.

11. On or about July 13, 2009, after receiving the email in which respondent stated that he would give Kelly a FedEx confirmation, Kelly sent respondent another e-mail, stating, "what about $?"

12. Respondent received Kelly's July 13, 2009 e-mail.

13. Thereafter, Kelly did not receive a FedEx confirmation tracking number the following day.

14. Thereafter, Kelly did not receive the file from respondent.

15. Respondent provided were of little value to Helen Kelly. He never provided her with estate documents.

16. Respondent did not earn the entire $7500.00 he received from Kelly.

17. Respondent failed to refund any portion of the $7500.00 to Kelly.

18. On or about July 20, 2009 Kelly made a complaint to the State Bar. The State Bar opened investigation 09-O-14426 based upon Kelly's complaint.

19. On or about October 29, 2009 and November 16, 2009, Investigator Maacks wrote and mailed a letter, postage pre-paid, to respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1.

20. In his letters of October 29, 2009 and November 16, 2009, Investigator Maacks advised respondent of the Kelly complaint and requested that respondent provide a written response.

21. Respondent received each of Investigator Maacks's letters and failed to respond or otherwise respond to the State Bar investigation of the Kelly complaint.

CONCLUSIONS OF LAW

1. By failing to complete the estate documents and provide them to Helen Kelly, or to Kelly on behalf of Helen Kelly, respondent repeatedly failed to perform with competence, in willful violation of the Rules of Professional Conduct, rule 3-110(A).

2. By failing to respond to Kelly's numerous phone calls, respondent failed to respond to the reasonable status inquiries of a client in a matter in which he agreed to perform legal services, in willful violation of Business and Professions Code, section 6068(m).

3. By failing to return Kelly's file to either Helen Kelly or Kelly on behalf of his mother, respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

4. By failing to refund any fees to Kelly, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

5. By failing to respond to the State Bar Investigator in this matter, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent, in willful violation of Business and Professions Code, section 6068(i).

09-O-12927

FACTS

1. On or about September 16, 2008, Florence Walther (hereinafter, "Walther") hired respondent to prepare a trust on her behalf. Walther paid respondent the sum of $750.00.

2. Walther spoke to respondent in February, 2009. At that time, respondent advised Walther that they had mailed the trust document. Walther advised she had not received it. Respondent told Walther that he would mail another copy the next day.

3. Thereafter, Walther never received the trust documents.

4. On or about February 25, 2009, Walther sent respondent an email, terminating his services.

5. On or about February 18, 2009 Walther telephoned respondent and left him a voice mail message to return the call. Walther requested an update regarding the status of her trust documents.

6. Respondent received Walther's voice message of February 18, 2009 and failed to return the call or otherwise apprise her of the status of her trust matter.

7. On or about February 25, 2009, Walther sent an e-mail to respondent. In her email, Walther terminated respondent's services and requested a full refund of the $750.00.

8. Respondent received Walther's February 25, 2009 email.

9. On or about March 13, 2009, Walther sent respondent a certified letter, expressing her dissatisfaction and requesting a full refund of her $750.00. A member of respondent's office signed the certified mail receipt, acknowledging receipt of Walther's March 13, 2009 letter. Respondent received Walther's March 13, 2009 letter and was aware of its contents.

10. Respondent provided no services of any value to Walther. He never provided her with the trust documents.

11. Respondent did not earn the $750.00 he received from Walther.

12. Respondent failed to refund the $750.00 to Walther.

13. On or about July 15, 2009 and August 5, 2009, Investigator Maacks wrote and mailed a letter, postage pre-paid, to respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1.

14. In his letters of July 15, 2009 and August 5, 1009, Investigator Maacks advised respondent of the Walther complaint and requested that respondent provide a written response.

15. Respondent received each of Investigator Maack's letters and failed to respond or otherwise respond to the State Bar investigation of the Walther complaint.

