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State Bar Court of California Hearing Department San Francisco PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES		
<p>Counsel For The State Bar</p> <p>Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2238</p> <p>Bar # 114637</p>	<p>Case Number (s)</p> <p>05-O-00167-PEM 05-O-01242 05-O-05034 06-O-12274</p> <p style="text-align: center;">RECEIVED OCT 01 2007 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>	<p>(for Court's File)</p> <p style="text-align: center;">FILED <i>lpo</i></p> <p style="text-align: center;">JUN 27 2011</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p> <p style="text-align: center;">LODGED APR 28 2008 <i>lpo</i> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Stanley L. Evans, Esq. 479 Pacific St., Ste 9 Monterey, CA 93940 Tele: 831/759-0122</p> <p>Bar # 119091</p>	<p>Submitted to: Program Judge</p> <p>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> <p style="text-align: right;">kwiktag[®] 018 043 326 </p>	
<p>In the Matter Of:</p> <p>STANLEY L. EVANS</p> <p>Bar # 119091</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 **8/10/1985**.
- (2) 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, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **11** pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

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- (6) 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 [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
 - (a) State Bar Court case # of prior case **SO12124 (89-C-14907)**
 - (b) Date prior discipline effective **12/29/1990**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code section 6068(a)**
 - (d) Degree of prior discipline **Public Reproval**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Dishonesty:** Respondent's misconduct was 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. **See attached**
- (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. **See attached**
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

None

C. Mitigating Circumstances [see standard 1.2(e)]. 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 or person who was the object of the misconduct.
- (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. **See attached**
- (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 in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities.
- (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 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:

See attached

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **STANLEY L. EVANS**

CASE NUMBERS: **05-O-00167; 05-O-01242;**
 05-O-05034; 06-O-12274

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the State Bar Act and/or Rules of Professional Conduct.

Case No. 05-O-00167 (Gomez)

Facts:

1. In December 2003, Roberto Gomez ("Gomez") employed respondent to file a lawsuit to recover Gomez's property from a house that had been foreclosed upon. Gomez paid respondent \$3,000.00 as attorney fees for that matter. At that time, respondent guaranteed Gomez that he would either have his possessions returned or he would receive the value of the possessions, which Gomez estimated to be approximately \$200,000.00.

2. Thereafter, respondent failed to file a lawsuit or take any other steps to recover Gomez's property.

3. In September 2004, respondent informed Gomez that he had not done any legal work toward recovering Gomez's property.

4. Respondent's services were of no value to Gomez. At no time did respondent refund any fees to Gomez.

5. In December 2003, Gomez employed respondent to represent him in several other matters, including at least two pending criminal actions and a dissolution.

6. Gomez had received approximately \$60,662.75 as proceeds from the sale of his home and from a flood claim to a business that he owned. Gomez could not open a bank account; respondent offered to open an account for Gomez and to keep his money there until he could open his own account and deposit money into it.

7. On March 12, 2004, respondent opened a client trust account at Union Bank of

California, account number 5360009353 ("CTA").

8. On March 16, 2004, respondent deposited the \$60,662.75 into the CTA.
9. On March 29, 2004, respondent transferred \$12,500.00 from the CTA to another bank account. The \$12,500.00 represented advanced fees Gomez paid respondent to represent Gomez in two criminal matters.
10. On March 29, 2004, respondent disbursed \$15,000.00 to Consuelo Prieto, Gomez's girlfriend, at Gomez's request.
11. On March 29, 2004, respondent disbursed \$10,000.00 to Gomez at his request and \$5,000.00 to himself.
12. After the disbursements, \$18,062.75 remained in the CTA. Gomez did not give respondent authority to disburse any further funds from the CTA. Gomez did not authorize respondent to withdraw money from the CTA to pay attorney fees on Gomez's cases. Respondent did not request authorization to withdraw money from the Gomez CTA to pay for legal fees or other expenses.
13. On July 1, 2004, respondent withdrew \$5,000.00 with Gomez's permission as fees for representation on Gomez's criminal cases. After the withdrawal, the balance in the CTA was \$13,062.75.
14. On August 13, 2004, respondent withdrew \$5,000.00 from the CTA. Gomez did not authorize respondent to withdraw the money. Respondent did not inform Gomez that he withdrew the money.
15. On August 27, 2004, respondent transferred \$3,500.00 from the CTA into his personal Union Bank account. Gomez did not authorize respondent to withdraw the money. Respondent did not inform Gomez that he withdrew the money. The CTA balance on August 31, 2004 was \$4,562.75.
16. On September 14, 2004, respondent made three withdrawals from the CTA totaling \$1,500.00 without Gomez's permission or knowledge.
17. On September 29, 2004, respondent withdrew \$1,500.00 without Gomez's permission or knowledge.
18. On September 29, 2004, the CTA balance was \$1,062.75.
19. Between April 29, 2005 and December 30, 2005, the bank charged a "checks enclosed fee" in the amount of \$3.00 to the account on a monthly basis. The total amount charged during this time was \$24.00.
20. On or about December 31, 2005, the balance in the CTA was \$1,038.75.

