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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Susan I. Kagan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2037</p> <p>Bar # 214209</p>	<p>Case Number(s): 09-0-13118 [09-0-13937; 09-0-17098; 09-0-17812; 10-0-06077; 10-0-03799; 10-0-07165; 11-O-13594]</p>	<p>For Court use only</p> <p style="text-align: center;">PUBLIC MATTER</p> <p style="text-align: center;">FILED <i>AS</i></p> <p style="text-align: center;">SEP 08 2011</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Jonathan I. Arons 221 Main Street, Suite 740 San Francisco, CA 94105 (415) 957-1818</p> <p>Bar # 111257</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: ANTHONY HARRIS</p> <p>Bar # 220714</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted October 21, 2002.
- (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 19 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2012, 2013, 2014. (Hardship, special circumstances or other good cause per rule 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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See page 14.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (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. See page 14.
- (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 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.
- (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. See page 14.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

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(13) No mitigating circumstances are involved.

Additional mitigating circumstances:

Respondent has no prior record of discipline. See page 14.

D. Discipline:

(1) Stayed Suspension:

- (a) Respondent must be suspended from the practice of law for a period of two (2) years.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
 - ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
 - iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.

(2) Probation:

Respondent must be placed on probation for a period of three (3) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) Actual Suspension:

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of six (6) months.
- 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

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information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

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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 (if any):

FACTS AND CONCLUSIONS OF LAW

Case No. 09-O-13118

Facts

1. Prior to July 1, 2008, respondent was hired by Wendell Jones ("Jones") to represent Jones in the matter, Jones v. City of Modesto, U.S. District Court, Eastern District of California, Case No. 1:108-CV-00396-LJO-DLB ("civil matter"). At all relevant times herein, respondent was attorney of record on behalf of Jones in the civil matter.
2. From July 1 through July 16, 2008, respondent was suspended for failure to pay his State Bar membership dues. From July 1 through July 16, 2008, respondent knew or should have known that he was not permitted to practice law.
3. From July 1 through July 16, 2008, respondent continued to represent Jones in the civil matter. During that time, respondent held himself out as entitled to practice law and practiced law, including, as follows: 1) on July 8, 2008, respondent filed a scheduling conference statement on behalf of Jones in the civil matter; and 2) on July 14, 2008, respondent appeared at a telephonic scheduling conference on behalf of Jones in the civil matter.

Conclusions of Law

By continuing to represent Jones in the civil matter from July 1 through July 16, 2008, by continuing to practice law from July 1 through July 16, 2008, and by holding himself out as entitled to practice law in California when he knew or should have known that he was not entitled to practice law in California, respondent held himself out as entitled to practice law when he was not an active member of the State Bar of California and wilfully violated Business and Professions Code sections 6125 and 6126, thereby failed to abide by and support the laws of the State of California.

Case No. 09-O-13937 [The Miller matter]

Facts

1. On February 4, 2009, respondent was hired by Joelle Miller ("Miller") to file a civil complaint on behalf of Miller against the U.S. Tennis Association ("civil matter"). On the same date, Miller paid respondent \$2,500.00 as advanced attorney's fees in the civil matter. Thereafter, Respondent failed to file a civil complaint on behalf of Miller.
2. From May 19 through July 3, 2009, Miller left telephone messages with respondent and sent e-mails to respondent requesting an update on the status of the civil matter. Respondent received Miller's telephone messages and e-mails soon after they were sent, but failed to respond to them.
3. Thereafter, Miller terminated respondent's services and requested a refund of unearned fees.

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4. Respondent did not perform any services of value on behalf of Miller. Respondent did not earn any portion of the advanced fees paid by Miller. To date, respondent has failed to pay any portion of the \$2,500.00 in unearned fees to Miller.

Conclusions of Law

1. By failing to perform any work on behalf of Miller in the civil matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By failing to respond to Miller's telephone messages and e-mails requesting an update on the status of his civil matter, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.

3. By failing to refund \$2,500.00 in unearned fees to Miller, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 09-O-17098 [The Ingalls matter]

Facts

1. On September 4, 2006, respondent was hired by Valerie Ingalls ("Ingalls") to file a complaint against Ingalls' former business partner ("civil matter"). On the same date, Ingalls paid respondent \$5,000.00 as advanced attorney's fees in the civil matter. Thereafter, Respondent failed to file a complaint on behalf of Ingalls.

2. From January 2009 through August 2009, Ingalls left telephone messages with respondent requesting an update on the status of the civil matter. Respondent received Ingalls' telephone messages, but failed to respond to them.

