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**State Bar Court of California
Hearing Department
San Francisco
ACTUAL SUSPENSION**

<p>Counsel For The State Bar</p> <p>Johnna G. Sack Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2357</p> <p>Bar # 270534</p>	<p>Case Number(s): 17-O-00526-PEM 15-O-15617-PEM</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED </p> <p>APR 20 2018</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Johanna Danielle Hoffmann Law Offices of Johanna D. Hoffmann P.O. Box 19314 Oakland, CA 94619 (415) 867-9963</p> <p>Bar # 239654</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: JOHANNA DANIELLE HOFFMANN</p> <p>Bar # 239654</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 7, 2005**.
- (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 **17** 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: (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. (See page 14.)
- (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 page 14.)
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☒ **Restitution:** Respondent failed to make restitution. (See page 15.)
- (14) ☒ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable. (See page 15.)
- (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:

Pretrial Stipulation, see page 15.

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **3 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 **4 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 **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:

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: **Respondent attended and completed Ethics School on October 20, 2016.**
- (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.

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without 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:
JOHANNA DANIELLE HOFFMANN

Case Number(s):
17-O-00526-PEM; 15-O-15617-PEM

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
Jayne Woods	\$8,000.00	December 11, 2013
Dana Novotny	\$3,226.13	January 21, 2013

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **one month before the end of probationary period.**

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
Jayne Woods (for Lori Woods)	\$125.00	monthly
Dana Novotny (for Gloria Doheny)	\$125.00	monthly

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- ☒ 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:
- a. 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: JOHANNA DANIELLE HOFFMANN

CASE NUMBERS: 17-O-00526-PEM; 15-O-15617-PEM

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

State Bar Case No. 17-O-00526 (Complainant: Gloria Doheny)

FACTS:

1. On or around February 29, 2012, respondent had a consultation with Gloria Doheny, an inmate who was serving a life sentence for murder, to discuss early release options, including an application for commutation. Subsequent to this consultation, Ms. Doheny hired respondent to draft and submit an application for commutation with the Governor's Office in hope that she would be granted early release prior to her parole hearing in late 2013.
2. On December 6, 2012, respondent visited Ms. Doheny and misrepresented to her that respondent drafted and submitted an application for commutation on her behalf with the Governor's Office, which respondent knew was false.
3. During the State Bar's investigation, the Governor's Office confirmed that an application for commutation was never submitted to their office on behalf of Ms. Doheny prior to her release from prison in 2014.
4. Respondent failed to draft and submit an application with the Governor's Office on Ms. Doheny's behalf; however, on January 21, 2013, respondent billed Ms. Doheny's family for the work. Ms. Doheny's daughter and son paid respondent's invoice of \$3,226.13.
5. Respondent made misrepresentations to the State Bar during the course of its investigation. In a letter to the State Bar on May 11, 2015, respondent misrepresented that she drafted an application for commutation on Ms. Doheny's behalf, and that she mailed a draft of the application for commutation to Ms. Doheny while she was in prison.
6. In June 2013, Ms. Doheny hired Dennis Cusick to represent her at her September 2013 parole hearing. On July 29, 2013, Mr. Cusick sent a letter to respondent requesting that she promptly return Ms. Doheny's client file, which included her medical records, prior to her September 13, 2013 parole hearing. Respondent failed to return Ms. Doheny's client file to her counsel prior to her September 13, 2013 parole hearing. Ms. Doheny was granted parole on September 13, 2013 and released from prison in 2014.

7. On May 11, 2015, in a letter to the State Bar, respondent claimed that she would mail Ms. Doheny her medical records that were in her client file by the end of the week. To date, respondent has failed to return Ms. Doheny's client file.

8. Respondent failed to perform any work on Ms. Doheny's behalf and failed to earn any fees. Additionally, in Mr. Cusick's letter to respondent on July 29, 2013, he requested on behalf of Ms. Doheny that respondent refund Ms. Doheny any unearned fees. To date, respondent has failed to provide Ms. Doheny with a refund for \$3,226.13 she was paid to draft and submit an application of commutation with the Governor's Office on Ms. Doheny's behalf, which she failed to do.

