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State Bar Court of California
Hearing Department **PUBLIC MATTER**
Los Angeles
STAYED SUSPENSION

<p>Counsel For The State Bar</p> <p>Timothy G. Byer Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1325</p> <p>Bar # 172472</p>	<p>Case Number(s): 14-O-03018</p>	<p>For Court use only</p> <p>FILED</p> <p>JAN 08 2015</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Gary A. Jackson 3950 Long Beach Blvd., Ste. 201 Long Beach, CA 90807 (562) 572-9253</p> <p>Bar # 168947</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: GARY ALAN JACKSON</p> <p>Bar # 168947</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 13, 1993**.
- (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 **11** 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."



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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):
- Costs are added to membership fee for calendar year following effective date of discipline.
 - 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.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) **Dishonesty:** Respondent's misconduct was intentional, 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. **See Attachment, page 8**
- (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.

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- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment, page 8**
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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 subsequent rehabilitation.

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(13) No mitigating circumstances are involved.

Additional mitigating circumstances

No Prior Discipline: See Attachment, page 8
Prefiling stipulation: See Attachment, page 8

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **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 1.2(c)(1), 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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **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.)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

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- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) 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.
- (9) 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:

- (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 within one year. **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) **Other Conditions:**

8. In November 2013, Hope learned that her case had been dismissed (without prejudice) due to Respondent's inactivity. Hope emailed Respondent to complain about his inattention, and Respondent sent her an email in response in which he said "as you should recall you told me to not do any further work on your case a very long time ago and that you were getting new attorney in Sacramento. Sincerely, Gary Jackson, Esq."

9. After Hope complained to Respondent about the dismissal of her case, Respondent did not take any steps to seek reinstatement of her case, until December 4, 2014, approximately 13 months later.

CONCLUSIONS OF LAW:

10. By taking no action to prosecute Hope's application after appearing with her at her deposition on June 9, 2011; by not making an appointment for Hope with a physician in the Sacramento, California area, after telling Hope he would do so; by not executing a Substitution of Attorney prior to designating Hope as a "sub out" case in his office computer records; by not responding to the Petition for Dismissal filed by Hope's employer on July 5, 2013; by not responding to the Notice of Intention to Dismiss Case served on Respondent by the Board on September 10, 2013; and by not petitioning the Board to return Hope's application to active status upon becoming aware of the dismissal of the matter, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

11. By failing to inform Hope that her employer had filed a Petition for Dismissal on July 5, 2013; that the Board had served on Respondent a Notice of Intention to Dismiss Case on September 10, 2013; and that the Board had dismissed her case on October 21, 2013, Respondent failed to inform his client of significant developments, in willful violation of Business and Professions Code, section 6068(m).

AGGRAVATING CIRCUMSTANCES.

Indifference (Std. 1.5(g)): When his client Hope informed him that his inaction had resulted in the dismissal of her matter, Respondent's response neither accepted responsibility for that result nor offered to seek to reinstate it as an active matter, but simply said "as you should recall you told me to not do any further work on your case a very long time ago and that you were getting new attorney in Sacramento. Sincerely, Gary Jackson, Esq." Respondent's email was dismissive. And, even after learning of his own responsibility for the dismissal, Respondent took no steps to rectify his errors until approximately 13 months later.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent has committed numerous acts in violation of Rules of Professional Conduct, rule 3-110(A), and of Business and Professions Code, section 6068(m).

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Discipline (Std. 1.6(a)): Although Respondent's misconduct is serious, he is entitled to mitigation for having practiced law for almost 21 years without a prior record of discipline. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

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

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “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).)

The most severe sanction applicable to Respondent’s misconduct is found in Standard 2.5(c), which applies to Respondent’s violation of Rules of Professional Conduct, rule 3-110(A), and Business and Professions Code, section 6068(m). Standard 2.5(c) provides that reproof is appropriate for failing to perform legal services or properly communicate in a single client matter.

Respondent’s reply to his client, however, when she complained that her case had been dismissed without any notice by Respondent to her of that fact, was dismissive and demonstrated indifference on his part. Because his response when Hope apprised him of the dismissal of her case (without notice to her either before or after the fact) demonstrated “indifference toward rectification or atonement for the consequences of the misconduct,” an increase in the level of discipline to stayed suspension is justified.

This disposition is also in accord with case law. In *In the Matter of Riordan* (Rev. Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41), an attorney had failed to perform by not timely filing an appeal of his client’s sentence, but instead filed a ninth request for an extension despite having been informed after the eighth that none further would be granted. After the attorney failed to file the appeal, the Supreme Court held him in contempt for disobeying the Court’s order that he timely file the appeal, and sanctioned him \$1,000, a sanction the attorney failed to report to the State Bar. Although the Respondent in that matter

was found culpable of violating Business and Professions Code, section 6103, in addition to Rules of Professional Conduct, rule 3-110(A) and Business and Professions Code, section 6068(o)(3), the court found that there was no client harm, and that his good character testimony, cooperation with the State Bar, and almost 18 years of practice without prior discipline made the lower range of the applicable standard (then-current std. 2.6) appropriate, and imposed six months of stayed suspension.

Respondent here has committed analogous misconduct by his inattention to his client's matter, and he has a similarly lengthy period of practice without a prior disciplinary record. In this case, rather than stayed suspension constituting the lower end of the applicable range per the standard, his level of discipline should exceed the level provided in Standard 2.5(c) in order to reflect the added aggravating factor of his indifference.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of December 15, 2014, the prosecution costs in this matter are \$2,992.00. 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

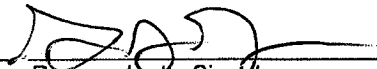
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: GARY ALAN JACKSON	Case number(s): 14-O-03018
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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.

12/09/2014  Gary A. Jackson
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name

12.16.14  Timothy G. Byer
Date Deputy Trial Counsel's Signature Print Name

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In the Matter of: GARY ALAN JACKSON	Case Number(s): 14-O-03018
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STAYED 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.)**

Date

1-7-15


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 January 8, 2015, 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:

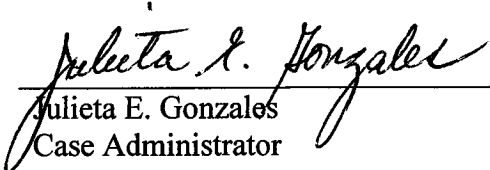
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

GARY A. JACKSON
JACKSON & JACKSON
3950 LONG BEACH BLVD STE 201
LONG BEACH, CA 90807

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

Timothy G. Byer, Enforcement, Los Angeles
Terrie Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 8, 2015.



Julieta E. Gonzales
Case Administrator
State Bar Court