3. Thereafter, Ingalls terminated respondent's services and requested a refund of unearned fees.

4. Respondent did not perform any services of value on behalf of Ingalls. Respondent did not earn any portion of the advanced fees paid by Ingalls. To date, respondent has failed to pay any portion of the \$5,000.00 in unearned fees to Miller.

Conclusions of Law

1. By failing to perform any work on behalf of Ingalls in the civil matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By failing to respond to Ingalls' telephone messages requesting an update on the status of her civil matter, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which

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respondent had agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.

3. By failing to refund \$5,000.00 in unearned fees to Ingalls, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 09-O-17812 [The McEwan matter]

1. On February 12, 2009, respondent was hired by John McEwan ("McEwan") to file an appeal in a dissolution matter ("dissolution matter"). On the same date, McEwan paid respondent \$5,000.00 as advanced attorney's fees in the dissolution matter.

2. On March 23, 2009, respondent filed a notice of appeal on behalf of McEwan in the dissolution matter. Thereafter, respondent performed no further work on behalf of McEwan in the dissolution matter.

3. From March 24 through July 8, 2009, McEwan left telephone messages with respondent and sent e-mails to respondent requesting an update on the status of the dissolution matter. Respondent received McEwan's telephone messages and e-mails soon after they were sent, but failed to respond to them.

4. Respondent did not perform any services of value on behalf of McEwan. Respondent did not earn any portion of the advanced fees paid by McEwan.

5. On July 9, 2009, McEwan sent a letter to respondent terminating his services and requesting a refund of unearned fees. Soon thereafter, respondent received McEwan's letter, but failed to refund any portion of the \$5,000.00 in unearned fees.

6. To date, respondent has failed to pay any portion of the \$5,000.00 in unearned fees to McEwan.

Conclusions of Law

1. By failing to perform any work on behalf of McEwan in the dissolution matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By failing to respond to McEwan's telephone messages and e-mails requesting an update on the status of his civil matter, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.

3. By failing to refund \$5,000.00 in unearned fees to McEwan, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 10-O-06077 [The Noltenmeier matter]

Facts

1. On January 5, 2009, respondent was hired by Cory Noltenmeier ("Noltenmeier") to represent him in a family law matter ("family law matter"). In January 2009, Noltenmeier paid respondent \$1,000.00 as advanced attorney's fees in the family law matter.
2. Thereafter, respondent performed no further work on behalf of Noltenmeier in the family law matter.
3. From June through December 2009, Noltenmeier left telephone messages with respondent requesting an update on the status of the family law matter. Respondent received Noltenmeier's telephone messages, but failed to respond to them.
4. Thereafter, Noltenmeier terminated respondent's services and requested a refund of unearned fees.
5. Respondent did not perform any services of value on behalf of Noltenmeier. Respondent did not earn any portion of the advanced fees paid by Noltenmeier. To date, respondent has failed to pay any portion of the \$1,000.00 in unearned fees to Noltenmeier.
6. On January 19, 2010, the court in the family law matter issued an order imposing sanctions on respondent in the amount of \$200.00, to be paid within ten days of the order. Soon thereafter, respondent received the court's sanction order, but failed to pay the sanction within ten days of the order. To date, respondent has failed to pay the \$200.00 sanction.

Conclusions of Law

1. By failing to perform any work on behalf of Noltenmeier in the family law matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By failing to respond to Noltenmeier's telephone calls requesting an update on the status of his family law matter, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.
3. By failing to pay sanctions in violation of the court's January 19, 2010 order, respondent wilfully 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 violation of section 6103 of the Business and Professions Code.
4. By failing to refund \$1,000.00 in unearned fees to Noltenmeier, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 10-O-03799 [The James matter]

