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		<p align="center"><b>State Bar Court of California</b>  <b>Hearing Department PUBLIC MATTER</b>  <b>Los Angeles</b>  <b>ACTUAL SUSPENSION</b></p>	
<p>Counsel For The State Bar</p> <p>Eli D. Morgenstern                  Senior Trial Counsel                  Office of the Chief Trial Counsel                  State Bar of California                  1149 S. Hill St.                  Los Angeles, CA 90015-2299                  (213) 765-1334</p> <p>Bar # 190560</p>		<p>Case Number(s):                  12-J-17479-RAH</p>	
<p>In Pro Per Respondent</p> <p>Nathan Nolan Jardine                  140 N. Union Ave., #205                  Farmington, UT 84025                  (801) 451-9555</p> <p>Bar # 158502</p>		<p>For Court use only</p> <p align="center"><b>FILED</b>  <b>DEC 18 2013</b> <i>P.B.</i>                  STATE BAR COURT                  CLERK'S OFFICE                  LOS ANGELES</p>	
<p>In the Matter of:                  NATHAN NOLAN JARDINE</p> <p>Bar # 158502</p> <p>A Member of the State Bar of California                  (Respondent)</p>		<p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND                  DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input checked="" 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 June 9, 1992.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 14 pages, not including the order.

*ARB*  
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- (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: two billing cycles following the effective date of the discipline imposed herein. (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 11 for further discussion.

- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See page 10 for further discussion.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

Uncharged misconduct. See page 10 for further discussion.

**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.

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- (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:**

Pre-Trial Stipulation. See page 11.

**D. Discipline:**

(1)  **Stayed Suspension:**

- (a)  Respondent must be suspended from the practice of law 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:
- (b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of two 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 18 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 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**

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**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:**



## **FACTS FOUND IN OTHER JURISDICTION:**

### **Mildred Gardner Matter**

6. In December 2005, Kelli Hatch ("Hatch"), Respondent's former employee, approached Respondent about representing her friend, an elderly woman named Mildred Gardner ("Gardner"). Gardner felt that she was being harassed by her son, David, wanted to disinherit David, and sought Respondent's aid in this endeavor. Hatch asked Respondent if he would revise Gardner's estate plan and work to prevent the harassment from David. Respondent told Hatch that he did not do estate planning work and referred her to another attorney. Hatch relayed this message to Gardner. Nevertheless, Gardner decided she wanted Respondent to represent her.

7. According to a handwritten note prepared by Hatch and signed by Gardner, Respondent was employed to assist Gardner with her financial affairs and was to be paid \$5,000, which was characterized as a "non-refundable retainer." Respondent accepted the note as a preliminary fee agreement. However, at no time did Respondent prepare a formal, written fee agreement defining the scope of his representation of Gardner.

8. In December 2005, Respondent accepted a check for \$5,000 for his legal services on behalf of Gardner. The check was written by Hatch and signed by Gardner.

9. Respondent did not meet with Gardner or speak with her over the telephone at the time that he accepted the \$5,000 check. Thereafter, Respondent scheduled appointments with Gardner, but she was unable to attend them because of her frail health. Respondent did not go to Gardner's home in order to meet with her until March 2006, four months after he was employed. In total, Respondent spoke with Gardner approximately four times, including the visit to her home. He did not meet with anyone in her family to assess Gardner's capacity or learn about her finances. Respondent never revised Gardner's will and trust. However, he did attempt to stop her son from harassing her.

10. At some point during the representation, Respondent was given two letters signed by Gardner. One authorized Respondent to give \$9,000 to Paula Ashby ("Ashby") for her son's tuition. The other authorized Ashby to withdraw funds for her own rent from Gardner's bank accounts. Respondent never inquired into the authenticity of these authorizations.

11. In December 2005, Gardner authorized Respondent to release information and discuss all financial matters with Ashby and two other individuals. Respondent did not meet with any of these people.

12. In March and April 2006, a representative of JP Morgan Bank notified Respondent that Gardner's accounts with the bank were being drained. Around that same time, a representative of Zions Bank contacted Ashby to discuss the losses from Gardner's accounts. Ashby referred the Zions Bank representative to Respondent. Ashby later pled guilty to Attempted Abuse/Neglect/Exploitation of a Vulnerable Adult in relation to misappropriating \$140,000 from Gardner's accounts. The district court found that there was insufficient evidence that Respondent demonstrated dishonesty, fraud, or deceit during his representation of Gardner.