CONCLUSIONS OF LAW:

9. By misrepresenting to Ms. Doheny that respondent drafted an application for commutation and submitted it to the Governor's Office on Ms. Doheny's behalf, when respondent knew the statement was false, respondent willfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude.

10. By misrepresenting to the State Bar during its investigation respondent she sent Ms. Doheny an application for commutation in prison for her review, and that respondent drafted and submitted an application for commutation on Ms. Doheny's behalf, when respondent knew those statements were false, respondent willfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude.

11. By failing to draft and file an application for commutation with the Governor's Office on Ms. Doheny's behalf, respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally failing to perform legal services with competence.

12. By failing to refund \$3,226.13 in unearned fees to Ms. Doheny at the time of termination and at the request of Ms. Doheny's new counsel, respondent failed to promptly refund any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

13. By failing to provide Mr. Cusick with Ms. Doheny's client file after his request on July 29, 2013, respondent failed to promptly release a client's file and papers at the client's request, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

State Bar Case No. 15-O-15617 (Complainant: Lori Woods)

FACTS:

14. In May 2010, Lori Woods, an inmate who was serving a life sentence for murder, hired respondent to draft and submit an application for commutation to Governor Schwarzenegger's office on her behalf. A Third Party Payment Authorization was signed by respondent, the client's mother Jayne Woods (hereinafter "Jayne"), and Ms. Woods. In June 2010, Jayne paid respondent \$2,500 to draft and submit an application for commutation to Governor Schwarzenegger's office on behalf of Ms. Woods.

15. In November 2010, respondent informed Ms. Woods and Jayne that she submitted an application for commutation on Ms. Wood's behalf, along with 500 pages of exhibits in support of the application, to Governor Schwarzenegger's office on October 29, 2010. Governor Schwarzenegger's office never received the application for commutation on behalf of Ms. Woods because respondent

failed to take any reasonable steps to make sure that the application for commutation was properly submitted to the Governor's Office. Further, respondent took no steps to confirm whether the Governor's Office did or did not receive the application for commutation on behalf of Ms. Woods.

16. In April 2011, Ms. Woods retained respondent to draft and submit an amended application for commutation to Governor Brown's office on Ms. Woods' behalf. On May 26, 2011, Jayne paid respondent \$2,000 to draft and submit an amended application for commutation to Governor Brown's office on behalf of Ms. Woods.

17. Respondent misrepresented to Ms. Woods and Jayne that she submitted an amended application for commutation on Ms. Wood's behalf to Governor Brown's office in November 2012, which was false. In 2012, respondent failed to draft and submit an amended application for commutation to Governor Brown's office on behalf of Ms. Woods. During the State Bar's investigation, the Governor's Office confirmed that respondent failed to ever submit an application for commutation on behalf of Ms. Woods.

18. In September 2012, Ms. Woods retained respondent to represent her at her parole hearing on February 20, 2014. Jayne paid respondent \$3,500 in advance fees to represent Ms. Woods at her parole hearing. Respondent met with Ms. Woods in prison on March 15, 2013. At the end of their meeting, respondent told Ms. Woods she would be back to visit her in June. However, respondent stopped communicating with Ms. Woods after their March 15, 2013 visit.

19. After not hearing from respondent for a couple months, Ms. Woods asked Jayne to contact respondent on her behalf. Jayne telephoned and left numerous messages for respondent between July and October of 2013, but respondent failed to answer or return her calls. Additionally, Jayne, on behalf of Ms. Woods, sent respondent a letter and two emails in September 2013 and another email in October 2013, but respondent failed to respond to Jayne's correspondence. On October 31, 2013, Jayne sent respondent a letter by certified mail. The post office left notices for respondent on November 4th, November 11th, and December 3rd. The letter was eventually returned to Jayne.

