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

<p>Counsel For The State Bar</p> <p>Elie D. Morgenstern Deputy Trial Counsel The State Bar of California 1149 South Hill Street Los Angeles, CA 90015 Telephone: (213) 765-1334</p> <p>Bar # 190560</p>	<p>Case Number(s): 11-O-15557, 11-O-18217</p> <p align="center">PUBLIC MATTER</p>	<p>For Court use only</p> <p align="center">FILED</p> <p align="center">JAN 18 2012 <i>UC</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Gary Lee Harre 8053 US 54 North Tularosa, New Mexico 88352</p> <p>Bar # 86938</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Gary Lee Harre</p> <p>Bar # 86938</p> <p>A Member of the State Bar of California (Respondent)</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 June 7, 1979.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (12) pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."



- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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**
- (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:

See page 9 for further discussion regarding Discipline.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See page 9 for further discussion regarding Harm.
- (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. See page 9 for further discussion regarding Multiple/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 9 for further discussion regarding Candor/Cooperation.
- (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.

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

Additional mitigating circumstances:

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.
- (2) **Restitution:** Respondent must make restitution to (see page 10 for further discussion regarding Restitution in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Gary Lee Harre
CASE NUMBERS: 11-O-15557, 11-O-18217

FACTS AND CONCLUSIONS OF LAW.

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

General Background

At all times relevant to the stipulated facts herein, Respondent was the sole owner of Global Capital Law, P.C. ("Global Capital Law").

Case No. 11-O-15557

Facts

1. The stipulated fact under the heading, "General Background," is incorporated by reference.
2. In May 2011, Jane Gorton ("Gorton") was having difficulty paying her home mortgage. On May 31, 2011, Gorton met with Respondent at his office. During the meeting, Respondent advised Gorton that he could help her obtain title to her home because Bank of America, Gorton's current lender, failed to take title to the trust deed after assuming Gorton's home mortgage from Gorton's previous lender.
3. On May 31, 2011, Gorton employed Capital Law Group to assist her with obtaining quiet title to her home. On May 31, 2011, Gorton paid Respondent \$2,500 in advanced fees for his legal services.
4. On July 8, 2011, Gorton received a letter from Respondent stating that he was unable to continue to practice law because of health problems. Respondent enclosed Gorton's file with the letter. Respondent did not enclose an accounting with the letter or make any reference of a refund.
5. Between July 8, 2011, and July 11, 2011, Gorton telephoned the number that Respondent listed in his letter on several occasions. Each time, Gorton received a voice mail message prohibiting her from leaving a message. At no time was Gorton able to reach Respondent after July 8, 2011.
6. On July 11, 2011, Gorton visited Respondent's office and discovered that it was vacated. Gorton did not make any further attempts to communicate with Respondent after July 11, 2011. Instead, on July 21, 2011, she submitted a State Bar complaint against him.
7. At no time did Respondent take any legal action to obtain quiet title to Gorton's home on her behalf. Respondent did not provide any services of value on behalf of Gorton and did not earn any portion of the advanced fee that he received from her.

8. To date, Respondent has not refunded any portion of the advanced fee that he received from Gorton.

Conclusions of Law

By failing to refund to Gorton the \$2,500 advanced fee, which he had not earned, Respondent failed to refund unearned fees in wilful violation of rule 3-700(D)(2).