Facts

1. On January 11, 2008, respondent was hired by Susie James ("James") to represent her in the matter, Thatcher v. James, Alameda County Superior Court Case No. RG07-349702 ("civil matter"). James paid respondent a total of \$2,000.00 as advanced attorney's fees in the civil matter.
2. On January 23, 2008, substituted in as counsel for James in the civil matter.
3. On August 21, 2008, the plaintiff in the civil matter served discovery on respondent. Respondent failed to respond to discovery. On October 17, 2008, the plaintiff filed a motion to compel discovery and for sanctions against James for failing to comply with discovery. Soon thereafter, respondent received a copy of the plaintiff's motion, but failed to file an opposition to it and failed to respond to discovery. On December 10, 2008, the court in the civil matter issued an order granting the plaintiff's motion, sanctioning James in the amount of \$880.00 and compelling her to respond to discovery by December 29, 2008. Soon thereafter, respondent received the court's December 10, 2008 order, but failed to respond to discovery by December 29, 2008.
4. On June 24, 2009, the court issued an order requiring James to remove a fence from her property by August 4, 2009. Soon thereafter, respondent received a copy of the court's June 24, 2009 order, but failed to provide James with guidance regarding the order. Upon receipt of the order, which was served on her, James left several voicemail messages for respondent requesting guidance. Respondent received James' telephone messages, but failed to respond to them. James did not take any action in removing the fence because she was awaiting guidance from respondent.
5. On December 2, 2009, the court issued an Order to Show Cause ("OSC") based on James' failure to comply with the court's June 24, 2009 order. The court ordered James to appear at an OSC hearing on January 6, 2010. Upon receipt of the court's December 2, 2009 order, which was served on her, James left several voicemail messages for respondent requesting guidance. Respondent received James telephone messages, but failed to respond to them. James did not appear at the January 6, 2010 OSC hearing because she was awaiting guidance from respondent. She was later found in contempt by the court and sanctioned.
6. Respondent did not perform any services of value on behalf of James in the civil matter. Respondent did not earn any portion of the advanced fees paid by James. On February 17, 2010, James sent a letter to respondent terminating his services and requesting a refund of unearned fees. Soon thereafter, respondent received James' letter, but failed to refund any portion of the \$2,000.00 in unearned fees. To date, respondent has failed to pay any portion of the \$2,000.00 in unearned fees to James.

Conclusions of Law

1. By failing to respond to discovery, by failing to file an opposition to the motion to compel discovery, by failing to comply with the court's December 10, 2008 order compelling discovery, and by failing to provide guidance to James about the court's June 24 and December 2, 2009 orders, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

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2. By failing to respond to James' telephone calls requesting guidance in the civil matter, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.
3. By failing to refund \$2,000.00 in unearned fees to James, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 10-O-07165 [State Bar Investigation]

1. At all relevant times herein, respondent maintained a client trust funds account at Bank of America (Account No. xxxxx-60398; hereinafter "trust account" or "respondent's trust account;" the account number has been excluded to protect the account from identity theft.)
2. Respondent repeatedly deposited non-client funds into his trust account, thereby commingling these funds into his trust account, as follows:

Date of Deposit	Amount of Deposit	Type of Deposit
1/11/08	\$360.00	Cash
4/17/08	\$520.00	Cash
11/4/08	\$500.00	Cash
1/6/10	\$1,500.00	Cash
4/29/10	\$600.00	Cash

Conclusions of Law

By depositing non-client funds into his trust account, respondent deposited or commingled funds belonging to respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of rule 4-100 of the Rules of Professional Conduct.

Case No. 11-O-13594 [The Dunn matter]

Facts

1. In August 2010, respondent was hired by Eric Dunn ("Dunn") to file a motion for reconsideration in the matter, *Dunn v. Cotter*, Contra Costa County Superior Court Case No. D10-01877 ("child custody matter"). In August 2010, Dunn paid respondent \$950.00 as advanced attorney's fees in the child custody matter.
2. Thereafter, respondent failed to file a motion for reconsideration or perform any further work on behalf of Dunn in the child custody matter. Respondent did not earn any portion of the advanced fees paid by Dunn. To date, respondent has failed to pay any portion of the \$950.00 in unearned fees to Dunn.
3. From August through December 2010, Dunn left telephone messages with respondent requesting an update on the status of the child custody matter. Respondent received Dunn's telephone messages, but failed to respond to them.

3. On December 3, 2010, a hearing was held in the child custody matter. Respondent failed to appear at the hearing. On the same date, the court issued an order requiring respondent to appear for a hearing on January 18, 2011, and to show cause for failing to appear at the December 3, 2010 hearing. Soon thereafter, the OSC hearing was rescheduled to take place on April 19, 2011. Respondent received notice of the April 19, 2011 OSC hearing. On April 19, 2011, an OSC hearing was held in the child custody matter. Respondent failed to appear at the OSC hearing. On the same date, the court issued an order sanctioning respondent in the amount of \$500.00, for failing to appear at the OSC hearing. Soon thereafter, respondent received the court's April 29, 2011 order, but failed to pay the sanctions. At all times relevant herein, the court's April 29, 2001 order is in full force and effect. To date, respondent has not paid the \$500.00 sanctions ordered by the court.

Conclusions of Law

1. By failing to file a motion for reconsideration or perform any work on behalf of Dunn in the child custody matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By failing to respond to Dunn's telephone calls requesting an update on the status of his child custody matter, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.
3. By failing to refund \$950.00 in unearned fees to Dunn, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.
4. By failing to pay sanctions in violation of the court's April 19, 2011 order, respondent wilfully 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 violation of section 6103 of the Business and Professions Code.

PENDING PROCEEDINGS

The disclosure date referred to on page two, paragraph A (7) was August 15, 2011.

