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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Hugh G. Radigan Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017 (213) 765-1206</p> <p>Bar # 94251</p>	<p>Case Number(s):</p> <p>13-O-13456-RAP</p>	<p>For Court use only</p> <p style="text-align: center;">FILED</p> <p style="text-align: center;">MAY 28 2014 <i>[Signature]</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Dana Allan Godfrey 324 S. Diamond Bar Blvd., #194 Diamond Bar, CA 91765 (951) 205-5803</p> <p>Bar # 152913</p>	<p>PUBLIC MATTER</p>	
<p>In the Matter of: DANA ALLAN GODFREY</p> <p>Bar # 152913</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> <p style="text-align: center;">kwiktag® 048 639 694</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 6, 1991.
- (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.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: The two billing cycles immediately following the effective date of the Supreme Court order in this matter. (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 12-O-12875 and 12-O-13576
 - (b) Date prior discipline effective September 13, 2013.
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct, rules 4-100(B)(3) [failure to render accounts of client funds], 3-110(A) [failure to perform], 3-700(D)(2) [failure to refund unearned fee] and Business and Professions Codes sections 6068(m) [failure to advise client of significant events] and 6068(i) [failure to cooperate]. See attachment, page 9, for further details.
 - (d) Degree of prior discipline 30 days' actual suspension, a one-year stayed suspension and two years' probation.
 - (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.

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- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See attachment, page 11.
- (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, page 11.
- (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.

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- (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, page 11.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of one (1) year.
- 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 thirty (30) 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.

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- (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: Respondent completed Ethics School on February 20, 2014, as part of the conditions of discipline in Case No. 12-O-12875. (See rule 5.135(A), Rules of Procedure of the State Bar of California.).
- (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:

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- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- 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:** Respondent has registered to take the MPRE to be conducted March 29, 2014, as a condition of Case No. 12-O-12875, discipline effective September 13, 2013. Proof of passage provided to the State Bar's Office of Probation will serve to satisfy his MPRE obligation with respect to this matter as well.

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In the Matter of: DANA ALLAN GODFREY	Case Number(s): 13-O-13456-RAP
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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
County of Los Angeles Superior Court	\$500	December 1, 2011

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **six months from the effective date of this discipline order.**

b. Installment Restitution Payments

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

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

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

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- 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: DANA ALLAN GODFREY

CASE NUMBER: 13-O-13456

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. 13-O-13456-RAP (Complainant: Hernan Oscco)

FACTS:

1. On June 19, 2008, Respondent was retained by Hernan Oscco ("Oscco") in a marital dissolution matter styled *Oscco v. Oscco*, Case No. KD 069 943, filed in the Superior Court of California, County of Los Angeles. At the time of executing the retainer, Oscco paid Respondent \$5,000 advanced fees.
2. On June 26, 2008, Respondent filed with the court the appropriate substitution to allow him to represent Oscco. On July 23, 2008, Oscco wrote Respondent to impress upon him the need to quickly move this matter forward to resolution. A critical issue to be resolved before the dissolution could be achieved was the valuation of Oscco's landscape business.
3. The parties were able to achieve a partial settlement agreement filed with the court August 19, 2008, reserving the issue of the business valuation to a later date. The agreement expressly provided for the sale of real property, from which each parties' attorney was to be awarded \$25,000 towards fees and costs.
4. Between June 19, 2008 and August 19, 2008, Respondent received from Oscco the sum of \$30,000 as advanced fees and costs for legal services.
5. During September 2009, Oscco attempted to contact Respondent by telephone at his office number and was advised the number had been disconnected. It was not until January 2010 that Oscco was able to locate Respondent and re-establish their relationship.
6. On March 2, 2010, Oscco advised Respondent of specific settlement concerns and demands, and requested a status update. On March 12, 2010, Respondent presented opposing counsel with a settlement proposal, which was copied to Oscco.
7. On April 23, 2010, Oscco requested an additional status update from Respondent. Respondent failed to provide the requested status update.
8. On May 24, 2010, Respondent commenced employment with the law firm of Hughes & Sullivan as an associate and closed his solo law practice. Respondent gave notice on June 1, 2010, of his

new employment and office address to Oscoco, but failed to give notice to the court or opposing counsel in the still pending dissolution matter.