21. Respondent misappropriated at least \$12,024.00 (\$13,062.75-\$1,038.75) of Gomez's funds for his own use and benefit.

22. In late 2004, Gomez and family members on his behalf, requested an accounting of the money respondent was holding in the CTA. Respondent failed to provide an accounting.

23. In January 2005, respondent employed Miguel Hernandez ("Hernandez") to represent him in his cases in place of respondent.

24. Hernandez wrote to respondent requesting an accounting of funds received and the return of any unearned fees. Respondent failed to respond to Hernandez's letter, failed to provide an accounting, and failed to return any unearned fees.

Conclusions of Law: By not filing a lawsuit or taking other steps to recover Gomez's property, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rule of Professional Conduct 3-110(A). By not refunding any of the \$3,000.00, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in violation of Rule of Professional Conduct 3-700(D)(2). By allowing the balance in the CTA to fall below \$13,062.75, the amount he was obligated to hold in trust for Gomez, respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a CTA, in violation of Rule of Professional Conduct 4-100(A). By misappropriating at least \$12,024.00 of Gomez's funds for his own use and benefit, respondent committed an act involving moral turpitude, dishonesty or corruption, in violation of Business and Professions Code section 6106. By willfully failing to provide an accounting when requested by Gomez or on his behalf, respondent failed to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession, in violation of Rule of Professional Conduct 4-100(B)(3).

Case No. 05-O-01242 (Humes)

Facts:

1. On September 3, 2003, respondent Lloyd Humes ("Humes") employed respondent to represent him in a dissolution matter. Humes paid respondent \$3500.00 as advanced fees.

2. On November 8, 2003, respondent prepared a response to the dissolution petition on behalf of Humes. Respondent did not file the response until March 17, 2004.

3. After the initial meeting to employ respondent, Humes did not have any other contact with respondent.

4. Other than filing the response on March 17, 2004, respondent did not take any further steps to pursue Humes's dissolution.

5. On July 12, 2004, Humes wrote respondent a letter informing him he had employed another attorney, Robert Gore, to represent him in the dissolution. Humes also requested an accounting of fees and costs.

6. Respondent failed to respond to Humes's letter or to provide an accounting.

7. Respondent's services were of little value to Humes.

8. At no time did respondent refund any of the unearned fees to Humes.

Conclusions of Law: By not taking any steps to pursue Humes's dissolution, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence. By willfully failing to provide an accounting, as Humes requested, respondent failed to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession, in violation of Rule of Professional Conduct 4-100(B)(3). By willfully failing to refund any of the \$3,500.00 to Humes, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 05-O-05034 (Ursua)

Facts:

1. On July 2004, respondent was appointed to represent Moises Ursua ("Ursua") in a criminal case.

2. In September 2004, Ursua pled guilty to the charges pending against him.

3. In September 2004, Ursua requested that respondent turn over his entire file, including discovery documents and other evidence.

4. On June 10 and August 3, 2005, Ursua sent respondent letters requesting his file materials. Respondent did not respond to the requests.

5. On December 15, 2005 and January 12, 2006, State Bar Investigator John Matney ("Matney") sent respondent's counsel, Michael McClure ("McClure"), letters by first class mail to McClure's address. The letters requested respondent to provide a written response to the allegations in the Ursua matter. The letters were not returned as undeliverable by the Post Office.

6. Thereafter, both respondent and McClure failed to provide a written response to the letters.

Conclusions of Law: By willfully failing to provide Ursua's file as he requested, respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, in violation of Rule of Professional Conduct 3-700(D)(1). By willfully failing to provide a written response to

the investigator's letters, respondent failed to cooperate and participate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

Case No. 06-O-12274 (St. John)

Facts:

1. Prior to January 2003, respondent was appointed to represent Geoffrey St. John ("St. John") in a criminal matter entitled, *People v. Geoffrey St. John*, Monterey County Superior Court case number SS021689A.
2. On January 15, 2003, St. John was convicted after a jury trial and sentenced to state prison.
3. After the sentencing, respondent told St. John that he would file a notice of appeal on his behalf. Respondent never filed a notice of appeal or took any steps to pursue an appeal on St. John's behalf.
4. After respondent told him he would file an appeal on his behalf, St. John wrote to respondent on two occasions to determine the status of the appeal. Respondent did not respond to St. John's letters.
5. Prior to July 28, 2005, St. John sought the assistance of the Sixth District Appellate Program ("SDAP"). On July 28 and September 14, 2005, and April 20 and September 21, 2006, attorney William Robinson ("Robinson"), an attorney with the Sixth District Appellate Program, wrote to respondent requesting information about St. John's case and requesting documents from the file. Respondent did not respond to Robinson's letters.
6. Prior to March 2006, respondent was appointed to represent Thomas Miller ("Miller") in a criminal matter entitled, *People v. Tommy Miller*, Monterey County Superior Court case number SS031302A.
7. Miller was convicted and sentenced to a three-year prison term.
8. After the sentencing, respondent told Miller that he would file a notice of appeal on his behalf. Respondent never filed a notice of appeal or took any steps to pursue an appeal on Miller's behalf.
9. After he was sentenced, Miller wrote respondent on several occasions to determine the status of his appeal. Miller's girlfriend and mother called respondent on Miller's behalf to determine the status of Miller's case, leaving messages for respondent to return their calls. Respondent did not respond to Miller's letters or the phone calls from Miller's girlfriend and mother.
10. Prior to April 20, 2006, Miller sought the assistance of SDAP. On or about April 20 and September 21, 2006, Robinson wrote to respondent requesting information

