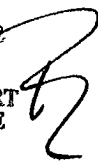


State Bar Court of California
Hearing Department
Los Angeles

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Gordon Grenier State Bar of California 1149 S. Hill Street Los Angeles, CA 90015-2299</p> <p>Bar # 225430</p>	<p>Case Number (s) 05-O-02830 [05-O-04614; 06-O-10930</p>	<p>(for Court's use)</p> <p>FILED</p> <p>JUL 03 2007</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> 
<p>In Pro Per Respondent</p> <p>Robert A. Nadler, Esq. 433 N. Camden Dr., #400 Beverly Hills, CA 90210</p> <p>Bar # 150470</p>	<p>Submitted to: Settlement Judge</p>	
<p>In the Matter Of: Robert A. Nadler</p> <p>Bar # 150470</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PUBLIC REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 4, 1990**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 13 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (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):

- costs added to membership fee for calendar year following effective date of discipline (public reproof)
- case ineligible for costs (private reproof)
- costs to be paid in equal amounts for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- costs entirely waived

(9) The parties understand that:

- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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 **03-O-02764**
 - (b) Date prior discipline effective **April 8, 2004**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rule 3-110 of the Rules of Professional Conduct**
 - (d) Degree of prior discipline **Private Reproof**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (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.
- (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) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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.
- (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:

D. Discipline:

- (1) **Private reproof (check applicable conditions, if any, below)**
 - (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
 - (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of **1 year**.
- (2) During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reproof.
- (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 completed ethics school on December 8, 2005.**
- (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) 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 within one year of the effective date of the reproof.
 - No MPRE recommended. Reason:
- (11) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions
 - Law Office Management Conditions
 - Medical Conditions
 - Financial Conditions

F. Other Conditions Negotiated by the Parties:

(Do not write above this line.)

Attachment language (if any):

In the Matter of
Robert A. Nadler

Case number(s):
05-O-02830 [05-O-04614; 06-O-10930]

A Member of the State Bar

Law Office Management Conditions

- a. Within days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/**6** months/ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **6** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, ~~attorney-client relations and/or general legal ethics~~. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ROBERT A. NADLER

CASE NUMBER(S): 05-O-02830; [05-O-04614; 06-O-10930]

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 Rules of Professional conduct.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notice of Disciplinary Charges filed on January 22, 2007, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended NDC.

Case No. 05-O-02830

Statement of Facts:

1 On April 5, 2004, a jury convicted Jorge Cabrales (“Cabrales”) of five misdemeanors. On April 6, 2004, the trial court continued Cabrales’ sentencing to October 5, 2005.

2. In June 2004, Cabrales employed Respondent to evaluate his sentencing options. Respondent visited Cabrales in jail on four different occasions between June 22 and September 1, 2004.

3. Due to his incarceration, Cabrales instructed Respondent to communicate through Marya Mansilla (“Mansilla”), Cabrales’ spouse. On August 1, 2004, Mansilla gave Respondent a \$2,500 check for attorney’s fees.

4. Between August and October 2004, on at least five occasions, Mansilla called Respondent on behalf of Cabrales and left messages requesting an update on Respondent’s work on behalf of Cabrales. Respondent did not return Mansilla’s messages.

5. On November 22, 2004, dissatisfied because of Respondent's failure to respond to Mansilla's status inquiries on his behalf, Cabrales wrote Respondent a letter, terminating his services.

6. On December 1, 2004, Respondent visited Cabrales and gave him a three-page written report, summarizing the relevant law applicable to Cabrales' situation and evaluating Cabrales' sentencing options.

7. In June 2006, Respondent sent Cabrales a refund check for \$1,500 in unearned fees.

Conclusions of Law:

8. By not returning Mansilla's calls on behalf of Cabrales, Respondent failed to respond promptly to reasonable status inquiries of a client in violation of Business and Professions Code section 6068(m).

Case No. 05-O-04614

Statement of Facts:

9. Between May 5 and August 10, 2005, attorney Jeffrey S. Kross ("Kross"), counsel for appellant Jaymar Dodds ("Dodds") in the case entitled *People of the State of California v. Jaymar Dodds*, Court of Appeal, Case No. B180928 of Second Appellate District, Division Seven, called Respondent, Dodds' trial counsel, on four occasions, leaving messages requesting Dodds' trial file. Kross also wrote a letter to Respondent on June 22, 2005. Respondent did not return Kross' messages or respond to his letter.

10. On September 1, 2005, Kross filed an ex parte application for order directing Respondent to provide Dodds' trial files to Kross. Kross' ex parte application was served on Respondent on September 1, 2005.

11. On September 7, 2005, Justice Dennis M. Perluss ("Justice Perluss"), the Presiding Justice of Division Seven, directed Respondent to deliver Dodds' complete trial file to Kross within ten days and to file a proof of service with the court indicating he had done so. Thereafter, Respondent did not release Dodds' trial file to Kross.

12. On October 4, 2005, Kross filed a supplemental declaration, reporting that Respondent had not provided Dodds' trial file to Kross.