Case No. 11-O-18217

Facts

1. The stipulated fact under the heading, "General Background," is incorporated by reference.
2. On March 9, 2011, Michael Klock ("Klock") employed Global Capital Law to represent him in a Chapter 13 Bankruptcy proceeding. The primary reason why Klock wished to file for bankruptcy was to determine with certainty the creditor or creditors who possessed rightful claims against his home and then to cure any default that might exist.
3. On March 21, 2011, Klock issued a check made payable to Global Capital Law in the sum of \$4,800 in advanced fees for Respondent's legal services in connection with the Chapter 13 Bankruptcy proceeding. On March 21, 2011, Klock also issued a check made payable to Global Capital Law in the sum of \$3,550 as advanced fees for Respondent's legal services in connection with any potential adversary proceeding that might be filed against Klock by one of his creditors in the Chapter 13 Bankruptcy proceeding. Respondent agreed to maintain the \$3,550 that he received from Klock in trust pending the filing of a response to a potential adversary complaint. In total, Klock paid Global Capital law a total of \$8,350 (\$4,800+\$3,550) in advanced attorney fees.
4. On March 30, 2011, Respondent, on behalf of Klock, filed a Petition for Chapter 13 Bankruptcy with the United State Bankruptcy Court, Central District of California, case number 1:10-bk-13877-MT (the "First Klock bankruptcy matter"). At the time that Respondent filed the Petition on behalf of Klock, he informed Klock to stop making the mortgage payments on his home.
5. On April 13, 2011, Respondent filed a motion to convert the First Klock bankruptcy matter to a Chapter 7 bankruptcy. However, later that same day, Respondent filed missing schedules, a Chapter 13 Plan, and other documents that are particular to a Chapter 13 case. Consequently, the Klock bankruptcy matter continued as Chapter 13 case. Klock was aware that Respondent intended to convert the First Klock bankruptcy matter to a Chapter 7 Case, but later believed that the conversion had not taken place.
6. At no time did Respondent review the schedules or the Chapter 13 Plan with Klock, and at no time did Klock see the Plan prior to June 1, 2011. The schedules that Respondent prepared on behalf of Klock were not accurate because he had not reviewed them with Klock.
7. On May 15, 2011, Klock mailed Respondent a letter via certified mail terminating Respondent's employment. In the letter, Klock demanded that Respondent refund the unearned, advanced fees that he had paid to Global Capital law. Klock enclosed a substitution of attorney with the letter. Respondent received the letter and the substitution shortly after May 15, 2011. Respondent did

not return the signed substitution to Klock, or refund any portion of the advanced fees that he received from Klock.

8. On June 1, 2011, the meeting of creditors in the Klock bankruptcy matter was held. Klock appeared at the meeting along with Respondent and Klock's new counsel. On June 1, 2011, Respondent signed the substitution of attorney form which Klock had mailed to him on May 15, 2011. At the meeting, the trustee in the Klock bankruptcy matter dismissed the matter because Klock had not made any of the Plan payments or his mortgage payments. On June 10, 2011, the Court in the Klock bankruptcy matter entered its Order dismissing the matter.

9. On August 2, 2011, Klock's new counsel, on behalf of Klock, filed a new Petition for Chapter 13 Bankruptcy with the United State Bankruptcy Court, Central District of California, case number 1:11-bk-19277-MT (the "Second Klock bankruptcy matter").

10. On August 16, 2011, the Court in the First Klock bankruptcy matter vacated the dismissal of the matter and converted the First Klock bankruptcy matter to a Chapter 7 case based on Respondent's April 13, 2011 motion.

11. On August 19, 2011, Klock's new counsel filed a motion to dismiss the First Klock bankruptcy (which had been converted to a Chapter 7 case); on September 19, 2011, the Court granted the motion and dismissed the First Klock bankruptcy matter.

12. Respondent did not perform any services of value on behalf of Klock in the First Klock Bankruptcy matter, and did not earn any portion of the \$4,800 that he received from Klock as advanced fees. To date, Respondent has not refunded any portion of the \$4,800 that he received from Klock.

13. None of Klock's creditors filed an adversary complaint in the First Klock Bankruptcy matter. Respondent did not earn any portion of the \$3,550 that he agreed to maintain in trust on behalf of Klock pending the filing of a response to a potential adversary complaint in the First Klock Bankruptcy matter.

14. Respondent misappropriated the \$3,550 that he agreed to maintain in trust on behalf of Klock. To date, Respondent has not returned any portion of the \$3,550 that he misappropriated from Klock.

Conclusions of Law

By failing to perform any services of value on behalf of Klock in connection with the First Klock Bankruptcy matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.

By failing to refund to Klock the \$4,800 advanced fee, which he had not earned, Respondent failed to refund unearned fees in wilful violation of rule 3-700(D)(2).

By misappropriating \$3,550 of Klock's funds, Respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code section 6106.

AGGRAVATING CIRCUMSTANCES.

1. Prior Record of Discipline

A prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).) Respondent has been a member of the State Bar of California since June 7, 1979, and has a prior record of discipline.

On May 19, 1996, the California Supreme Court ordered (S051660) that Respondent be suspended from the practice for 30 days, that execution of the suspension be stayed, and that he placed on probation for two years subject to certain conditions. Respondent's misconduct involved his failure to perform competently and communicate in three matters with three different clients. (S051660, State Bar Case Nos. 93-O-13630, 93-O-14088, and 93-O-14957.)