CONCLUSIONS OF LAW

1. By failing to provide Walther's trust document to her, respondent intentionally, repeatedly, and recklessly failed to perform with competence, in willful violation of the Rules of Professional Conduct, rule 3-110(A).

2. By failing to respond to Walther's voice message of February 18, 2009, respondent failed to respond to the reasonable status inquiries of a client in a matter in which he agreed to perform legal services, in willful violation of Business and Professions Code, section 6068(m).

3. By failing to refund Walther the $750.00, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

4. By failing to respond to the State Bar Investigator in this matter, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent, in willful violation of Business and Professions Code, section 6068(i).

09-H-19302

FACTS

1. On or about October 16, 2008, respondent signed a stipulation in case number 07-O-10388 in which he agreed to receive a reproval and promised to comply with conditions attached to the reproval for a period of one year. The conditions attached to the reproval were specified in the stipulation that respondent signed.

2. On or about October 30, 2008, acting under the authority of Business and Professions Code section 6077, the State Bar Court of California filed an order imposing a reproval upon respondent in case number 07-O-10388. Pursuant to California Rule of Court 9.19, the State Bar Court order required respondent to comply with the stipulated conditions attached to the reproval. The Court found that the stipulation "...protects the public and that the interests of Respondent will be served by any conditions attached to the reproval..."

3. October 30, 2008, respondent received notice of the reproval order and reproval conditions.

4. Shortly after October 30, 2008, respondent had actual knowledge of the reproval conditions and reproval order.

5. The reproval order and reproval conditions became effective on or about November 19, 2008, and have remained in full force at all times thereafter.

6. **Reporting Condition.**

(a) One of the conditions of the reproval required respondent to submit reports as follows:

"Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproval. 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 the reproval during the preceding calendar quarter. Respondent must also state in each report 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 thirty (30) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period."

(b) Respondent violated this condition because he failed to submit the following reports on or before the applicable deadlines, as follows:

Date Due	Date Submitted
On or about October 10, 2009	Never submitted
On or about November 19, 2009	Never Submitted

7. **Ethics School.**

(a) One of the conditions of the reproval provided as follows:

"Within one (1) year of the effective date of 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."

(b) Respondent willfully violated this reproval condition because he failed timely to attend Ethics School, failed timely to pass the test given at the end of an Ethics School session, and failed timely to provide proof of attendance to the Office of Probation. To date, respondent has failed to attend Ethics School, failed to pass the test given at the end of an Ethics School session, and failed to provide proof of attendance to the Office of Probation.

8. **MPRE Condition.**

(a) One of the conditions of the reproval provided as follows:

"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 of the effective date of the reproval."

(b) Respondent willfully violated this reproval condition because he failed timely to provide proof of passage of the MPRE to the Office of Probation. To date, respondent has failed to provide proof of passage to the Office of Probation. Based on the above, the State Bar alleges that respondent has neither taken nor passed the examination.

CONCLUSION OF LAW

1. By violating the aforementioned conditions, respondent willfully failed to comply with conditions attached to a reproval administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and rule 956 (now Rule 9.19), California Rules of Court.

10-O-08822

FACTS

8. On or about November 2008, Rita Washington (hereinafter "Washington") employed respondent to represent Washington to settle her deceased mother's estate.

9. On or about July 16, 2009, respondent filed a petition for probate of the decedent's will. In the Estate of Alyne Washington, Alameda County Superior Court case number RP09463228.

10. Thereafter, respondent failed to perform substantial legal services for Washington and, specifically, failed to cause letters of administration to be issued and failed to appear at scheduled court hearings as necessary to move the matter forward. Instead, respondent caused the matter to be continued five times.

11. On or about February 3, 2010, February 15, 2010, and March 8, 2010 Washington sent respondent emails requesting a status update. The status inquiries were reasonable because Washington did not know the status of her case.

