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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Shane C. Morrison 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1000 Bar # 284115	Case Number(s): 15-O-10524-LMA	For Court use only PUBLIC MATTER FILED  JUL 21 2015 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Jerry Lane Hefner 35046 Oak Way Julian, CA 92036 (760) 690-6321 Bar # 216385	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: JERRY LANE HEFNER Bar # 216385 A Member of the State Bar of California (Respondent)		

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 4, 2001**.
- (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 **13** 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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

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- (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 billing cycles 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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 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.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **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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- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Attachment to Stipulation at p. 9.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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.

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- (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 convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No Prior Discipline (See Attachment to Stipulation at p. 9.)
Pretrial Stipulation (See Attachment to Stipulation at p. 9.)

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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:
- (b) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) **Actual Suspension:**
- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **90 days**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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:

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 present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:

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

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JERRY LANE HEFNER

CASE NUMBER: 15-O-10524-LMA

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. 15-O-10524 (State Bar Investigation)

FACTS:

1. On October 30, 2014, the Review Department of the State Bar Court filed an interim suspension order in case number 14-C-03058 as a result of respondent's felony conviction for possession of a controlled substance and misdemeanor conviction for carrying a loaded firearm in public. Respondent was ordered to comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the suspension. The interim suspension order was served on respondent at his membership records address and thereafter returned to the State Bar Court as undeliverable.

2. On November 4, 2014, the Office of Probation mailed a letter to respondent at his official membership records address, reminding respondent of the interim suspension order and reminding him that he was ordered to comply with the provisions of rule 9.20.

3. On November 10, 2014, the letter to respondent dated November 4, 2014 was returned to the Office of Probation as undeliverable with a handwritten note on the envelope that indicated respondent was no longer associated with that address.

4. On November 12, 2014, the Office of Probation sent an email to respondent at his official membership records email address with an electronic copy of the November 4, 2014 letter attached. Immediately thereafter the email was returned as delivery failed.

5. On November 19, 2014, respondent's interim suspension became effective.

6. Pursuant to the interim suspension order, respondent was to complete the acts required under subdivision (a) of rule 9.20 by December 19, 2014 and file the affidavit required under subdivision (c) of rule 9.20 by December 29, 2014.

7. Respondent failed to file the affidavit required under subdivision (c) of rule 9.20 by December 29, 2014.

8. On January 6, 2015, the Office of Probation sent a second letter to respondent at his official membership records address advising respondent that he had failed to file his declaration of compliance with rule 9.20 within the required timeframe.

9. On January 20, 2015, the letter to respondent dated January 6, 2015 was returned to the Office of Probation as undeliverable with a handwritten note on the envelope that indicated respondent was no longer associated with that address.

10. On March 18, 2015, the State Bar filed a Notice of Disciplinary Charges ("NDC"), which was served on respondent at his membership records address. Courtesy copies of the NDC were also mailed to two other addresses located through a LexisNexis search and believed to be associated with respondent.

11. On April 2, 2015, the NDC that had been served on respondent at his membership records address was returned as undeliverable. Neither of the courtesy copies of the NDC that had been mailed to the two other addresses believed to be associated with respondent were returned as undeliverable.

12. On April 9, 2015, respondent filed a response to the NDC wherein respondent acknowledged that he did not file a declaration of compliance with rule 9.20, but asserted that his violation of rule 9.20 was not willful because he did not receive a copy of the 9.20 order and did not learn of it until on March 19, 2015. Respondent did not specifically deny that he failed to comply with Business and Professions Code section 6068(j), but indicated that he previously mailed a form making changes to his membership records address no later than June 2014.

13. On April 9, 2015, respondent filed with the Clerk of the State Bar Court a declaration of compliance with rule 9.20 wherein respondent averred under penalty of perjury that, as of the effective date of the 9.20 order, he did not represent any clients, had returned all property of former clients to them, had returned all fees to former clients that had been paid but not earned, and he did not have any cases in which he was adverse to any opposing counsel.

14. On April 17, 2015, respondent updated his membership records address to one of the addresses where a courtesy copy of the NDC had been mailed. Respondent also updated his membership records telephone number.

CONCLUSIONS OF LAW:

15. By failing to comply with the October 30, 2014 order of the Review Department of the State Bar Court to comply with rule 9.20 of the California Rules of Court in case number 14-C-03058, 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.