about Miller's case and requested documents from the file. Respondent did not respond to Robinson's letter.

11. Prior to September 2006, respondent was appointed to represent Ricky Lucero ("Lucero") in a criminal matter, *People v. Ricky Lucero*, Monterey County Superior Court case number SS032085. Lucero was convicted and sentenced following a jury trial.

12. After the sentencing, respondent told Lucero that he would file a notice of appeal on his behalf. Respondent never filed a notice of appeal or took any steps to pursue an appeal on Lucero's behalf.

13. After he was sentenced, Lucero wrote and called respondent on several occasions to determine the status of his appeal. Respondent did not respond to the letters or phone calls.

14. Prior to September 21, 2006, Lucero sought the assistance of the SDAP. On September 21, 2006, Robinson wrote to respondent requesting information about Lucero's case and requested documents from the file. Respondent did not respond to Robinson's letter

15. On May 31, 2006, Matney sent respondent's counsel, Micheal McClure, letters by first class mail to McClure's address. The letters requested respondent to provide a written response to the allegations in the St. John and Miller matters. The letters were not returned as undeliverable by the Post Office.

16. On June 22, 2006, respondent sent his client files for St. John and Miller to the State Bar without a cover letter or explanation. He did not provide a written response to the questions in the investigator's letter.

Conclusions of Law: By promising to file a notice of appeal in the St. John, Miller and Lucero matters and then failing to do so, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to respond to client telephone calls and letters and by willfully failing to respond to Robinson's letters, respondent failed to respond promptly to reasonable status inquiries of a client, in violation of Business and Professions Code section 6068(m). By willfully failing to provide the client files as requested by Robinson, respondent failed to release promptly to the client, upon termination of employment, property belonging to the client, in violation of Rule of Professional Conduct 3-700(D)(1). By willfully failing to provide a written response to the investigator's letter, respondent failed to cooperate and participate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

PENDING PROCEEDINGS.

The disclosure dates referred to on page 2, paragraph A(7), were June 20, 2007 and September 26, 2007.

AGGRAVATING FACTORS:

Prior Record of Discipline: As set forth herein, respondent was publicly reprovved effective December 29, 1990.

Multiple Acts of Misconduct: By committing the misconduct set forth above, respondent committed multiple acts of misconduct to multiple clients.

Significant Harm: In the *Gomez* and *Humes* matters, both clients have been deprived of a significant amount of money for an extended period of time. In the *Ursua* matter, Ursua has been deprived of his client file. Although respondent has provided some parts of the files to subsequent appellate counsel in the *Robinson, Miller, St. John* and *Lucero* matters, respondent cannot locate or turn over the remainder of the files.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Participation in Lawyer's Assistance Program: On May 12, 2006, respondent contacted the State Bar Lawyer Assistance Program (LAP). On May 25, 2006, respondent signed a pre-enrollment evaluation plan with LAP. Respondent signed a long-term participation plan with LAP on October 4, 2006.

RESTITUTION.

Respondent waives any objection to immediate payment by the State Bar Client Security Fund upon a claim or claims for the principal amounts of restitution set forth below:

In accordance with the timetable set forth in the State Bar Court alternative discipline program contract to be executed between the State Bar Court and respondent on the captioned cases, respondent must make restitution as follows:

Roberto Gomez, or the Client Security Fund if it has paid on his behalf, in the principal amount of \$15,024.00, plus interest at the rate of 10% per annum from December 31, 2005, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

Lloyd Humes, or the Client Security Fund if it has paid on his behalf, in the principal amount of \$3010.00, plus interest at the rate of 10% per annum from April 7, 2005, the date of the judgment entered against respondent in the matter entitled *Evans v. Humes*, Monterey County Superior Court No. M-73377, until paid in full and furnish satisfactory evidence of restitution to the State Bar Court.

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In the Matter of STANLEY L. EVANS	Case number(s): 05-O-00167-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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

9/25/07
Date


Respondent's Signature

Stanley L. Evans
Print Name

9/25/07
Date


Deputy Trial Counsel's Signature

Cydney Batchelor
Print Name

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In the Matter Of STANLEY L. EVANS	Case Number(s): 05-O-00167-PEM
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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 135(b) and 802(b), Rules of Procedure.)

Date April 28, 2008 Pat McGelerny
Judge of the State Bar Court