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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
Counsel For The State Bar  <b>Anand Kumar</b> Senior Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1714  Bar # 261592	Case Number(s): 15-O-14677-CV 16-O-11890	For Court use only  <div style="text-align: center;"> <b>PUBLIC MATTER</b>   <b>FILED</b>    <b>APR 21 2017</b>                      STATE BAR COURT                      CLERK'S OFFICE                      LOS ANGELES                 </div>
In Pro Per Respondent  <b>Homer Lynn Harris</b> Homer L Harris & Associates 235 East Broadway Suite 1140 Long Beach, CA 90802 (562) 216-4197  Bar # 227468	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>HOMER LYNN HARRIS</b>  Bar # 227468  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, 2003**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **15** pages, not including the order.
- (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):
- 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: **two (2) 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 [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.

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- (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.
- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See stipulation, at page 12.**
- (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 stipulation, at page 12.
- (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.

- (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 and Pretrial stipulation, see stipulation, at page 13.**

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of **two (2) years**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and 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 (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 **six (6) months**.
- 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: .

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- (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 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:**

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In the Matter of: <b>HOMER LYNN HARRIS</b>	Case Number(s): <b>15-O-14677, 16-O-11890</b>
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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

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

#### b. Installment Restitution Payments

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

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

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

#### c. Client Funds Certificate

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

- b. Respondent has kept and maintained the following:
- i. A written ledger for each client on whose behalf funds are held that sets forth:
    - 1. the name of such client;
    - 2. the date, amount and source of all funds received on behalf of such client;
    - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
    - 4. the current balance for such client.
  - ii. a written journal for each client trust fund account that sets forth:
    - 1. the name of such account;
    - 2. the date, amount and client affected by each debit and credit; and,
    - 3. the current balance in such account.
  - iii. all bank statements and cancelled checks for each client trust account; and,
  - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
  - ii. the person on whose behalf the security or property is held;
  - iii. the date of receipt of the security or property;
  - iv. the date of distribution of the security or property; and,
  - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.



**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF: HOMER LYNN HARRIS

CASE NUMBER: 15-O-14677, 16-O-11890

**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-14677 (State Bar Investigation)

**FACTS:**

1. Between May 28, 2014 and December 5, 2014, respondent repeatedly commingled funds in his Client Trust Account at California Bank & Trust ("CTA"), treating it as a general account, including depositing personal funds in his CTA and using his CTA to pay personal expenses as follows.

2. Between October 7, 2014 and December 5, 2014, respondent commingled funds in his CTA while client funds were being held in his CTA by depositing personal funds in his CTA on five occasions:

<u>DATE OF DEPOSIT</u>	<u>AMT. DEPOSITED</u>	<u>FORM OF DEPOSIT</u>
10/07/14	\$525	Check
10/07/14	\$235	Check
10/07/14	\$550	Check
11/14/14	\$38,000	Check
12/05/14	\$525	Check

3. Between May 28, 2014 and November 13, 2015, respondent commingled funds in his CTA by making the following 15 payments from his earned fees in his CTA for personal and business expenses while client funds were held in his CTA:

<u>DATE</u>	<u>CHK #</u>	<u>PAYEE</u>	<u>\$ AMT OF CHK</u>
05/28/14	N/A	Comenity Pay II Phone	\$200
09/22/14	1307	Salin's Automotive	\$700
09/30/14	N/A	Comenity Pay II Phone	\$450
09/30/14	N/A	Yodle, Inc.	\$2,998
10/08/14	1159	Century Quality Management, Inc.	\$3,300.40
12/08/14	1166	Century Quality Management, Inc.	\$2,910.60
12/08/14	1171	Telepacific	\$720
12/08/14	1168	Linda Mau	\$1,850
12/09/14	1172	Performance Plus	\$764.14

12/09/14	1169	Cartridge World	\$341.24
12/30/14	N/A	Yodle, Inc.	\$999
04/02/15	N/A	Deluxe Business Systems	\$143.51
10/14/15	N/A	Mona White	\$14,000
11/02/15	N/A	Deluxe Business Systems	\$143.33
11/13/15	1525	Jacksons	\$1,600

4. In 2014, respondent represented a client, Adrian Murphy (“Murphy”), in a marital dissolution matter. On November 14, 2014, respondent received a settlement check on behalf Murphy, in the amount of \$51,500, which he deposited in his CTA. Of that sum, Murphy was entitled to \$44,000 (“settlement funds”), and respondent was entitled to \$7,500 for his legal fees.

