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State Bar Court of California Hearing Department PUBLIC MATTER Los Angeles REPROVAL		
Counsel For The State Bar Diane J. Meyers Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1496 Bar # 146643	Case Number(s): 12-O-12807 12-O-12808	For Court use only <div style="text-align: center;"> FILED FEB 19 2013 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Ellen A. Pansky Pansky Markle Ham LLP 1010 Sycamore Avenue, Unit 308 South Pasadena, CA 91030 (213) 626-7300 Bar # 77688	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: Sandor Carl Fuchs Bar # 69603 A Member of the State Bar of California (Respondent)	PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 July 6, 1976.
- (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 10 pages, not including the order.

(Effective January 1, 2011)



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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):
- Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
 - Case ineligible for costs (private reproof).
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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:

(Do not write above this line.)

- (d) Degree of prior discipline
- (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior 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.
- (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 Attachment to Stipulation at p. 7.
- (8) No aggravating circumstances are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.

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- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances are involved.**

Additional mitigating circumstances:

See Attachment to Stipulation at pp. 7-8.

D. Discipline:

- (1) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproval:

- (1) Respondent must comply with the conditions attached to the reproof for a period of one year.
- (2) During the condition period attached to the reproof, 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.

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- (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 condition period attached to the reprobation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reprobation during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

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

- (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 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 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 conditions attached to the reprobation.
- (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) Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.

No MPRE recommended. Reason:

- (11) 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 type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Sandor Carl Fuchs

CASE NUMBER(S): 12-O-12807 and 12-O-12808

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/or Rules of Professional Conduct.

Case Nos. 12-O-12807 and 12-O-12808 (Complainants: Huey Anderson and Julius Neal)

FACTS:

1. On June 9, 2009, Julius Neal ("Neal") and Huey Anderson ("Anderson") employed Respondent on a contingency fee basis to represent them in claims for personal injuries sustained during a June 5, 2009 automobile accident with another vehicle. Anderson was a passenger in the vehicle driven by Neal at the time of the accident.

2. Respondent did not file a lawsuit to preserve the claims of Anderson and Neal before the expiration of the statute of limitations on June 9, 2011.

3. Respondent did not promptly inform Anderson and Neal that he did not file a lawsuit to preserve the claims of Neal and Anderson before the expiration of the statute of limitations.

4. From August 29 to November 23, 2011, Neal left several telephone messages for Respondent asking him to discuss the status of his matter. Respondent received the messages but did not contact Neal.

5. On December 5, 2011, Neal mailed a letter to Respondent. In Neal's letter, he mentioned his attempts to contact Respondent by telephone and asked for a meeting with Respondent to discuss the status of his matter. Respondent received the letter but did not respond to Neal.

6. On August 26, 2011, Respondent had Anderson sign a release of claims whereby Anderson released Respondent from any claims relating to Anderson's June 5, 2009 accident. Anderson signed the release of claims in exchange for his receipt of \$2,750 from Respondent on August 26, 2011. At Anderson's request, Respondent paid Anderson an additional \$500 on November 18, 2011.

7. On June 16, 2012, Respondent had Neal sign a release of claims whereby Neal released Respondent from any claims relating to Neal's June 5, 2009 accident. Neal signed the release of claims in exchange for his receipt of \$3,000 from Respondent on June 16, 2012.

8. Respondent did not inform Anderson and Neal, in writing, that they may seek the advice of an independent lawyer of their choice regarding the settlement and did not give them a reasonable opportunity to seek that advice before having Anderson and Neal sign a release of claims.

9. Although Respondent's clients lost their right to pursue claims against the other driver, the amounts they received from Respondent were based on the reasonable and provable value of their claims had their claims settled with the other driver and on the settlement demand that Respondent sent to the other driver's carrier. Also, Respondent arranged for the clients' medical providers to waive its liens for the medical services provided to the clients.

CONCLUSIONS OF LAW:

10. Respondent failed to keep a client reasonably informed of a significant development by not promptly informing Anderson and Neal that he did not file a lawsuit to preserve the claims of Anderson and Neal before the expiration of the statute of limitations and failed to respond promptly to reasonable status inquiries of a client by not responding to Neal's messages and letter in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

11. Respondent settled a claim or potential claim for Respondent's liability to the client for Respondent's professional malpractice without informing the client in writing that the client may seek the advice of an independent lawyer of the client's choice regarding the settlement and giving the client a reasonable opportunity to seek that advice by not informing Anderson and Neal, in writing, that they may seek the advice of an independent lawyer of their choice regarding the settlement and giving them a reasonable opportunity to seek that advice before having Neal and Anderson sign a release of claims, in wilful violation of Rules of Professional Conduct, rule 3-400(B).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Multiple/Pattern of Misconduct:

Respondent committed two violations of Business and Professions Code sections 6068(m), including his failure to promptly inform his clients that he had missed the statute of limitations to preserve their claims and his failure to respond to one client's status inquiries. Respondent also committed a violation of Rules of Professional Conduct, rule 3-400(B) by settling claims or potential claims for Respondent's liability to his clients for Respondent's professional malpractice without informing the clients in writing that the clients may seek the advice of an independent lawyer of the clients' choice regarding the settlement and giving the clients a reasonable opportunity to seek that advice.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

Respondent was admitted to the State Bar on July 6, 1976 and has no prior record of discipline. Respondent's lack of prior discipline in over 30 years of practice before the misconduct occurred is entitled to significant weight in mitigation. (Standard 1.2(e)(1); *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, 127 [an attorney with 30 years of practice and no prior discipline was entitled to significant mitigation].) Respondent has stipulated to misconduct at an early stage of the proceedings. Respondent thereby demonstrated his recognition of wrongdoing and cooperation with the State Bar and saved the State Bar's resources. (Standard 1.2(e)(v); *In the Matter of Riordan* (Review

Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.) Respondent's misconduct did not cause significant harm to his clients. Although Respondent's clients lost their right to pursue claims against the other driver, Respondent based the amounts offered and paid to the clients in compensation for their claims on the reasonable and provable value of their claims had their claims settled with the other driver and on the settlement demand that Respondent sent to the other driver's carrier. Also, Respondent arranged for the clients' medical providers to waive its liens for the medical services provided to the clients.

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.)

Respondent admits to committing three acts of professional misconduct. 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. The applicable standards, standards 2.4 (b) and 2.10, provide for the same range of discipline. Standard 2.4(b) provides that culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending on the extent of the misconduct and the degree of harm to the client. Standard 2.10 provides that culpability of a member of a violation of rule 3-400 shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Here, the gravamen of Respondent's misconduct was his failing to promptly communicate to his clients that he had missed the statute of limitations and then obtaining releases of the clients' potential malpractice claims without providing the required written disclosure. However, Respondent's misconduct did not cause significant harm to his clients. Although Respondent's clients lost their right to pursue claims against the other driver, the amounts they received from Respondent were based on the reasonable and provable value of their claims had their claims settled with the other driver and on the settlement demand that Respondent sent to the other driver's carrier. Also, Respondent arranged for the clients' medical providers to waive its liens for the medical services provided to the clients. The net effect of the mitigating factors present, including Respondent's many years in practice without prior discipline, outweigh the aggravating factor of Respondent's multiple acts of misconduct, and therefore, a

level of discipline at the low end of the range prescribed by standards 2.4(b) and 2.10 is consistent with the purposes of attorney discipline. A public reproof will serve to remind Respondent of the primary purposes of disciplinary proceedings including protection of the public, the court and the legal profession, maintenance of high professional standards by attorneys, and the preservation of public confidence in the legal profession.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was January 7, 2013.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 4, 2013, the prosecution costs in this matter are \$3,779. 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

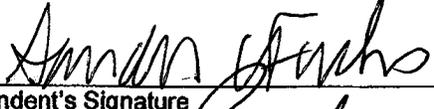
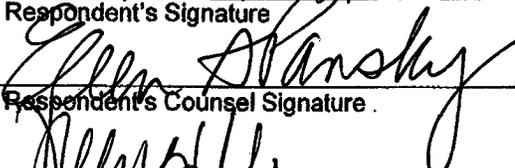
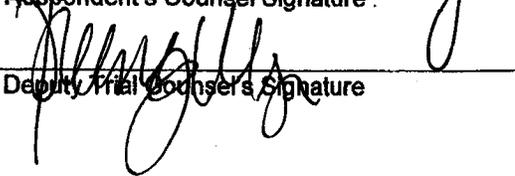
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School and/or any other educational courses to be ordered as a condition of this reproof. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: Sandor Carl Fuchs	Case number(s): 12-O-12807 and 12-O-12808
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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>1-24-13</u> Date	<u></u> Respondent's Signature	<u>Sandor C. Fuchs</u> Print Name
<u>1/29/13</u> Date	<u></u> Respondent's Counsel Signature	<u>Ellen A. Pansky</u> Print Name
<u>1/31/13</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Diane J. Meyers</u> Print Name

(Do not write above this line.)

In the Matter of: Sandor Carl Fuchs	Case Number(s): 12-O-12807 and 12-O-12808
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REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

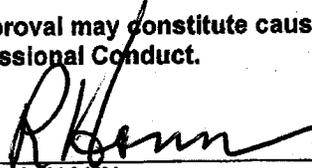
- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

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.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

Date

2/15/13


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 February 19, 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:

**ELLEN ANNE PANSKY
ATTORNEY AT LAW
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
SOUTH PASADENA, CA 91030**

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

Diane J. Meyers, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 19, 2013.



Paul Barona
Case Administrator
State Bar Court