STATE BAR ETHICS SCHOOL & CLIENT TRUST ACCOUNTING SCHOOL

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

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the State Bar has informed respondent that as of August 15, 2011, the estimated prosecution costs in this matter are approximately \$8,501.11. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any

final cost assessment. 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.

FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES

AGGRAVATING CIRCUMSTANCES

Standard 1.2(b)(ii). Respondent's 22 counts of misconduct represent multiple acts of wrongdoing.

Standard 1.2(b)(iv). Respondent's misconduct caused significant harm to his clients.

MITIGATING CIRCUMSTANCES

Standard 1.2(e)(iv). Respondent suffered from extreme difficulties in his personal life which expert testimony would establish were directly responsible for the misconduct and have since been resolved. During the time of the misconduct, respondent was in the midst of a divorce and child custody dispute. Respondent has since resolved these issues.

Standard 1.2(e)(v). Respondent displayed spontaneous candor and cooperation to the State Bar during the disciplinary proceedings.

Standard 1.2(e)(vii). Respondent displayed remorse for his misconduct.

Respondent has been practicing law since 2002, and has no prior record of discipline.

SUPPORTING AUTHORITY

Standard 2.2(b) requires at least a three-month actual suspension for a violation of rule 4-100, irrespective of mitigating circumstances.

Standard 2.4(b) requires reproof or suspension for a respondent who has wilfully failed to perform services in which he was retained.

Standard 2.6 requires that a violation of Business and Professions Code sections 6068(m) and 6103 shall result in disbarment or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

Standard 2.10 requires that a violation of any provision of the Rules of Professional Conduct not specified in the standards (e.g., rule 3-700(D)(2)) shall result in reproof or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

Generally, discipline for failing to perform ranges from reproof to suspension. (See In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32 [one-year stayed suspension for abandonment in single client matter; no prior record of discipline]; Van Sloten v. State Bar (1989) 48 Cal.3d 921 [six-month

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stayed suspension for abandonment in single client matter; no prior record of discipline]; Harris v. State Bar (1990) 51 Cal. 3d 1082 [90-day actual suspension for abandonment in single client matter; no prior record of discipline].)

Based on the standards and case law, a six-month actual suspension with a three-year probationary period will meet the purposes of attorney discipline.

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In the Matter of: ANTHONY HARRIS	Case Number(s): 09-0-13118 [09-0-13937; 09-0-17098; 09-0-17812; 10-0-06077; 10-0-03799; 10-0-07165; 11-O-13594]
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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
Joelle Miller	\$2,500.00	2/4/09
Valerie Ingalls	\$5,000.00	9/4/06
John McEwan	\$5,000.00	2/12/09
Cory Noltenmeier	\$1,000.00	1/1/09

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than one (1) year from the effective date of discipline herein.

b. Installment Restitution Payments

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

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- 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:
- 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";

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In the Matter of: ANTHONY HARRIS	Case Number(s): 09-0-13118 [09-0-13937; 09-0-17098; 09-0-17812; 10-0-06077; 10-0-03799; 10-0-07165; 11-O-13594]
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a. Restitution

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Payee	Principal Amount	Interest Accrues From
Susie James	\$2,000.00	1/11/08
Eric Dunn	\$950.00	8/1/10

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than one (1) year from the effective date of discipline herein.

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- 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";

(Do not write above this line.)

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.

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In the Matter of: ANTHONY HARRIS	Case number(s): 09-0-13118 [09-0-13937; 09-0-17098; 09-0-17812; 10-0-06077; 10-0-03799; 10-0-07165; 11-O-13594]
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SIGNATURE OF THE PARTIES

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

<u>8-21-11</u> Date	 Respondent's Signature	<u>Anthony Harris</u> Print Name
<u>August 26, 2011</u> Date	 Respondent's Counsel Signature	<u>Jonathan I. Arons</u> Print Name
<u>8/20/11</u> Date	 Deputy Trial Counsel's Signature	<u>Susan I. Kagan</u> Print Name

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In the Matter of: ANTHONY HARRIS	Case Number(s): 09-O-13118 [09-O-13937; 09-O-17098; 09-O-17812; 10-O-06077; 10-O-03799; 10-O-07165; 11-O-13594]
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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.

On p. 2, (8) Costs – Delete 2012 and add 2015.

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.)**

Date

Sept 7, 2011


LUCY ARMENDARIZ
Judge of the State Bar Court

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 September 8, 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:

JONATHAN IRWIN ARONS
LAW OFC JONATHAN I ARONS
221 MAIN ST STE 740
SAN FRANCISCO, CA 94105

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

SUSAN KAGAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 8, 2011.



Laine Silber
Case Administrator
State Bar Court