

(Do not write above this line.)

State Bar Court of California
Hearing Department
San Francisco
ALTERNATIVE DISCIPLINE PROGRAM

<p>Counsel For The State Bar</p> <p>Jonathan Ceseña Deputy Trial Counsel 180 Howard St San Francisco, CA 94105 (415) 538-2183</p> <p>Bar # 289721</p>	<p>Case Number (s) 12-O-13306</p> <p><i>12-O-13306</i></p> <p><i>STATE BAR COURT OF CALIFORNIA</i></p> <p><i>CLERK'S OFFICE</i></p> <p><i>SAN FRANCISCO</i></p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>R</i></p> <p>MAY - 5 2014</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>John Kiyo Huster 237 Kearney St., #304 San Francisco, CA 94108 (415) 265-0170</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>Bar # 175565</p> <p>In the Matter Of: JOHN KIYO HUSTER</p> <p>Bar # 175565</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:

- Respondent is a member of the State Bar of California, admitted **January 12, 1995**.
- The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 5 pages, excluding the order.
- A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

kwiktag® 048 639 838



[Handwritten mark]

(Do not write above this line.)

- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case
- (b) Date prior discipline effective
- (c) Rules of Professional Conduct/ State Bar Act violations:
- (d) Degree of prior discipline
- (e) If Respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pre-trial Stipulation. See Attachment page 5.
No Prior Discipline. See Attachment page 5.

9. By failing to respond to the State Bar investigators letter of May 16, 2012, Respondent failed to cooperate with a State Bar investigation and was in willful violation of Business and Professions Code, section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's four acts of misconduct constitute multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent practiced law for 18 years without discipline when the misconduct herein occurred. Respondent is entitled to mitigating credit for no prior discipline even where the underlying conduct is found to be serious or significant. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn.13.; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Pre-trial Stipulation: Respondent has agreed to enter into this stipulation as to facts and conclusions of law, thereby saving the State Bar time and resources. This mitigation is tempered by the fact that Respondent did not cooperate in the State Bar investigation.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 2, 2014, the prosecution costs in this matter are \$6,944.00. 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

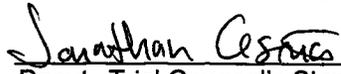
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: JOHN KIYO HUSTER	Case number(s): 12-O-13306
---------------------------------------	-------------------------------

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.

<u>2/7/14</u> Date	 Respondent's Signature	<u>John K. Huster</u> Print Name
<u>2/10/14</u> Date	 Deputy Trial Counsel's Signature	<u>Jonathan Ceseña</u> Print Name

(Do not write above this line.)

In the Matter of: JOHN KIYO JUSTER	Case Number(s): 12-O-13306-LMA
---------------------------------------	-----------------------------------

ALTERNATIVE DISCIPLINE PROGRAM ORDER

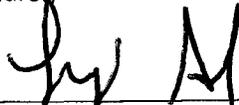
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

Date

May 5, 2014


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 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 May 5, 2014, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

By personally delivering a copy of said document(s) to:

JOHN KIYO HUSTER
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105

JONATHAN R. CESENA
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 5, 2014.



Bernadette C.O. Molina
Case Administrator
State Bar Court