5. Between November 18, 2014 and November 21, 2014, respondent and Murphy entered into a business transaction, wherein both respondent and Murphy agreed in writing that respondent would remit \$6,000 of Murphy’s settlement funds to Murphy and Murphy would loan Respondent the remaining \$38,000 of his settlement funds (\$44,000 - \$6,000) in exchange for respondent’s agreement to repay Murphy \$50,000 by April 1, 2015 (“loan agreement”). The parties agreed that for every month that the loan remained unpaid after that date, respondent agreed to pay Murphy an additional 10% interest. The parties further agreed that Murphy’s loan was secured by a lien on any recovery respondent obtained in a separate and unrelated personal injury client matter.

6. At no time did respondent advise Murphy in writing that Murphy could seek the advice of an independent lawyer of Murphy’s choice and therefore failed to obtain Murphy’s informed written consent to the loan agreement.

7. On October 14, 2015, respondent repaid Murphy \$53,000 from his CTA, which included the interest for the delay in repayment, and constituted respondent’s earned fees from unrelated client matters.

**CONCLUSIONS OF LAW:**

8. By making five deposits of personal funds into his CTA between October 7, 2014 and December 5, 2014, while client funds were held in his CTA, respondent deposited and commingled funds belonging to respondent in a bank account labeled “Trust Account,” “Client’s Funds Account” or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

9. By making 15 payments from his CTA for personal and business expenses between May 28, 2014 and November 13, 2015, while client funds were held in his CTA, respondent commingled funds belonging to respondent in a bank account labeled “Trust Account,” “Client’s Funds Account” or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

10. By failing to advise Murphy in writing that Murphy could seek the advice of an independent lawyer of Murphy’s choice, respondent failed to obtain Murphy’s informed written consent to the loan agreement, in willful violation of Rules of Professional Conduct, rule 3-300.

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Case No. 16-O-11890 (Complainant: Terry Boyd)

FACTS:

11. On April 1, 1994, Terry Boyd ("Boyd") and his wife were married. On June 20, 2011, Boyd and his wife separated.

12. On September 26, 2011, Boyd hired respondent to represent him in a marital dissolution matter. On October 17, 2011, respondent filed a marital dissolution petition on Boyd's behalf in *Terry R. Boyd v. Ophelia B. Boyd*, Los Angeles County Superior Court, case number ND67404. Thereafter, respondent represented Boyd, by making appearances and filing pleadings through July 2013.

13. On July 24, 2013, a mandatory settlement conference was held at which both Boyd and respondent participated and presented evidence. The settlement conference resolved by the Court issuing an oral judgment regarding the community and separate property of the respective parties, which was reduced to a written settlement agreement signed by the parties and the Court.

14. Within the settlement agreement, the Court issued a written order for respondent, as Boyd's attorney, to prepare a judgment of dissolution of marriage according to the settlement agreement and submit it to the wife's attorney for approval, and subsequently file the judgment with the Court within 10 days ("Order") (i.e., April 3, 2013). The Boyds' marital status was to terminate upon entry of the judgment.

15. Thereafter, respondent failed to timely prepare the judgment, submit it to the wife's attorney and file it with the Court, and at no time did respondent inform Boyd that respondent did not prepare the judgment, submit it to the wife's attorney or file it with the Court, a significant development in Boyd's case. Respondent failed to perform any legal services for Boyd after July 24, 2013. As a result, Boyd's divorce was not finalized for several years.