9. On January 3, 2012, Respondent began working for the law firm of Jarvis, Krieger & Sullivan. No notice of his new employment or office address was communicated to either Oscoco, the court or opposing counsel in the still pending dissolution matter, although due to the small size of the local family law practitioners' community, opposing counsel knew of Respondent's new employment. It was not until March 2012 that Oscoco learned of Respondent's whereabouts. Thus, Respondent had not been in touch with Oscoco for nearly two years, during which time Oscoco tried to contact Respondent.
10. On June 14, 2011, opposing counsel filed a motion to compel production of documents and for sanctions against Oscoco premised upon his failure to respond to discovery. Respondent filed no opposition to the motion and failed to appear at the hearing of the matter conducted August 12, 2011, despite having proper notice of this motion.
11. At the hearing conducted August 12, 2011, the court ordered responses from Oscoco, sanctioned him \$3,400 payable no later than September 1, 2011, and set an Order to Show Cause directed to Respondent and Oscoco for their failures to appear, setting the hearing for September 15, 2011. Notice of ruling was served upon Respondent by opposing counsel on September 16, 2011. Both notices were served by opposing counsel and Respondent received the notices.
12. Respondent failed to respond to the Order to Show Cause or appear on October 14, 2011, (the continued hearing date for the Order to Show Cause) and as a result was sanctioned \$500 payable to the Superior Court by December 1, 2011. Respondent failed to satisfy the ordered sanctions.
13. As a result of Respondent's non-participation as attorney of record for Oscoco, opposing counsel successfully brought an unopposed motion to determine the valuation of Oscoco's business, which was granted on January 30, 2012.
14. In March 2013 Oscoco learned that Respondent was no longer employed at Jarvis, Kreiger & Sullivan, at which time that law firm filed with the court a motion to set aside the valuation order premised upon California Code of Civil Procedure section 473. An amended motion was filed May 14, 2013 seeking the same relief which was granted.
15. On October 29, 2013, Oscoco demanded an accounting from Respondent. At no time has Respondent provided an accounting to Oscoco.

CONCLUSIONS OF LAW:

16. By failing to render an accounting to Oscoco regarding fees and costs received by Respondent, following the client's request for such accounting on October 29, 2013, Respondent willfully violated the Rules of Professional Conduct, rule 4-100(B)(3).
17. By failing to respond to discovery directed to Oscoco; failing to oppose and appear at a discovery motion hearing on August 12, 2011; and failing to oppose or appear at

the hearing of the valuation of Oscoco's business on January 30, 2012, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

18. By failing to advise Oscoco of Respondent's new contact information after having changed offices on two different occasions; failing to notify Oscoco that he neither opposed nor appeared at the discovery motion hearing on August 12, 2011; failing to notify Oscoco that he neither opposed or appeared at the hearing of the valuation of Oscoco's business on January 30, 2012; failing to notify Oscoco that he had been sanctioned \$3,400; and failing to notify Oscoco that an Order to Show Cause had issued directing him to appear on September 15, 2011, Respondent failed to keep Respondent's client, Hernan Oscoco, reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).
19. By failing to comply with the October 14, 2011, order to pay sanctions, Respondent disobeyed or violated an order of the court requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession which Respondent ought in good faith to do or forbear in willful violation of Business and Professions Code, section 6103.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): In State Bar Court Case Nos. 12-O-012875 and 12-O-13576, the Court imposed an actual suspension of 30 days, stayed suspension of one year and a two-year probationary period, effective September 13, 2013. In two client matters Respondent admitted culpability for eight violations of Rules of Professional Conduct, rule 4-100(B)(3)[failure to render accounts of client funds], 3-110(A)[failure to perform], 3-700(D)(2) [failure to refund unearned fee] and Business and Professions Code sections 6068(m)[failure to advise client of significant events] and (i)[failure to cooperate]. The misconduct occurred during the period of May 2009 through November 2011.

Harm (Std. 1.5(f)): By virtue of the misconduct itemized within the stipulation herein, Respondent prejudiced his client's best interests and necessitated the client retaining replacement counsel while unnecessarily prolonging the underlying resolution and resulting in the incurring of additional attorney's fees and costs.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed multiple misconduct, by failing to perform legal services with competence, failing to account to his client for fees and costs, failing to keep his client informed of significant developments in the client's legal matter as well as Respondent's office moves, and failing to obey a court order that Respondent was obligated to obey in the course of his profession.

MITIGATING CIRCUMSTANCES

Pretrial Stipulation: Respondent has stipulated to misconduct and thereby demonstrated his cooperation with the State Bar and saved the State Bar's 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 “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Respondent committed multiple acts of professional misconduct. Standard 1.7 (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 most severe sanction must be imposed. Standard 1.7(b) provides where aggravating circumstances are found, they should be considered alone and in balance with any mitigating circumstances, and if the net effect demonstrates a greater sanction is needed to fulfill the primary purposes of discipline, it is appropriate to recommend greater discipline than otherwise specified in a given standard.