13. In or about April 2006, Gardner was adjudicated to be incompetent. An attorney was appointed to assist her. In June 2006, that attorney asked Respondent to return the \$5,000 that he had received from Gardner in December 2005. Respondent returned only \$2,000 of the \$5,000

14. Respondent did not perform any services of value of on behalf of Gardner, and did not earn any portion of the \$3,000 that he maintained of the fees that Gardner paid to him. In or about 2010, Gardner passed away.

**Susan Mecham Matter**

15. In February 2006, Susan Mecham ("Mecham") employed Respondent to represent her in two matters: a criminal matter and a domestic matter.

16. In September 2006, Mecham employed attorney Deven Coggins ("Coggins") to represent her because she was dissatisfied with Respondent's representation.

17. On September 8, 2006, Coggins filed a substitution of attorney in Mecham's criminal matter.

18. On September 22, 2006, Coggins mailed Respondent a letter requesting Mecham's criminal and domestic files. Respondent received the letter. But, Respondent did not comply.

19. On December 6, 2006, Mecham mailed another letter to Respondent requesting him to return her files. Respondent received the letter.

20. On January 12, 2007, Respondent mailed Mecham's criminal and divorce files to her.

**Jorie Loomis matter**

21. On August 9, 2000, Jorie Loomis ("Loomis") employed Respondent on a contingency fee basis to pursue a civil rights action against the Utah Highway Patrol ("UHP") for wrongful arrest.

22. In April 2001, Respondent mailed a demand letter to UHP claiming that Loomis's case had a settlement value of \$100,000. Respondent mailed a copy of the letter to Loomis.

23. In May 2002, Respondent filed a complaint, but did not serve UHP within 120 days as required by the Utah Rules of Civil Procedure.

24. Two years later, in April 2004, Respondent moved to dismiss the complaint, and on April 30, 2004, Respondent filed a second complaint.

25. When Respondent re-filed the complaint, he served it on the UHP office in Salt Lake City; he should have instead served it on the UHP office in Heber City, Utah.

26. The UHP office in Salt Lake City did not respond to the complaint, so Respondent attempted to enter default against UHP. The Attorney General appeared and moved to quash the summons and to dismiss the case because process had been served on UHP at the wrong location. Respondent agreed with the Attorney General that he had served UHP at the wrong office. Respondent anticipated that the district court would dismiss the case so that he could re-file and re-serve the case, this time on the UHP office in Heber City.

27. The district court issued an order to show cause for failure to prosecute the case. In June 2006, the district court dismissed the case when neither the parties nor their attorney appeared for the order to show cause hearing.

28. At this point, Respondent had re-filed the complaint. But, Loomis had complained to the Utah State Bar and was in the process of discharging Respondent as his attorney.

29. During the entire six years of representation, Respondent rarely communicated with Loomis, and when he did, it was mostly to tell Loomis to keep waiting.

### **CONCLUSIONS OF LAW:**

30. As a matter of law, Respondent's culpability of professional misconduct determined in the proceeding in Utah warrants the imposition of discipline under the laws and rules binding upon Respondent in the State of California at the time Respondent committed the misconduct in Utah, pursuant to Business and Professions Code section 6049.1, subdivision (a).

### **AGGRAVATING CIRCUMSTANCES.**

**Multiple Acts of Misconduct (Std. 1.2(b)(ii)):** The Utah Supreme Court found Respondent culpable of misconduct which is equivalent to several different violations of the California Rules of Professional Conduct and one of his statutory duties. During his representation of Gardner, Respondent failed to revise her will and trust, misconduct which is the equivalent to a violation of Rule of Professional Conduct, rule 3-110(A), failing to perform competently. Respondent also failed to return all of the unearned fees that he received from Garner, misconduct which is the equivalent to a violation of Rule of Professional Conduct, rule 3-700(D)(2), failing to refund unearned fees. In the Mecham matter, Respondent delayed several months after Mecham terminated his services before he provided the client file to her, misconduct which is akin to a violation of Rule of Professional Conduct, rule 3-700(D)(1), failing to return promptly the client file. And, during his six-year representation of Loomis, Respondent failed to perform any services of value on behalf of Loomis, misconduct which is equivalent to a violation of Rules of Professional Conduct, rule 3-110(A). Respondent also failed to adequately communicate with Loomis, conduct which is equivalent to a violation of Business and Professions Code, section 6068(m).