16. On October 30, 2015, Boyd discovered his divorce was not final when he attempted to obtain a copy of the final divorce decree from the Court for purposes of filing for bankruptcy and realized for the first time that respondent had not timely prepared or filed the paperwork to finalize the judgment.

17. After discovering respondent's failure to prepare and file the appropriate paperwork to finalize the divorce, Boyd attempted to call respondent at his office and discovered that respondent had moved out of his old office.

18. On November 2, 2015, Boyd located respondent's cell phone number and called respondent about the outstanding judgment to be filed. In the phone conversation, respondent told Boyd that he would complete the paperwork, but needed some additional time as he was dealing with family and personal issues, he would be out of state and would contact Boyd upon returning.

19. Boyd did not hear from respondent between November 2, 2015 through the Spring of 2016 and accordingly began considering other attorneys to complete the unfinished legal services for which he had hired respondent.

20. On July 19, 2016, Boyd hired a new attorney, who ultimately assisted Boyd in having the dissolution judgment approved on August 31, 2016.

21. By failing to perform any legal services to finalize Boyd's divorce after July 24, 2013, and failing to inform Boyd that respondent moved to a new office location, respondent effectively withdrew from representation after July 24, 2013.

#### CONCLUSIONS OF LAW:

22. By failing to timely prepare a judgment to finalize Boyd's divorce, submit it to the opposing counsel and file it with the Court by August 3, 2013, or at any time through March 9, 2016, respondent repeatedly failed to perform legal services on behalf of Boyd, and thereby respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

23. By failing to timely prepare a judgment to finalize Boyd's divorce, submit it to the opposing counsel and file it with the Court by August 2, 2013, respondent failed to comply with the Court's July 24, 2013 Order, and thereby 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.

24. By failing to inform Boyd that respondent failed to prepare the judgment in a marital dissolution matter on his behalf, submit it to the opposing counsel, and file it with the Court by August 3, 2013, and that as a result, Boyd's divorce was not finalized, respondent failed to keep a client 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).

25. By failing to take any action on Boyd's behalf after participating at a mandatory settlement conference on July 24, 2013 through March 9, 2016, and failing to inform Boyd that he moved to a new office, respondent effectively withdrew from representation after July 24, 2013, and respondent failed upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to Boyd's interests, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

#### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent committed multiple acts in violation of the Rules of Professional Conduct and the State Bar Act. Accordingly, Respondent's multiple acts of misconduct is an aggravating circumstance here.

**Harm to Client and Administration of Justice (Std. 1.5(j)):** Respondent's misconduct caused significant harm to the Boyds, because his misconduct contributed to their divorce not being finalized for over three years, necessitating new counsel for Boyd and impacting his ability to file for bankruptcy, and it also significantly harmed the administration of justice by causing the dissolution proceedings to be unnecessarily delayed and continue on for several years.

#### MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent was admitted in December 2003 and had been practicing law for approximately 10 years at the time of the misconduct without prior discipline. While it is unclear whether respondent's misconduct may recur due to his health issues, his lack of prior discipline is nonetheless entitled to significant mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [more than 10 years of discipline-free entitled to significant mitigation].)

**Pretrial Stipulation:** While some of the instant facts are easily provable, Respondent has cooperated with the State Bar by entering into the instant stipulation fully resolving the matter without the necessity of a trial, thereby 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]; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more extensive weight in mitigation accorded those who admit culpability as well as facts].)

#### **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 Silverton* (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).)

In this matter, Respondent admits to committing multiple acts of professional misconduct. Standard 1.7(a) requires that where a Respondent “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 here is found in Standard 2.2 for Respondent’s commingling. Standard 2.2(a) provides that actual suspension of three months is the presumed sanction for commingling.