20. On November 4, 2013, respondent emailed Jayne informing her that she received an email from Ms. Woods' friend who said that Ms. Woods was panicking because her hearing date was moved and she had not heard from respondent. In her email, respondent misrepresented to Jayne that she sent numerous letters to Ms. Woods in prison, and copies of those letters to Jayne.

21. On November 6, 2013, Jayne emailed respondent to inform her that Ms. Woods was worried that respondent would not attend her parole hearing. After not receiving a response from respondent, on November 11, 2013, Jayne sent respondent another email requesting that she visit Ms. Woods at the prison that week. On November 13, 2013, respondent replied to Jayne's email and said that she was too busy to visit Ms. Woods before Thanksgiving.

22. On December 3, 2013, Jayne emailed respondent to see if she had scheduled a visit with Ms. Woods. Respondent informed Jayne that she could not visit the prison because her security clearance expired, and she had to wait to get clearance from the prison before she could visit Ms. Woods.

23. On December 11, 2013, Jayne emailed respondent and informed her that Ms. Woods had retained new counsel to represent Ms. Woods at her parole hearing, because Ms. Woods no longer had confidence in respondent due to her lack of contact over the past nine months. In her letter to

respondent, Jayne provided respondent with the contact information for Ms. Woods' new counsel, Dennis Cusick, and asked respondent to send him Ms. Woods' client file. Further, she asked respondent to refund the \$3,500 in unearned fees that she was paid to represent Ms. Woods at her parole hearing. Respondent failed to refund the \$3,500 in unearned fees and failed to return Ms. Woods' client file.

24. Prior to Ms. Woods' parole hearing, Mr. Cusick contacted respondent and asked her to send him Ms. Woods' client file. Respondent failed to return Ms. Woods' client file.

25. During the State Bar's investigation, respondent produced a copy of a letter to Ms. Woods dated December 13, 2013. In the letter, respondent asked Ms. Woods to sign and return an enclosed authorization form for release of her client file. Respondent told the State Bar, that her failure to return promptly Ms. Woods' client file was due to Ms. Woods never signing and returning the authorization form, that respondent sent Ms. Woods in prison on December 13, 2013. Ms. Woods never received the December 13, 2013 letter that respondent gave to the State Bar, because respondent never sent this letter to Ms. Woods.

26. On May 18, 2014, Ms. Woods sent respondent a letter requesting that respondent send Ms. Woods' client file to Jayne. Respondent failed to send Ms. Woods' client file to her mother, as requested. On August 29, 2016, respondent returned Ms. Woods' client file, but only after Ms. Woods filed a complaint with the State Bar and the State Bar intervened.

27. In a letter to the State Bar dated September 23, 2016, respondent misrepresented that she sent several letters to Ms. Woods in prison between March 2013 and December 2013.

28. In addition, in a letter to the State Bar dated August 26, 2016, respondent misrepresented that she visited Ms. Woods at the prison on June 27, 2013. Respondent stated that during this meeting she provided Ms. Woods with a copy of the amended application for commutation and prepared her for her parole hearing. Respondent, however, did not visit with her client on that date. Further, to date, respondent has failed to provide Ms. Woods with a copy of the amended application for commutation that respondent was supposed to submit to the Governor's Office in 2012.

CONCLUSIONS OF LAW:

29. By failing to file the application for commutation with Governor Schwarzenegger's office on behalf of Ms. Woods in 2010, respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by failing to perform with competence.

30. By failing to draft an amended application for commutation and submit it to Governor Brown's office on behalf of Ms. Woods in 2012, respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by failing to perform with competence.

31. By failing to refund \$2,500 in unearned fees to Ms. Woods at the time of termination, which respondent was paid to draft and submit an application for commutation to Governor Schwarzenegger's office in 2010, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to promptly refund any part of unearned fee.