12. Respondent received these emails, but he did not respondent until May 13, 2010.

13. On or about April 5, 2010, respondent failed to appear at a scheduled court hearing and the court dropped the case from its calendar. Respondent received prompt notice of the court's April 5, 2010 minute order, but performed no further services for Washington.

14. Respondent failed to inform Washington that her legal matter had been dropped from the court's calendar.

15. On or about April 12, 2010 Washington learned on her own that the court dropped her matter from its calendar. She then hired a new attorney, Joshua Peacock (hereinafter "Peacock").

16. On or about May 11, 2010, Washington and Peacock sent respondent letters advising respondent that his employment was terminated and requesting that respondent deliver Washington's

files and papers back to Washington. The letter from Peacock requested that respondent sign a substitution of counsel form which was enclosed in the correspondence. Respondent received both letters shortly after they were sent, but respondent ignored them.

17. At some point between May 11 and June 1, 2010, respondent promised to comply with the request for return of documents and to sign the substitution of counsel.

18. On or about June 1, 2010, Peacock sent respondent a second letter, again requesting the client file and requested the signed substitution of counsel. Respondent received this letter shortly after it was sent, but respondent ignored it.

19. On August 5, 2010, as a result of respondent's failure and refusal to sign the substitution of counsel, Peacock was required to file a motion to have respondent removed as counsel. The motion was granted shortly thereafter, but respondent never returned any client papers or files to Peacock or Washington.

20. On or about September 30, 2010 and October 20, 2010, a State Bar investigator sent respondent letters concerning the Washington matter. Both letters requested that respondent provide a written response. Respondent received both letters shortly after they were sent, but respondent failed to respond in any way.

CONCLUSIONS OF LAW

1. By failing to cause letters of administration to be issued, failing to move the probate case forward, repeatedly continuing the matter, and failing to appear at the April 5, 2010 hearing, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

2. By failing to inform Washington that her legal matter had been dropped from the court's calendar, respondent failed to inform Washington of significant developments of her case; and by failing to respond to Washington's emails, respondent failed to respond to status inquiries, in willful violation of Business and Professions Code, section 6068(m).

3. By abandoning the legal matter, failing to return the signed substitution of counsel, and failing to return Washington's files and papers upon termination of respondent's employment, respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to his client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

4. By failing to return Washington's files and papers, respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

5. By failing to provide a written response to the State Bar investigator, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent, in willful violation of Business and Professions Code, section 6068(i).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(6), was June 29, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 29, 2011, the prosecution costs in this matter are approximately $$5,000. 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

Standard 1.6(a) provides that "if two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions."

Standard 1.7(a) states:

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

Standard 2.4(a) provides that culpability of a member of a pattern of willfully failing to perform services demonstrating the member's abandonment of the causes in which he or she was retained shall result in disbarment.

Standard 2.4(b) states that culpability of a member of willful failure to perform services in an individual matter shall result in reproval or suspension depending on the extent of the misconduct and the degree of harm to the client.

Standard 2.6 states that the culpability of a member for violation of B&P section 6068 "shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline."

Standard 2.10 states that violation of any provision of the Business and Professions Code or willful violation of any Rule of Professional Conduct not otherwise specified in the standards shall result in reproval or suspension according to the gravity of the offense or the harm, if any, to the victim.

The Standards support imposition of suspension.

Case Law

In *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, respondent was found culpable of failing to communicate, failing to take action on his client's behalf, and failing to withdraw from his client's case once he ceased doing work for her in a dissolution of marriage matter. *Van Sloten*, supra at 926-28. The California Supreme Court imposed six months suspension, with one year probation.

In *McMorris v. The State Bar* (1981) 29 Cal.3d 96, respondent received a 180 day suspension after being found culpable of failing to perform services for clients and failure to respond to client status inquiries. *McMorris* at 100. The court reasoned that "[f]ailure to communicate with and inattention to the needs of a client, standing alone, may constitute proper grounds for discipline. . . . Similarly, discipline has been

imposed for accepting compensation for legal services but failing to render such services." *McMorris* at 99 (citing to *Doyle v. State Bar* (1976) 15 Cal.3d 973, 978.