2. Multiple Acts of Wrongdoing.

Respondent committed multiple acts of misconduct in two different client matters, including misappropriating client funds, and failing to return unearned, advanced fees. (Std. 1.2(b)(ii).

3. Harm

Respondent's misconduct caused significant financial harm to the complainants herein. (Std. 1.2(b)(iv).)

MITIGATING CIRCUMSTANCES.

1. Candor and Cooperation

Respondent's stipulation to the facts, his culpability, and his disbarment is a mitigating circumstance. (Standard 1.2(e)(v). See also, *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521.)

2. Extreme Physical Difficulties

In June 2011, Respondent, who is almost seventy-four (74) years old, suffered a heart attack. In July 2011, Respondent closed his practice and stopped practicing law due to his heart and lung problems.

Respondent currently lives in New Mexico.

AUTHORITIES SUPPORTING DISCIPLINE.

1. Standards

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

Standards 2.2(a), 2.4(b), and 2.10 apply in this matter. The most severe sanction is found at Standard 2.2(a) which recommends disbarment for wilful misappropriation of entrusted funds unless the amount misappropriated is insignificantly small or unless the most compelling mitigating circumstances clearly predominate, in which case the minimum discipline shall be one year actual suspension.

Here, Respondent misappropriated \$3,550 of Mr. Klock's funds. This is not an insignificant sum. Further, Respondent failed to refund the \$4,800 unearned, advanced fee that he received from Mr. Klock. Further still, Respondent has failed to refund the \$2,500 unearned, advanced fee that he received from Ms. Gorton. Respondent owes the complainants herein a cumulative total of \$10,850. Respondent has represented to the State Bar that he is unable to refund any portion of the sum to the complainants.

Respondent's misconduct was directly related to the practice of law. The parties submit that Respondent's misconduct, and the aggravating circumstances surrounding the misconduct, warrant disbarment. The mitigating circumstances discussed above are not sufficiently compelling to justify a discipline of anything less than disbarment.

2. Case Law

The Supreme Court has repeatedly held that disbarment is the usual discipline for the wilful misappropriation of client funds. (*See, Grim v. State Bar* (1991) 53 Cal.3d 21; *Edwards v. State Bar* (1990) 52 Cal.3d 28, 37; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221;. and *Chang v. State Bar* (1989) 49 Cal.3d 114, 128).)

RESTITUTION.

Respondent must make restitution to the complainants identified in this paragraph in the respective amounts stated in this paragraph plus 10% interest per year from the respective dates stated in this paragraph. If the Client Security Fund has reimbursed any of the complainants for any, or all, portion of the principal amount, Respondent must pay restitution to Client Security Fund of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.

<u>Case No.</u>	<u>Complainant</u>	<u>Principal Amount</u>	<u>Interest Accrues From</u>
11-O-15557	Jane Gorton	\$2,500	07/08/11
11-O-18217	Michael Klock	\$8,350	06/01/11

PENDING PROCEEDINGS.

The disclosure date referred to on page 2, paragraph A(7) was December 27, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of December 7, 2011, the prosecution costs in this matter are \$3,689. 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.

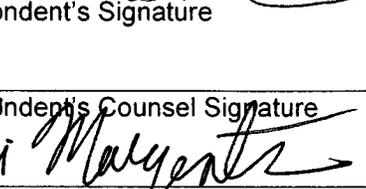
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In the Matter of: Gary Lee Harre	Case number(s): 11-O-15557, 11-O-18217
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SIGNATURE OF THE PARTIES

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.

1-6-2012  Gary Lee Harre
Date Respondent's Signature Print Name

1-10-12  Eli D. Morgenstern
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: Gary Lee Harre	Case Number(s): 11-O-15557, 11-O-18217
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DISBARMENT 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.

*PAGE 8 - CONCLUSIONS OF LAW - 3RD SENTENCE
DELETE " " (PERIOD)
INDENT " " (COMMMA) - IN VIOLATION OF RULE 3-110(A).*

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.)**

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

01-17-12
Date


Judge of the State Bar Court

RICHARD A. PLATEL

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 Los Angeles, on January 18, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

GARY LEE HARRE
GLOBAL CAPITAL LAW PC
8700 WARNER AVE STE 200
FOUNTAIN VALLEY, CA 92708

GARY LEE HARRE
8053 US 54 NORTH
TULAROSA, NM 88352

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

ELI MORGENSTERN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 18, 2012.



Angela Carpenter
Case Administrator
State Bar Court