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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Melissa R. Marshall Contract Attorney State Bar of California 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1277</p> <p>Bar # 192625</p>	<p>Case Number(s): 12-O-15614</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</p> <p style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</p> <p style="text-align: center; font-size: 1.2em; font-weight: bold;">OCT 04 2013</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Shawn Michael Haggerty Law Offices of Shawn M. Haggerty 28061 Via Unamuno Mission Viejo, CA 92692 (714) 287-1643</p> <p>Bar # 219231</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: SHAWN MICHAEL HAGGERTY</p> <p>Bar # 219231</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 May 22, 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 15 pages, not including the order.

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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: three (3) billing cycles following the effective date of the Supreme Court Order. (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 Attachment to Stipulation, page 11.

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- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. See Attachment to Stipulation, page 11.
- (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, page 12.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See Attachment to Stipulation, page 12.

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 two (2) 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 sixty (60) days.
- 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.

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- (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:
- | | |
|---|---|
| <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**

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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:**

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In the Matter of: SHAWN MICHAEL HAGGERTY	Case Number(s): 12-O-15614
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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
Eleanor Larez Brault	\$1500.00	July 25, 2011

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 90 days 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";

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.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SHAWN MICHAEL HAGGERTY

CASE NUMBER: 12-O-15614

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 No. 12-O-15614 (Complainant: Eleanor Larez Brault)

FACTS:

1. On July 25, 2011, Eleanor Larez Brault, formerly Eleanor Larez ("Larez"), employed Respondent and paid him \$1,500 in advanced attorney's fees to represent her in filing petitions for expungement and/or certificates of rehabilitation in several criminal conviction matters in the Los Angeles County Superior Court ("expungement matters"). At that time, Larez met with Respondent at his office located at 2440 South Hacienda Boulevard, Suite 207/208 in Hacienda Heights ("Hacienda Heights office").
2. Respondent did not perform any legal services of value for Larez or file any petitions in court to obtain expungements or certificates of rehabilitation.
3. Between September 27, 2011 and November 7, 2011, Larez sent Respondent several text messages requesting an update on the status of the expungement matters. Respondent received Larez' text messages but failed to provide an update until November 10, 2011.
4. On November 10, 2011, Respondent sent a text message to Larez stating, "El Monte has jurisdiction, 6-8 weeks at a minimum. We filed without fees on one motion." This statement was false, and Respondent knew it was false at the time he made it. Respondent had not filed any expungement petitions or motions on behalf of Larez.
5. On November 10, 2011, in response to Respondent's text message, Larez sent a text message to Respondent asking how many motions were filed. Respondent received Larez' text message and sent a reply; however, he did not answer Larez' question.
6. On December 27, 2011 and December 28, 2011, Larez sent text messages to Respondent summarizing her understanding of the services Respondent agreed to perform and requesting his help. Respondent received Larez' text messages but did not respond.
7. On January 8, 2012, Larez sent a text message to Respondent requesting an appointment. Respondent received Larez' text message and responded by directing Larez to email him. Larez then sent a text message requesting Respondent's email address. Respondent received the text message but did not provide his email address. Larez sent another text message on January 26, 2012, requesting an

appointment with Respondent. Respondent received Larez' text message but did not respond, and Respondent never met with Larez.

8. Between February 16, 2012, and May 10, 2012, Larez sent approximately seven text messages to Respondent requesting an update on the status of the expungement matters. Respondent received Larez' text messages but failed to provide Larez with the requested information.

9. On May 18, 2012, Larez went to the Criminal Clerk's Office at the El Monte Courthouse to check for expungement petitions filed on her behalf, and she learned that no petitions for expungement had been filed. Larez sent Respondent a text message advising him that she would be sending a request for the return of her money and paperwork by certified mail the following Monday, due to Respondent's failure to perform. Respondent received Larez' text message but did not respond.

10. On May 21, 2012, Larez called the Hacienda Heights office to ask if there was any way to reach Respondent, and the receptionist informed Larez that Respondent no longer worked in that office. Larez asked the receptionist for a forwarding address, but the receptionist would not provide that information.