16. By failing to notify the State Bar of the change in respondent's address within 30 days of that change, respondent failed to comply with the requirements of Business and Professions Code section 6002.1, in willful violation of Business and Professions Code section 6068(j).

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AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): By failing to comply with rule 9.20, and by failing to satisfy his obligation to keep the State Bar informed of his current address, respondent committed two separate acts of misconduct.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent has been a member of the State Bar since December 4, 2001. Although respondent's misconduct is serious, respondent practiced law for over 14 years without discipline prior to the acts of misconduct described herein and is entitled to significant mitigation. (*Hawes v. State Bar* (1991) 51 Cal. 3d 587, 596 [over 10 years of practice before first misconduct given significant weight even though misconduct at issue was serious].)

Pretrial Stipulation: Respondent is entitled to mitigating credit for entering into this stipulation as to facts and conclusions of law, thereby obviating the need for trial and saving State Bar 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).)

Standard 1.7(a) states, "[i]f a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed." The most severe sanction applicable to respondent's misconduct is found under Standard 2.8(a), which provides that

disbarment or actual suspension is appropriate for violation of a court order related to the member's practice of law. Further, under subdivision (d) of rule 9.20 of the California Rules of Court, a suspended member's willful failure to comply with that rule is cause for disbarment or suspension.

The generally imposed sanction for a willful violation of rule 9.20 (former rule 955) is disbarment, particularly where an attorney willfully violates the basic notice requirements of rule 9.20(a) (former rule 955(a)). (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131; *Powers v. State Bar* (1988) 44 Cal.3d 337, 342; *In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 322, 332.) However, case law also supports the proposition that not every case involving a violation of rule 9.20 is automatically appropriate for disbarment, particularly where the violation concerns only an attorney's failure to file the necessary affidavit under rule 9.20(c) (former rule 955(c)).

In *Shapiro v. State Bar* (1990) 51 Cal.3d 251, the attorney notified his clients and all other required parties under former rule 955(a) of his suspension, but did not file an affidavit conforming with rule 955(c) until five months after it was due. In weighing discipline, the Supreme Court rejected the attorney's offer of evidence of misdirection by his probation monitor and his confusion about the requirements of the rule as unreasonable, but considered the same evidence as demonstrating "a diligent, if ultimately unsuccessful, attempt to comply with the rule." (Id. at p. 259.) The court also considered the attorney's long history of practice (16 years) and the short period of time his misconduct spanned, and imposed a period of actual suspension of one year for both the attorney's failure to comply with rule 955 and one count of misconduct relating to his failure to perform in a client matter.

As with the attorney in *Shapiro*, respondent's misconduct does not involve a failure to comply with rule 9.20(a), and concerns only a failure to file the necessary affidavit under rule 9.20(c). Additionally, both the attorney in *Shapiro* and respondent had a long history of practice before committing any misconduct, and they both demonstrated a diligent, if ultimately unsuccessful, attempt to comply with former rule 955 and rule 9.20, respectively. In the present matter, respondent filed a rule 9.20 compliance affidavit 22 days after a courtesy copy of the Notice of Disciplinary Charges and the interim suspension order were mailed to his current address. However, respondent's misconduct is more mitigated than that in *Shapiro*. In *Shapiro*, the attorney's rule 955 proceeding stemmed from a previous order of the Supreme Court imposing discipline including one year of actual suspension in a matter involving misconduct in multiple client matters. Here, respondent has never been professionally disciplined and his rule 9.20 proceeding stems from an interim suspension order from the Review Department, which was imposed subsequent to a felony conviction that did not involve the practice of law. As such, respondent's misconduct is deserving of a level of discipline lower than that imposed in *Shapiro*.

The Review Department has also declined to recommend disbarment in all cases involving violations of rule 9.20. In *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192, the attorney had two prior impositions of discipline, both of which involved lengthy periods of actual suspension and separately required compliance with the provisions of former rule 955. The Review Department found that the attorney's rule 955 matter involved only a violation of rule 955(c), he attempted to file the affidavit within two weeks after it was due, the affidavit was filed before the attorney knew disciplinary proceedings were initiated, and no clients were harmed by the late-filed affidavit. However, in evaluating the level of discipline the court noted the matter also involved revocation of the attorney's probation from one of his previous impositions of discipline, and his prior record of discipline was substantial. In light of those various factors, the court recommended nine months of actual suspension.