13. On March 13, 2006, Respondent sent Dodds' entire trial file to Kross.

Conclusion of Law:

14. By not sending the appellant's trial file to his counsel for more than ten months after the appellant's counsel requested him to do so, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, in violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

Case No. 06-O-10930

15. In August 2004, Paul Thompson, Jr. ("Thompson") employed Respondent to defend him in a criminal matter, Los Angeles Superior Court, Case No. PA045527. Respondent represented Thompson through the conclusion of a jury trial in November 2005, when Thompson was acquitted of all charges.

16. In a related civil matter, Thompson was represented by Drew R. Antablin ("Antablin"). Between November 28, 2005, and February 1, 2006, Antablin sent Respondent four letters, on behalf of Thompson, requesting Thompson's entire trial file. Respondent did not respond to Antablin's requests in a timely fashion.

17. On April 26, 2006, Respondent sent Thompson's entire client file to his new attorney, Antablin.

Conclusion of Law:

18. By sending the client's file to his new counsel five months after he was requested to do so, 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 3-700(D)(1) of the Rules of Professional Conduct.

AUTHORITIES SUPPORTING DISCIPLINE

A. Standards for Attorney Sanctions For Professional Misconduct¹

In determining the appropriate level of discipline, the Court should look to the Standards for Attorney Sanctions for Professional Misconduct. In *In re Morse* (1995) 11 Cal.4th 184, 206, the California Supreme Court stated,

¹All further reference to a "Standard" or "the Standards" shall refer to the Standards for Attorney Sanctions for Professional Misconduct.

“To determine the appropriate level of discipline ... we... must first look to the standards for guidance. ‘These guidelines are not binding on us, but they promote the consistent and uniform application of disciplinary measures. Hence we have said that ‘we will not reject a recommendation arising from application of the standards unless we have grave doubts as to the propriety of the recommended discipline.(Citation Omitted.)’”

Standard 1.7(a) provides that the degree of discipline should generally be greater than the prior discipline. The most recent prior discipline involved a private reproof. Respondent therefore should receive more than a private reproof.

Standard 2.10 states that culpability of a member of a wilful violation of any Rule of Professional Conduct not specified in the standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Standard 2.6 applies to violations of Business and Professions Code, section 6068. It provides for disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

B. Case Law

The Court should also look at case authority in determining the appropriate level of discipline to determine whether the discipline is consistent or disproportional to prior decisions on the same set of facts. *Snyder v. State Bar* (1990) 49 Cal.3d 1302.

In *In the Matter of Henson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, the respondent, in a single client matter, failed to promptly return to the clients an unearned legal fee and, upon discharge by the clients, failed to take steps to avoid foreseeable prejudice to the clients. The respondent was found culpable of violating rules 3-700(D)(1) and 3-700(A)(2) of the Rules of Professional Conduct. In aggravation, the respondent had a prior private reproof. The respondent received a public reproof.

In *In the Matter of Cacioppo* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128, the respondent failed to render a proper accounting and failed to communicate in a single matter. In mitigation, the court noted the respondent’s presentation of good character evidence. In aggravation, the respondent had a prior public reproof and he failed to fully cooperate with the State Bar. Noting that a reproof would have ordinarily been in order, the court found that the respondent’s prior discipline indicated that a greater discipline was appropriate under standard 1.7(a). The respondent received a six month stayed suspension with conditions.

ETHICS SCHOOL WAIVER.

Respondent will not be required to attend Ethics School due to the fact that he completed Ethics School on December 8, 2005.

DISMISSALS

The State Bar requests the Court dismiss the following in the interest of justice:

- Case no. 05-O-02830 [05-O-04614; 06-O-10930]: Counts 2 & 4.

SCOPE OF THIS NEGOTIATION

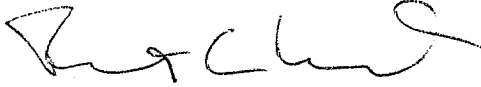
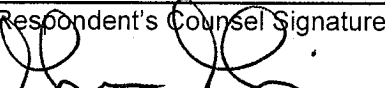
This stipulation only applies to Case nos. 05-O-02830, 05-O-04614, and 06-O-10930 only. Any additional cases being investigated by the State Bar are not to be included or considered to be part of this negotiation.

(Do not write above this line.)

In the Matter of Robert A. Nadler	Case number(s): 05-O-02830 [05-O-04614; 06-O-10930]
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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 Fact, Conclusions of Law and Disposition.

<u>7/2/07</u> Date	 Respondent's Signature	<u>ROBERT A. NADLER</u> Print Name
<u>7-2-07</u> Date	 Deputy Trial Counsel's Signature	<u>GORDON GRENIER</u> Print Name

(Do not write above this line.)

In the Matter Of Robert A. Nadler	Case Number(s): 05-O-02830 [05-O-04614; 06-O-10930
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- 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. (See rule 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

7-03-07
Date



Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; 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 July 3, 2007, 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:

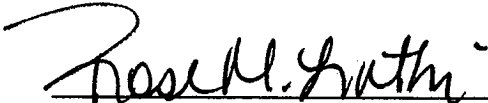
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ROBERT A. NADLER, ESQ.
433 N CAMDEN DR #400
BEVERLY HILLS, CA 90210

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

GORDON GRENIER, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **July 3, 2007**.



Rose M. Luthi
Case Administrator
State Bar Court