11. On May 21, 2012, Larez called Respondent and asked for his current mailing address. Respondent did not provide Larez with his address but told her he would call her right back. Respondent did not return Larez' call. Larez sent Respondent a text message documenting the call and Respondent's failure to return it. In the text message, Larez also informed Respondent she would send the certified letter to the Hacienda Heights office the next day. Respondent received the text message but did not reply.

12. On May 22, 2012, Larez sent a certified letter addressed to Respondent at the Hacienda Heights office advising Respondent that she was terminating his employment and requesting that he refund the unearned fees and return her paperwork. Respondent received the letter but did not respond.

13. On May 24, 2012, Larez called the Hacienda Heights office again. The receptionist told her that Respondent was on the phone, but she had given him the message about the letter and would have him call Larez. Respondent did not call Larez, but he sent her a text message stating, "Send the [sic] office and leave them alone please."

14. Between May 24, 2012 and May 25, 2012, Larez sent Respondent approximately three text messages requesting he return her file and unearned fees. Respondent received the text messages, and on May 25, 2012, Respondent replied by text message, "Please have a safe weekend."

15. On May 27, 2012, after several unanswered requests for the return of her paperwork, Larez sent a text message to Respondent inquiring whether he was going to return her paperwork. Respondent received the text message and on May 29, 2012, he replied, "June first as requested."

16. On May 31, 2012, Larez sent a text message to Respondent requesting he explain how she would receive her money and paperwork. Respondent received the text message and replied, "Mondayb [sic]." Respondent then sent another text message stating, "No money." Respondent never explained how or where Larez could obtain her file.

17. By June 6, 2012, Respondent had not returned Larez' file or explained how she could obtain it; therefore, Larez paid to obtain new copies of the court dockets and her criminal history.

18. On June 14, 2012, Larez filed a complaint against Respondent with the State Bar.
19. On August 9, 2012, the State Bar requested Respondent to return the file to Larez.
20. On August 22, 2012, Respondent mailed the file to Larez, and she received the file on August 24, 2012.
21. To date, Respondent has failed to pay any portion of the \$1,500 in unearned fees to Larez.

CONCLUSIONS OF LAW:

22. By failing to file any expungement petitions on behalf of Larez and by failing to perform legal services of any value to Larez, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

23. By failing to respond to Larez' text messages requesting updates on the status of her expungement petitions, 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 Business and Professions Code, section 6068(m).

24. By making a false statement to Larez in his November 10, 2011 text message, Respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

25. By failing to refund the \$1,500 in unearned fees to Larez, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

26. By failing to return the file to Larez until on or about August 22, 2012, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.2(b)(iv)): Respondent significantly harmed Larez by not performing and not refunding the unearned fees. Larez was denied several job opportunities while she was waiting for Respondent to file petitions for expungement in her criminal conviction cases. Larez also struggled financially as a result of Respondent's refusal to refund the unearned fees. Additionally, Larez was unable to retain new counsel to represent her as a result of Respondent keeping the unearned fees. The significant harm to Respondent's client constitutes an aggravating factor pursuant to standard 1.2(b)(iv).

Indifference (Std. 1.2(b)(v)): Respondent has taken no steps to atone for the consequences of his misconduct. Respondent's failure to take remedial steps on behalf of his client constitutes an aggravating factor pursuant to standard 1.2(b)(v). (*In the Matter of Brockaway* (Review Dept. 2006) 4 Cal. State Bar Rptr. 944, 959.)

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent committed at least five separate acts of misconduct and failed to respond to numerous status inquiries in a single client matter during a 13-month period. Respondent's multiple acts of misconduct constitute an aggravating factor pursuant to standard 1.2(b)(ii).

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

Prefiling Stipulation: Respondent stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings as efficiently as possible, prior to the filing of charges, thereby avoiding the necessity of a trial and saving State Bar 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].)

No Prior Discipline: Although Respondent's misconduct is serious, he is entitled to mitigation for having practiced law for over nine years without discipline prior to the commencement of the current misconduct. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Pro Bono Representation: Respondent has presented evidence, including client declarations, establishing that he has represented numerous clients pro bono, over the course of several years. In addition to individual clients, Respondent also has performed pro bono work on behalf of nonprofit charitable organizations since 2005, including Pearl's Bridge, aMAYZing Kids Clinic, and Dreams for Teens. (See *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [pro bono work considered a mitigating factor].)