Respondent has offered no mitigation that would tend to excuse, justify or explain the above-referred conduct. On the contrary, there exist multiple factors in aggravation including but not limited to his prior record of discipline, multiple acts of wrongdoing, and Respondent’s failure to properly keep his client advised of the progress of his dissolution matter, current office location and employment, failure to advise him of pending discovery obligations and Orders to Show Cause seeking sanctions and other various affirmative relief, failure to appear and oppose discovery motions or evaluation of property hearings, all of which caused the client significant harm.

The most severe sanction applicable to Respondent’s misconduct is found in standard 2.5(b), which applies to a failure to perform legal services or properly communicate in multiple client matters, not demonstrating a pattern of misconduct. In those instances, actual suspension is appropriate.

Although normally a second discipline would result in greater discipline than the first, (Standard 1.8(a)), the operative period of this misconduct overlaps with the period of misconduct in the prior discipline. Therefore, Respondent's prior discipline has lessened weight under Standard 1.8(a).

"The aggravating factor of a prior discipline is generally diminished if the misconduct underlying it occurred during the same period. [Citations omitted.] Since part of the rationale for considering a prior record of discipline as having an aggravating impact is that it is indicative of a recidivist attorney's inability to conform his or her conduct to ethical norms [citation omitted], it is therefore appropriate to consider the fact that the misconduct involved was contemporaneous with the misconduct in the present case." (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 629; see also *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646 ["the aggravating force" of prior discipline "is somewhat diluted" when the misconduct in a case occurs before the notice of disciplinary charges in the prior case was served, because the imposition of prior discipline does not carry with it as "full a need for severity" as if the misconduct in the prior matter had occurred after an attorney had been disciplined and had failed to heed the import of that discipline.])

In order to determine what the appropriate discipline should be, the totality of the misconduct in both this matter and Respondent's prior discipline matter should be cumulatively addressed as if all of the charged misconduct had been charged in one case. (*In the Matter of Sklar, supra*, 2 Cal. State Bar Ct. Rptr. 602, 619.) The combined misconduct consists of Respondent's failure to keep his clients advised of not only his own address and association with new law firms, but more importantly, two counts of failure to properly advise his clients of developments, two counts of failure to perform, in addition to failing to respond to Orders to Show Cause and satisfy sanctions in compliance with court orders. Respondent also has failed to respond to a demand for accounting, failed to cooperate in a State Bar investigation, and failed to refund unearned fees. The gravity of the misconduct consists of Respondent's disregard for his client's best interests, aggravated by the multiplicity of the acts of misconduct. Standard 2.5(b) calls for actual suspension. Given Respondent's lengthy legal career of 21 years, providing significant mitigation, but balanced against the aggravating factors cited above, had this matter been consolidated with the prior discipline matters, a discipline level of 60 days would have been appropriate to protect the public and to preserve public confidence in the profession. Therefore, an additional 30 days actual suspension is appropriate for the instant misconduct and warranted under the circumstances.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of April 25, 2014, the prosecution costs in this matter are approximately \$5,418. 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

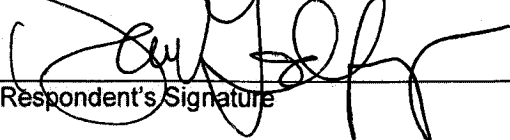
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

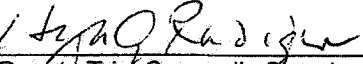
(Do not write above this line.)

In the Matter of: DANA ALLAN GODFREY	Case number(s): 13-O-13456
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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.

5/2/14 _____  _____ DANA ALLAN GODFREY
Date Respondent's Signature Print Name

_____ April 28 '14 _____  _____ HUGH G. RADIGAN
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: DANA ALLAN GODFREY	Case Number(s): 13-O-13456
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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.)**

May 27, 2014
Date



GEORGE E. SCOTT, JUDGE PRO TEM
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 May 28, 2014, 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:

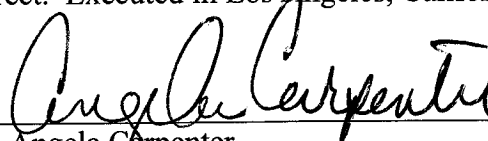
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DANA A. GODFREY
GODFREY LAW GROUP
324 S DIAMOND BAR BLVD # 194
DIAMOND BAR, CA 91765

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

HUGH RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 28, 2014.



Angela Carpenter
Case Administrator
State Bar Court