**Uncharged Misconduct (Std.1.2(b)(iii)):** The Ethics and Discipline Committee of the Utah Supreme Court has disciplined Respondent on two prior occasions. Respondent did not report the prior disciplines to the State Bar of California as is his duty under Business and Professions Code, section 6068(o)(6).

On May 28, 2003, the Ethics and Discipline Committee of the Utah Supreme Court reprimanded Respondent for violating Utah Rules of Professional Conduct, rules 1.7(b), 8.4(g)(1), and 8.4(a). In 2001 and 2002, Respondent engaged in sexual relations with his client during his representation of the client that exploited the attorney-client relationship. Respondent's conduct is the equivalent of a violation of California Rule of Professional Conduct, rule 3-120, and would have warranted the imposition of discipline pursuant to Business and Professions Code section 6049.1, subdivision (a), had Respondent reported the discipline to the State Bar of California.

On July 8, 2005, the Ethics and Discipline Committee of the Utah Supreme Court publicly reprimanded Respondent for violating Utah Rules of Professional Conduct, rules 1.5 and 8.4(a). In 2003, Respondent received \$2,500 to represent a client. That same year, the client terminated Respondent's representation. Even though Respondent admitted that he worked on the client's case for only 2 to 3 hours, Respondent did not refund any portion of the \$2,500 to the client. Respondent claimed the fees were non-refundable pursuant to the fee agreement. Respondent's conduct is the

equivalent of a violation of California Rule of Professional Conduct, rule 3-700(D)(2), and would have warranted the imposition of discipline pursuant to Business and Professions Code section 6049.1, subdivision (a), had Respondent reported the discipline to the State Bar of California.

**Harm (Std.1.2(iv)):** Respondent's conduct caused harm to Gardner and Loomis. By failing to inquire into the authenticity of the authorizations which provided Ashby access to Gardner's accounts, Respondent enabled Ashby to misuse Gardner's funds. And, by failing to prosecute Loomis's civil rights action for six years, Respondent prevented his client from litigating his claim.

#### **MITIGATING CIRCUMSTANCES.**

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a full stipulation with the Office of the Chief Trial Counsel, thereby saving the State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Although the instant proceeding is a reciprocal jurisdiction proceeding under Business and Professions section 6049.1, subdivision (b), and therefore violations of the California Rules of Professional Conduct and/or the State Bar Act are not directly at issue, in order to determine the appropriate level of discipline in this proceeding it is constructive to consider Respondent's ethical violation in Utah in light of the equivalent rule and statutory violations in California, and to apply the applicable standards to the equivalent misconduct.

As discussed above, in the instant matter, during his representation of Gardner, Mecham, and Loomis, Respondent committed misconduct which was the equivalent of several different violations of the California Rules of Professional Conduct and one statutory violation. Further, the Ethics and Discipline Committee of the Utah Supreme Court has disciplined Respondent on two prior occasions for ethical violations involving two additional clients, which would also have warranted the imposition of

discipline in the State of California had Respondent reported the disciplines to the State Bar as he was required to do.

Standard 1.6(a) requires that where a respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

In the Loomis matter, Respondent was culpable of failing to communicate adequately with his client, misconduct which is the equivalent to a violation of Business and Professions Code, section 6068(m). Standard 2.6(a) provides that an attorney's culpability of a violation of any of his or her duties under Business and Professions Code, section 6068, shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim.

However, standard 2.4(b) applies specifically to an attorney's failure to perform and/or communicate with a client(s), and thus is most applicable to Respondent's conduct in the Loomis matter. Standard 2.4(b) provides that an attorney's failure to perform on behalf of, and/or communicate with, a client in matters not demonstrating a pattern shall result in reproof or suspension depending on the extent of the misconduct and the degree of harm to the client.

The Utah Supreme Court also found Respondent culpable of misconduct which is the equivalent to violations of Rule of Professional Conduct, rules 3-120, 3-700(D)(1) and 3-700(D)(2). There are no standards specifically applicable to these rule violations. Standard 2.10 provides that culpability of an attorney of a violation of any Rule of Professional Conduct not specified in the standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim.