In *Rose v. State Bar* (1989) 49 Cal.3d 646, respondent was found culpable of, inter alia, failing to communicate and return client funds, engaging in improper solicitation of clients, and an improper business transaction with a client in seven matters. Respondent was suspended for five years, stayed and placed on probation for five years, conditioned upon a two year actual suspension.

MITIGATING CIRCUMSTANCES.

E (8) Emotional/Physical Difficulties

From in or about February 2009 through January 2010, respondent experienced extreme emotional duress due to his involvement as the attorney for Carolyn Halbrook in the *Contreras v. Contreras* matter. Respondent was sanctioned by the court in that matter. Respondent mistakenly believed that he would be automatically suspended or disbarred for any sanction over $1,000. As result, respondent became anxious and depressed. Respondent's anxiety and depression caused him to neglect his obligations. He feared picking up and reading his mail, did not promptly return phone calls or e-mails, and clients were unable to obtain legal work respondent had agreed to provide. In or about March 2010, respondent contacted and began participating in the Lawyer Assistance Program. On December 3, 2010, respondent signed the LAP Participation Plan. Respondent has been seeing a therapist regularly on a weekly basis since March 2010 and will continue therapy on this schedule. Respondent is working toward his goals of decreasing his anxiety towards responding to clients and dealing with procrastination related to social anxiety.

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.

In the Matter of: Raymond Vaughn Patton No. 196791	Case Number(s): 09-O-12928; 09-O-19197; 09-O-19440; 09-O-12927; 09-H-19304; 09-O-14426; 10-O-08822

Financial Conditions

a. Restitution

☒ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
John Kelly	$1,500 (See below)	September 1, 2008
Florence Walther	$750	September 16, 2008
Carolyn Hannon	$3,000 (See below)	February 15, 2008
Contra Costa County Superior Court	$500	August 28, 2009
Mary Oaklund	$5,895	April 27, 2009
Jeffrey Rosenberg obo Charles Carmel	$1,000	November 10, 2009
Richard Contreas and his counsel, Rise Donlon	$15,000 (as payment for sanctions for attorney's fees)	April 27, 2009

☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than one year from the effective date of dicipline herein.

Respondent must offer binding fee arbitration to John Kelly and/or Helen Kelly and Carolyn Hannon in the manner set forth below.

A. Duty to Notify Individuals of Right to Mandatory Fee Arbitration
Within thirty (30) days after the effective date of discipline, respondent agrees to send a letter by certified mail, return receipt requested, to the individuals set forth below and agrees to therein offer to initiate, pay any costs and fees associated with the fee arbitration, and participate in binding fee arbitration with said individuals, upon the request of any such individuals, regarding fees respondent received for representation of the former clients set forth below, unless respondent has previously sent such a written offer to said individuals. The letter shall include the address and phone number

of the Office of Probation along with a statement that the Office of Probation will be monitoring his fee arbitration conditions and may be contacted by the individual.

Respondent must offer John Kelly the option of participating in binding fee arbitration for the remaining $6,000 in fees he paid respondent.

Respondent must offer Carolyn Hannon the option of participating in binding fee arbitration for the remaining $7,500 in fees she paid respondent.