Community Service/Volunteer Activities: In addition to providing legal services for nonprofit organizations, Respondent has volunteered his time to assist in physical plant renovations for the aMAYZing Kids Clinic, which involved converting a motorcycle shop into a rehabilitation center for children with disabilities. Respondent also was involved with a church group which raised funds to assist in providing shoes for the impoverished in Mexico during 2011 and 2012. Additionally, for the last two years he has volunteered his time serving Thanksgiving dinner at the Southwest Community Center in Santa Ana. Previously, he also was involved with administering the Orange County Food Drive for several years at Trinity Lutheran in Anaheim. (See *In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 518, 529 [civic service and charitable work entitled to weight in mitigation].)

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 five 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 most severe sanction applicable to Respondent’s misconduct is found in standard 2.3, which applies to Respondent’s violation of Business and Professions Code section 6106. Standard 2.3 provides that culpability of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment, depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member’s acts within the practice of law. Here, Respondent made an intentionally dishonest statement to his client, and the statement was directly related to Respondent’s practice of law. Respondent made a false statement to his client in order to conceal the fact that he had failed to perform in the expungement matters. Respondent’s misconduct evidences multiple acts of misconduct and caused significant harm to the client. Additionally, Respondent took no steps to atone for the consequences of the misconduct to the client. However, in mitigation, Respondent had over nine years of discipline-free practice prior to the instant misconduct. Further, Respondent is entitled to mitigation credit for his charitable and pro bono work. Finally, Respondent has acknowledged wrongdoing by entering into a pre-filing stipulation, for which he is entitled to additional mitigation. An actual suspension of 60 days will protect the public, courts and legal profession; maintain high professional standards by attorneys, and preserve public confidence in the legal profession. (Standard 1.3.)

Case law also supports the stipulated discipline. In *Gold v. State Bar* (1989) 49 Cal.3d 908, the attorney was found culpable in two matters of failing to perform services and failing to communicate properly with his clients with deceit in one of the matters. He had no prior record of discipline in 25 years of practice. A four-member Supreme Court majority imposed a three-year suspension stayed and a period of probation with conditions including a 30-day actual suspension. Three members of the Court would have followed the State Bar Court’s recommendation of a 90-day actual suspension. In reducing the actual suspension from the 90 days recommended by the State Bar Court, the Supreme Court relied on significant mitigation. (*Id.* at 915.)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 6, 2013, the prosecution costs in this matter will be approximately \$3,000. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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.)

(Do not write above this line.)

In the Matter of SHAWN MICHAEL HAGGERTY	Case number(s): 12-O-15614
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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 Fact, Conclusions of Law and Disposition.

9-17-13

Date



Respondent's Signature

Shawn Michael Haggerty

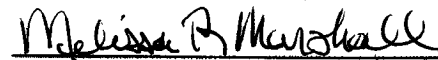
Print Name

Date

9/20/13

Date

Respondent's Counsel Signature



Contract Attorney for the State Bar Signature

Print Name

Melissa R. Marshall

Print Name

(Do not write above this line.)

In the Matter of: SHAWN MICHAEL HAGGERTY	Case Number(s): 12-O-15614
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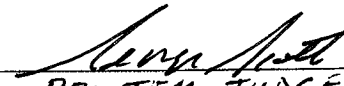
ACTUAL SUSPENSION ORDER

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.)**

OCTOBER 4, 2013
Date


PRO TEM JUDGE
Judge of the State Bar Court
GEORGE SCOTT

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 October 4, 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:

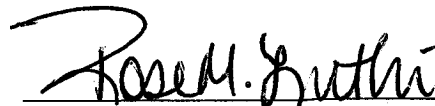
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SHAWN M. HAGGERTY
LAW OFC SHAWN M HAGGERTY
28061 VIA UNAMUNO AVE
MISSION VIEJO, CA 92692

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

MELISSA MARSHALL, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 4, 2013.



Rose M. Luthi
Case Administrator
State Bar Court