The present matter is somewhat distinguishable from *Rose*. While the attorney in *Rose* filed his affidavit shortly after the deadline and respondent filed his affidavit more than three months after the deadline,

the attorney in *Rose* was well aware of the order requiring him to comply with rule 955 and respondent had no knowledge of the order requiring him to comply with rule 9.20. Although respondent's declaration was filed later, to the extent that the late-filing of an affidavit demonstrates "a diligent, if ultimately unsuccessful, attempt to comply with the rule" (*Shapiro v. State Bar, supra*, 51 Cal.3d at p. 259), respondent's filing of his affidavit promptly after learning of the order requiring him to comply with rule 9.20 demonstrates as much diligence as was shown by the attorney in *Rose*. More importantly, the attorney in *Rose* had an extensive prior record of discipline, including two impositions of lengthy periods of actual suspension, and that case also involved revocation of the attorney's probation from one of those prior disciplines. Here, respondent has no prior record of discipline and, other than failing to update his membership records address, has no other instances of professional misconduct in a lengthy legal career. For that reason, respondent's misconduct is deserving of a lower level of discipline than that imposed in *Rose*.

The misconduct in the present matter is most closely analogous to the misconduct in *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527. In *Friedman*, the attorney violated only the affidavit requirement of former rule 955(c), filed his affidavit shortly after the deadline, and filed his affidavit before he was aware of disciplinary proceedings. In discussing the appropriate level of discipline, the Review Department noted that no clients were harmed by the attorney's misconduct and the attorney had two prior records of discipline, which the court treated as one because they occurred during the same time period, and which resulted in a minimum total of six months actual suspension. In light of all the relevant factors, the court recommended 30 days of actual suspension. While respondent's misconduct is similar in most respects to the misconduct in *Friedman*, the discipline imposed in that case would be inadequate in this matter. In making its recommendation, the court considered that there was an "extremely strong likelihood" the attorney would have remained on suspension for a considerable period of time as a result of separate disciplinary orders that were pending at that time. (*In the Matter of Friedman, supra*, 2 Cal. State Bar Ct. Rptr. at pp. 534-535.) As respondent has no other disciplinary orders pending, 30 days of actual suspension, by itself, would not be adequate discipline for his willful violation of rule 9.20.

On balance, respondent's misconduct warrants a level of discipline that is lower than the one year of actual suspension imposed in *Shapiro* and the nine months of actual suspension recommended in *Rose*. And while respondent's misconduct and aggravating and mitigating factors are most closely analogous to those in *Friedman*, the level of discipline imposed in that case would be inadequate in the present matter because the Review Department relied, in part, on the discipline in other matters to ensure that the attorney in *Friedman* received an adequate level of discipline.

In light of the foregoing, discipline consisting of one year stayed suspension and two years of probation with conditions including 90 days of actual suspension will best serve the goals of protecting the public, the courts, and the legal profession; maintaining high professional standards for attorneys; and preserving public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 1, 2015, the prosecution costs in this matter are \$3,584.00. 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. (Rules Proc. of State Bar, rule 3201.)

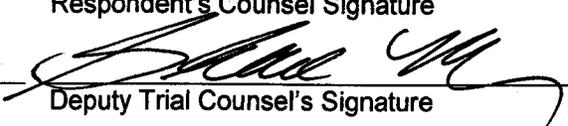
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In the Matter of: JERRY LANE HEFNER	Case number(s): 15-O-10524-LMA
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SIGNATURE OF THE PARTIES

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.

July 8, 2015  Jerry Lane Hefner
Date Respondent's Signature Print Name

7/9/15  Shane C. Morrison
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: JERRY LANE HEFNER	Case Number(s): 15-O-10524-LMA
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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.)**

Date July 20, 2015


REBECCA MEYER ROSENBERG, 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 San Francisco, on July 21, 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 San Francisco, California, addressed as follows:

JERRY L. HEFNER
35046 OAK WAY
JULIAN, CA 92036

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

SHANE C. MORRISON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 21, 2015.



Mazie Yip
Case Administrator
State Bar Court