B. Upon Individual's Consent to Mandatory Fee Arbitration, Duty to Initiate Fee Arbitration
Within forty (40) days after the effective date of discipline, respondent agrees to provide the Office of Probation with a copy of the letters offering to initiate and participate in fee arbitration with the individuals set forth above, along with a copy of the return receipt from the U.S. Postal Service, or other proof of mailing.
Within sixty (60) days after the effective date of discipline, respondent agrees to provide the Office of Probation a declaration from each of the individuals setting forth that a letter had been received from Respondent offering to initiate, pay any costs and fees associated with the fee arbitration, and participate in fee arbitration.
Respondent agrees to advise the Office of Probation, in writing, of any request to participate in fee arbitration made by any individual set forth above within fifteen (15) days after any such request.
Respondent agrees to provide the Office of Probation with any information requested to verify Respondent's compliance, including submission of any written request for fee arbitration or the submission of a declaration from any individual setting forth the date arbitration was requested.
Respondent agrees to initiate fee arbitration within fourteen (14) days of any request, including making any payment required by the organization conducting the fee arbitration. Respondent agrees to fully and promptly participate in the fee arbitration as directed by the organization conducting the fee arbitration.
Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration with respect to any of the above individuals.

Respondent further agrees to accept binding arbitration on the arbitration request form. If the arbitration proceeds as non-binding, however, Respondent hereby agrees to abide by the arbitration award and foregoes the right to file an action seeking a trial de novo in court to vacate the award.

C. Duty to Comply with the Arbitration Award
Within thirty (30) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter, Respondent agrees to provide a copy of said award, judgment or stipulated award to the Office of Probation.
Respondent agrees to abide by any award, judgment or stipulated award of any such fee arbitrator and agrees to provide proof thereof to the Office of Probation within thirty (30) days after compliance with any such award, judgement or stipulated award. If the award, judgment or stipulated award does not set forth a deadline for any payment, Respondent is to make full payment within thirty (30) days of the issuance of any such award, judgment or stipulated award.

To the extent that respondent has paid any fee arbitration award, judgement or stipulated award prior to the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent will be given

credit for such payment(s) provided satisfactory proof of such payment(s) is or has been shown to the Office of Probation.

D. Obligation to Pay Restitution to the Client Security Fund.

If the State Bar Client Security Fund has reimbursed any of the above individuals for all or any portion of any award, judgment or stipulated award pursuant to fee arbitration, respondent agrees to pay restitution to the Client Security Fund of the amount paid, plus applicable interest and costs, in accordance with Business and Professions Code section 6140.5. To the extent the Client Security Fund has paid only principal amounts, respondent will still be liable for interest payments to such individuals. Any restitution to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d).

E. Waiver of Objections

If the fee arbitration proceeding results in an award to any of the above individuals, Respondent waives any objections related to the Office of the Chief Trial Counsel, Client Security Fund or State Bar Court notification to any such individual regarding assistance in obtaining restitution or payment from the Client Security Fund or from Respondent, at any time after Respondent's admission to the ADP. Respondent expressly waives confidentiality for purposes of effectuating this section, has reviewed rule 806 of the Rules of Procedure, and has had an opportunity to consult with counsel prior to this waiver.

F. Effect of Failure to Comply with Fee Arbitration Conditions
Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may preclude his successful completion of the ADP and could result in his termination from the ADP. Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in this Court ordering Respondent to pay back the full amount of attorneys' fees paid to Respondent by each of the individuals listed plus 10% interest from the date Respondent received the fees.

b. Installment Restitution Payments

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

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Florence Walther	$200	monthly
Contra Costa County Superior Court	$200	monthly

Mary Oaklund	$200	monthly
Jeffrey Rosenberg obo Charles Carmel	$200	monthly
Richard Contreas and his counsel, Rise Donlon	$15,000 (As payment for sanctions for attorney's fees)	April 27, 2009

☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:

a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

i. A written ledger for each client on whose behalf funds are held that sets forth:
   1. the name of such client;
   2. the date, amount and source of all funds received on behalf of such client;
   3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
   4. the current balance for such client.

ii. a written journal for each client trust fund account that sets forth:
   1. the name of such account;
   2. the date, amount and client affected by each debit and credit; and,
   3. the current balance in such account.