32. By failing to refund \$2,000 in unearned fees to Ms. Woods at the time of termination, which respondent was paid to draft and submit an amended application for commutation to Governor

Brown's office on behalf of Ms. Woods in 2012, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to promptly refund any part of unearned fee.

33. By failing to refund \$3,500 in unearned fees to Ms. Woods at the time of termination, which respondent was paid to represent Ms. Woods at her parole hearing, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to promptly refund any part of unearned fee.

34. By failing to respond to five letters and numerous telephonic status inquiries made on behalf of Ms. Woods, between June 2013 and November 2013, respondent willfully violated Business and Professions Code, section 6068(m), by failing to provide reasonable status updates on a matter in which she was hired to provide legal services.

35. By failing to communicate with Ms. Woods after March 15, 2013 about Ms. Woods' parole hearing, constructively terminating respondent's employment and failing to take any action on Ms. Woods' behalf to prepare her for the parole hearing in February 2014, respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2), by intentionally failing to inform Ms. Woods that respondent was withdrawing from employment.

36. By failing to provide Ms. Woods' with her client file after her termination of employment and after Ms. Woods' request on May 18, 2014, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1), by failing to promptly release the client's file and papers at the request of her client.

37. By misrepresenting to Jayne that respondent sent several letters to Ms. Woods, when respondent knew she had not sent correspondence to her client, respondent willfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude.

38. By misrepresenting to the State Bar that respondent sent several letters to Ms. Woods after March 15, 2013, that she submitted applications for commutation to the Governor's Office on Ms. Woods' behalf in 2010 and 2012, and that on December 13, 2013 she sent Ms. Woods an authorization for release of her client file, when respondent knew the statements were false, respondent willfully violated Business and Professions Code, section 6106, by committing multiple acts involving moral turpitude.

AGGRAVATING CIRCUMSTANCES.

Significant Harm to Client (Std. 1.5(j)). Respondent's misconduct caused serious harm to Ms. Woods because Ms. Woods had to hire new counsel to represent her at her parole hearing. Ms. Woods incurred additional attorney's fees because respondent failed to return the \$3,500 in unearned fees she was paid to represent Ms. Woods at her parole hearing. Respondent gave Ms. Woods false hope that she would be released from prison, so when Ms. Woods learned that respondent failed to submit the applications for commutation with the Governor's Office on her behalf it caused her emotional suffering.

Multiple Acts of Misconduct (Std. 1.5(b)). Respondent's failures to perform by not drafting and submitting applications for commutations on behalf of her clients, failing to refund unearned fees, misrepresentations to her clients, misrepresentations to the State Bar, failures to communicate, and failure to promptly return client files constitutes multiple acts of misconduct. (*In the Matter of Kueker* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583, 594 [multiple acts in aggravation for one count of moral turpitude where attorney made 11 misrepresentations over two years].)

High Level of Vulnerability of the Victim (Std. 1.5(n)). Ms. Woods and Ms. Doheny were both incarcerated at the time of respondent's misconduct.

Failure to Make Restitution (Std. 1.5(m)). Respondent's failure to pay restitution to her clients for unearned fees is an aggravating factor.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation. Respondent is entitled to mitigation for entering into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving the 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).)

Standard 1.7(s) provides that, "If 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." Here, respondent has committed multiple acts of misconduct. The most severe sanction applicable to respondent's misconduct is Standard 2.11 for moral turpitude for her many misrepresentations to her clients and the State Bar.

Standard 2.11 states, "Disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or

concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member's practice."

Case law is instructive. In *Borre v. State Bar* (1991) 52 Cal.3d 1047, an attorney received a two-year actual suspension after he abandoned an incarcerated client's criminal appeal. Despite obtaining two extensions of time to file the opening brief, the attorney never filed it, and the court dismissed the appeal. The attorney did not visit his client, send him copies of his extension requests, or notify him that the appeal was dismissed. After the client filed a complaint with the State Bar, the attorney proffered a letter purporting to prove that he had notified the client that he would not file the appeal. It was determined that the attorney fabricated the letter. Because of the serious nature of his misconduct, the attorney was not given mitigation for his lack of disciplinary record over many years of practice.