Respondent’s misconduct is serious, because the gravamen of respondent’s misconduct concerns his repeated commingling of personal funds in his CTA and paying business and personal expenses from his CTA. By commingling funds, respondent compromised the integrity of his client trust account while client funds were held in trust, thereby placing client funds at risk and which reflects poor management of his CTA. Moreover, respondent’s misconduct also caused significant harm to Boyd’s interests with respect to both the finality of his marital status and the delay caused to his ability to obtain bankruptcy

relief. It also caused significant harm to the administration of justice by unnecessarily delaying the dissolution proceedings for several years. However, while respondent's misconduct was serious and willful, it did not involve bad faith. Willfulness in the context of attorney discipline only requires that the member charged with wrongdoing intended either to commit the act or to abstain from committing it. (See *Durbin v. State Bar* (1979) 23 Cal.3d 461, 467 [no intent to violate law, to injure another, or to acquire advantage required]; see also *Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186 [willfulness does not require bad faith].)

Respondent's misconduct was also surrounded by his ongoing health issues, which contributed to both his abandonment of Boyd's dissolution matter and poor judgment involved in the commingling. Respondent is a 67-year old United States Veteran, who fought in the Vietnam War, and was exposed to toxic chemicals, which have contributed to various health issues, including degenerative heart disease, cognitive impairment and other health conditions, for which he is currently receiving treatment from the Atlanta VA Medical Center in Atlanta, Georgia. As a result, before he may be relieved of the actual suspension to be imposed in this matter, respondent must provide satisfactory proof to the State Bar Court of his rehabilitation from his physical and mental health issues, fitness to practice, and present learning and ability in the general law as required under Standard 1.2(c)(1) in order to protect the public, the courts and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession.

Taking into consideration respondent's lack of prior discipline at the time of the misconduct (10 years), his pretrial stipulation, and his health conditions, with the multiple acts of wrongdoing and the harm caused in the Boyd matter, his misconduct warrants compliance with Standard 1.2(c)(1) and discipline consisting of a more significant period of actual suspension beyond the presumed sanction (three-month actual suspension) in Standard 2.2(a). Accordingly, discipline consisting of a two (2) year stayed suspension and a two (2) year probation with conditions, including a six (6) month actual suspension and compliance with Standard 1.2(c)(1) is appropriate discipline under the circumstances.

Relevant case law is instructive. In *Arm v. State Bar* (1990) 50 Cal.3d 763, the Supreme Court imposed an 18-month actual suspension on an attorney for engaging in the unauthorized practice of law and commingling funds in his client trust account by failing to timely withdraw earned fees and issuing a CTA check to pay for personal expenses. The Court found the attorney's three prior records of discipline, which included a 60-day actual suspension, a serious aggravating factor. In mitigation, the Court found lack of harm and absence of bad faith. Here, respondent's misconduct involves a greater degree of commingling and his misconduct caused significant harm, but unlike *Arm*, respondent had no prior record of discipline at the time of the misconduct and therefore his misconduct warrants less severe discipline.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of April 17, 2017, the prosecution costs in this matter are approximately \$3,806. 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 State Bar Ethics School or Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: HOMER LYNN HARRIS	Case number(s): 15-O-14677, 16-O-11890
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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.

April 18, 2017 \_\_\_\_\_ Homer Lynn Harris  
Date Respondent's Signature Print Name

\_\_\_\_\_ Respondent's Counsel Signature Print Name  
April 18, 2017 \_\_\_\_\_ Anand Kumar  
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: HOMER LYNN HARRIS	Case Number(s): 15-O-14677, 16-O-11890
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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.)**

April 21, 2017  
Date

Cynthia Valenzuela  
CYNTHIA VALENZUELA  
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 April 21, 2017, 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:


HOMER L. HARRIS  
HOMER L HARRIS & ASSOCIATES  
235 EAST BROADWAY SUITE 1140  
LONG BEACH, CA 90802

COURTESY COPY:  
HOMER L. HARRIS  
188 REGAL DRIVE  
LAWRENCEVILLE, GA 30046

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

ANAND KUMAR, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 21, 2017.

  
\_\_\_\_\_  
Mazie Yip  
Case Administrator  
State Bar Court