In order to determine the appropriate level of discipline, Respondent's entire history of misconduct must be considered. Between 2001 and 2006, Respondent committed professional misconduct in Utah involving five different clients, and committed misconduct which was the equivalent of four different violations of the Rules of Professional Conduct. Respondent's conduct also was the equivalent of a violation of his duty to communicate adequately with his client under Business and Professions Code, section 6068(m). All of Respondent's misconduct in the State of Utah warrants the imposition of discipline under the laws and rules binding upon Respondent in the State of California at the time Respondent committed in the misconduct in Utah.

Moreover, Respondent's failure to report the prior disciplines imposed by the Ethics and Discipline Committee of the Utah Supreme Court constituted a violation of his duty to do so under Business and Professions Code, section 6068(o)(6).

Respondent's client-related misconduct is serious, diverse, and caused harm to his clients. By failing to perform competently on behalf of Gardner and Loomis, Respondent neglected his clients' interests. By failing to return unearned fees to Gardner and the earlier client, Respondent put his own interests above his clients. And by committing misconduct which was akin to a violation of Rule of Professional Conduct, rule 3-120, Respondent used his superior professional possession to exploit his client. Respondent's multiple acts of misconduct warrant a discipline in the upper-range of standard 2.4(b), i.e., a discipline consisting of an actual suspension.

In mitigation, Respondent has entered into a full stipulation which resolved this matter without the necessity of a trial, thereby saving the State Bar Court time and resources. Respondent is entitled to mitigation for this.

In light of Respondent's misconduct, the applicable standards, the aggravating and mitigating circumstances, a discipline consisting of a two-year suspension, stayed, and a two-year probation, with conditions including an 18 month actual suspension is appropriate and necessary to serve the purposes of attorney discipline as described in standard 1.3.

The case law also supports the recommended discipline. In *Bledsoe v. State Bar* (1991) 52 Cal. 3d 1074, the attorney did not participate, or otherwise cooperate in the State Bar's investigation, his default was entered, and a default hearing was conducted in his absence. Between 1982 and 1986, the attorney committed misconduct in four client matters, including failing to perform competently, failing to communicate adequately, failing to return unearned fees, and abandonment. The Supreme Court found that the misconduct did not constitute a pattern, that the appropriate standard to apply was standard 2.4(b), and ordered the attorney actually suspended for two years.

Although Respondent's misconduct is similar to that committed by the attorney in *Bledsoe*, Respondent has participated at all times during these proceedings, and has agreed to resolve these matters by way of this stipulation. Respondent's participation in these proceedings and his agreement to enter into this stipulation distinguishes this case from *Bledsoe*, and support the level of discipline agreed to herein.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of November 18, 2013, the prosecution costs in this matter are \$2,392. The costs are to be paid in equal amounts prior to February 1 for the following two billing cycles following the effective date of the discipline herein. 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.

#### **EXCLUSION FROM MCLE CREDIT**

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

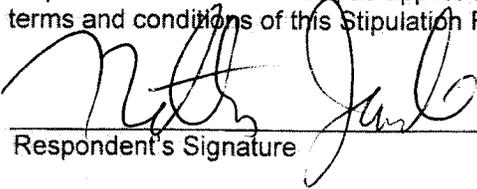
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**SIGNATURE OF THE PARTIES**

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.

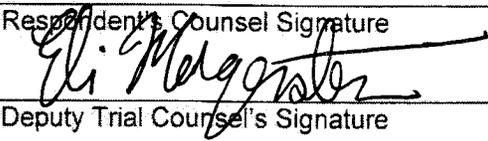
November 11, 2013  
Date

  
Respondent's Signature

NATHAN NOLAN JARDINE  
Print Name

Date

November 26, 2013  
Date

  
Respondent's Counsel Signature

Deputy Trial Counsel's Signature

Print Name

ELI D. MORGENSTERN  
Print Name

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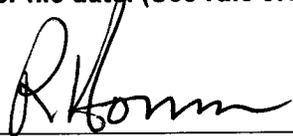
### ACTUAL SUSPENSION ORDER

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.

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.)**

12-18-13  
Date

  
RICHARD A. HONN  
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 Los Angeles, on December 18, 2013, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING**

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

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

**NATHAN N. JARDINE  
140 N UNION AVE # 205  
FARMINGTON, UT 84025**

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

**Eli D. Morgenstern, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 18, 2013.



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Paul Barona  
Case Administrator  
State Bar Court