In *In the Matter of Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459, the attorney received a six-month actual suspension after he abandoned the habeas corpus petition of an inmate. In addition, the attorney failed to return the client's files, to refund \$7,000 in advanced fees, and to cooperate with the State Bar's investigation. The court did not find any factors in mitigation. The court found in aggravation his multiple acts of misconduct, significant harm to the client, indifference, and the attorney's failure to participate in the disciplinary proceedings.

Similar to *Nees* and *Boore*, respondent abandoned her incarcerated clients, did not return the clients' files, and failed to return unearned fees. Respondent's misconduct is more analogous to *Boore* than *Nees*, because she committed deceitful acts to her clients and the State Bar. Respondent told her extremely vulnerable clients that she drafted and submitted applications for commutation on their respective behalves, which gave her clients false hope of an early release from prison. Further, she told numerous misrepresentations to the State Bar during its investigations. Respondent's misrepresentations to the State Bar constitute a greater offense than misappropriation. (See *Chang v. State Bar* (1989) 49 Cal.3d 114, 128; *Warner v. State Bar* (1983) 34 Cal.3d 36, 44.) Additionally, the court in *Borre v. State Bar* (1991) 52 Cal.3d 1047 found that an attorney's abandonment of an incarcerated client is itself a serious matter warranting substantial discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of April 17, 2018, the prosecution costs in this matter are \$7,793. 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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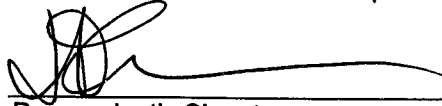
In the Matter of: JOHANNA DANIELLE HOFFMANN	Case number(s): 17-O-00526-PEM; 15-O-15617-PEM
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SIGNATURE OF THE PARTIES

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 13, 2018

Date



Respondent's Signature

Johanna Danielle Hoffmann

Print Name

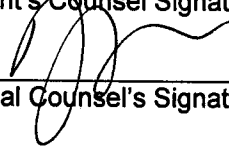
Date

Respondent's Counsel Signature

Print Name

April 13, 2018

Date



Deputy Trial Counsel's Signature

Johnna G. Sack

Print Name

(Do not write above this line.)

In the Matter of:
JOHANNA DANIELLE HOFFMANN

Case Number(s):
15-O-15617-PEM; 17-O-00526-PEM (Cons.)

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:

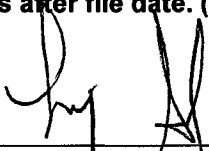
- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

1. To clarify any inconsistencies between the restitution language on page 4 (box D(3)(a)(ii)) and the Financial Conditions on pages 7-8 of the stipulation: Respondent is to make monthly restitution payments as a condition of probation. If, however, she has not paid the full restitution during her two-year period of actual suspension, respondent will remain on actual suspension until the restitution is paid in full; and

2. On page 11 of the stipulation, in paragraph #10, "By misrepresenting to the State Bar during its investigation respondent she sent Ms. Doheny an application ..." is deleted, and in its place is inserted "By misrepresenting to the State Bar during its investigation that respondent sent Ms. Doheny an application ...".

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 20, 2018
Date


LUCY ARMENDARIZ
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 Court Specialist 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 April 20, 2018, 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:

JOHANNA D. HOFFMANN
LAW OFFICE OF JOHANNA D HOFFMANN
PO BOX 19314
OAKLAND, CA 94619 - 0314

- ☐ by certified mail, No. _____, with return receipt requested, through the United States Postal Service at _____, California, addressed as follows:

- ☐ by overnight mail at _____, California, addressed as follows:

- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.

- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Johnna G. Sack, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 20, 2018.

~~George Hue~~
Court Specialist
State Bar Court