iii. all bank statements and cancelled checks for each client trust account; and,

iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

i. each item of security and property held;

ii. the person on whose behalf the security or property is held;

iii. the date of receipt of the security or property;

iv. the date of distribution of the security or property; and,

v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

☐ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

In the Matter of: RAYMOND VAUGHN PATTON (#196791)	Case Number(s): 09-O-12927, 09-H-19304, 09-O-14426, 09-O-12928, 09-O-19197,09-O-19440, 10-O-8822

Medical Conditions

a. ☐ Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.

b. ☒ Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of four (4) times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for days *or* months *or* two (2) years *or*, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

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

Other:

In the Matter of:	Case number(s):
Raymond Vaughn Patton No. 196791	09-O-12928; 09-O-19197; 09-O-19440; 09-O-12927; 09-H-19304; 09-O-14426; 10-O-08822

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 Facts, Conclusions of Law, and Disposition.

7-8-2011		Raymond Vaughn Patton
Date	Respondent's Signature	Print Name
Date	Respondent's Counsel Signature	Print Name
8 July 2011	Erica L. M. Dennings	Erica L. M. Dennings
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: Raymond Vaughn Patton Bar # 196791	Case Number(s): 09-O-12928 et al.

ACTUAL SUSPENSION 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 p.2, section B(1)(b) --the prior discipline was effective 11/20/08, and not 11/14/08.
2. On p.7, section (B)(7) --delete "37 acts" and replace it with "27 counts."
3. On p. 5, section (C) (8) -- insert an "X" in the box Emotional/Physical Difficulties. See also p. 19."
4. On p. 5, section E(10) -- insert an "X" in the box Medical Conditions. See also p. 25.
5. On p. 20, Under Financial conditions see Attachment A.
6. On p. 22--delete paragraphs E and F, because they refer to the ADP and respondent is not in the ADP.

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 5.58(E) & (F), 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.)**

August 10, 2011
Date

Pat McElroy
Judge of the State Bar Court

ATTACHMENT A

Financial Conditions (P. 20)

a. Restitution

Delete the table on page 20 and replace it with the following:

Payee	Principal Amount	Interest Accrues From
1. **Richard Contreas** and his counsel, Rise Donlon (case No. 09-O-12928)	$15,000 (sanctions)	None
2. **Mary Oaklund** (case No. 09-O-12928)	$5,895 (sanctions)	None
3. **Charles Carmel** (case No. 09-O-19197)	$1,000 (sanctions)	None
4. **Contra Costa County Superior Court** (case No. 09-O-19197)	$500 (sanctions)	None
5. **Carolyn Hannon** (case No. 09-O-19440)	$3,000 (unearned fees) (See below)	December 8, 2008
6. **John Kelly** (case No. 09-O-14426)	$1,500 (See below)	June 4, 2009
7. **Florence Walther** (case No. 09-O-12927)	$750	September 16, 2008

Delete the box in reference to respondent's payment not later than one year from the effective date of discipline because the parties have stipulated to installment payments during the period of probation, which is three years.

b. Installment Restitution Payments (Pp. 22-23)

The following is added to clarify respondent's installment payment requirements:

Monthly restitution payments of $200 to Florence Walther, Contra Costa County Superior Court, Mary Oaklund, and Charles Carmel must be made until restitution is paid in full prior to the expiration of the three-year probation.

On page 23, in reference to Richard Contreas, delete "$15,000" and "April 27, 2009" and insert "$500" and "monthly" so that monthly restitution payments of $500 to Richard Contreas and his counsel, Rise Donlon, must be made until restitution is paid in full prior to the expiration of the three-year probation. Respondent must make any necessary final payment in order to complete the $15,000 restitution payment in full.

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 August 10, 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:

RAYMOND V. PATTON
PATTON LAW OFFICES
2420 SAND CREEK RD #C-1352
BRENTWOOD, CA 94513

☐ 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:

Erica Dennings, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 10, 2011.

George Hue
Case Administrator
State Bar Court