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State Bar Court of California
Hearing Department
Los Angeles
STAYED SUSPENSION

<p>Counsel For The State Bar</p> <p>Michael J. Glass Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 765-1254</p> <p>Bar # 102700</p>	<p>Case Number(s): 10-O-09760</p>	<p>For Court use only</p> <p>FILED JAN 12 2012 <i>hrc</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>Counsel For Respondent</p> <p>David Cameron Carr 530 B Street, Suite 410 San Diego, CA 92101 (619) 696-0526</p> <p>Bar # 124510</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: WALTER HENRY HACKETT</p> <p>Bar # 230607</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 May 28, 2004.
- (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."

(Effective January 1, 2011)



- (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 are added to membership fee for calendar year following effective date of discipline.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: February 1 in three billing cycles following the effective date of discipline.. (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 [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
 - (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 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.

(Do not write above this line.)

Additional mitigating circumstances

Respondent has no prior record of discipline.

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of one (1) year.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), 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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of two (2) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.

- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
 No Ethics School recommended. Reason: .
- (8) 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.
- (9) 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:

- (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 within one year. **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) **Other Conditions:**

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In the Matter of: WALTER HENRY HACKETT Member No.: 230607	Case Number(s): 10-O-09760
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

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

b. Installment Restitution Payments

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

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

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

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or 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";

In the Matter of: WALTER HENRY HACKETT Member No.: 230607	Case Number(s): 10-O-09760
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- 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:	WALTER HENRY HACKETT
CASE NUMBER(S):	10-O-09760

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 10-O-09760 (Complainant: Steve Buckner and Susan J. Bonno-Buckner)

FACTS:

1. In or about June 2007, Steve Buckner and Susan J. Bonno-Buckner (“the Buckners”) employed Respondent to defend them in a civil matter with the City of Monrovia concerning an easement on the Buckner’s property. On or about September 20, 2007, the City of Monrovia filed a quiet title action against the Buckners entitled *City of Monrovia vs. Steven D. and Susan J. Buckner, et al.*, Los Angeles Superior Court Case No. GC03925 (“the quiet title action”).
2. On or about October 1, 2007, Respondent tendered the defense of the quiet title action to Stewart Title, the Buckners’ title insurance company.
3. On October 30, 2007, Stewart Title informed Respondent that it would reimburse him his reasonable attorney’s fees in defending the case pursuant to Civil Code section 2860 if the tender was accepted.
4. Between October 2007 and April 2008, the Buckners paid Respondent \$3,200 in attorneys fees pursuant to invoices received from Respondent.
5. In April 2008, Stewart Title accepted the defense tender of the quiet title action on the Buckners’ behalf.
6. On February 5, 2008, the City of Monrovia filed a Motion for Summary Judgment in the quiet title action.
7. On May 2, 2008, the court granted the City of Monrovia’s Motion for Summary Judgment, and on or about June 3, 2008, the court entered judgment for the City of Monrovia.

8. On or about May 9, 2008, Respondent submitted his final invoice for attorneys fees in the amount of \$13,690 to Stewart Title.

9. On or about June 13, 2008, Ms. Lore Hilburg, counsel for Stewart Title, mailed Respondent a check in the amount of \$14,490, issued by Stewart Title and made payable to Steve Buckner and Susan Buckner. The cover letter accompanying the check stated that the check was issued by Stewart Title to the Buckners as reimbursement for post-tender attorneys fees.

10. On or about June 18, 2008, Respondent received the check for \$14,490 from Ms. Hilburg. Respondent did not inform the Buckners that he had received the check.

11. On June 18, 2008, Respondent deposited the check in his client trust account at Wells Fargo Bank, account number xxxxxxx335 ("cta").¹

12. On or about June 23, 2008, Respondent disbursed \$11,300 from the \$14,490 to himself as payment of attorneys fees in the Buckner matter.

13. On or about July June 24, 2008, Ms. Hilburg, mailed Respondent a second check, in the amount of \$300, issued by Stewart Title and made payable to Steven Buckner and Susan Buckner. Again, this check was sent as reimbursement for post-tender attorneys fees.

14. On or about July 8, 2008, Respondent received the check for \$300 from Ms. Hilburg. Respondent deposited the check in his cta. Respondent did not inform the Buckners that he had received the check.

15. On July 8, 2008, Respondent issued a check to the Buckners in the amount of \$3200 as reimbursement for attorneys fees paid to Respondent in the quiet title action.

16. Between July 22, 2008, and August 2, 2008, Sue Buckner sent several e-mails to Respondent inquiring as to how much money Respondent had received from Stewart Title as reimbursement for post-tender attorney fees.

17. On August 2, 2008, Respondent replied to Sue Buckner's e-mails, but did not address her concerns regarding how much money Respondent had received from Stewart Title as reimbursement for post-tender attorney fees.

CONCLUSIONS OF LAW:

18. By not responding to client Sue Buckner's e-mails and addressing her concerns with regard to how much money Respondent had received from Stewart Title as reimbursement for post-tender attorney fees, Respondent failed to keep a client reasonably informed of a significant development in a

¹ The full account number has omitted for privacy purposes.

matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code section 6068(m).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was December 2, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.6 provides that "Culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in 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:

(a) Sections 6067 and 6068;...."

In *Wells v. State Bar* (1984) 36 Cal. 3d 199, in one matter, Respondent filed a marital dissolution, but failed to serve the opposing party. Respondent also failed to respond to numerous phone calls by the client. In another matter, Respondent represented a client in a civil matter. Respondent failed to inform the client that her deposition had been scheduled. Respondent also failed to inform the client of the trial date. The court imposed discipline consisting of a two year stayed suspension, two years probation with conditions, including a 30 day actual suspension. In aggravation, Respondent had two prior impositions of discipline. In mitigation, Respondent established office procedures to prevent a reoccurrence of the misconduct, made restitution to one client, and was cooperative with the State Bar.

In *Franklin v. State Bar* (1986) 41 Cal. 3d 700, in two matters, Respondent failed to perform and failed to communicate by his failure to inform clients to attend their depositions, and the need to respond to discovery. Respondent also improperly withdrew from employment. The court imposed discipline consisting of a one year stayed suspension, one year probation with conditions, including a 45 day actual suspension. In aggravation, Respondent was deceptive and misleading in his testimony before the State Bar Court. In mitigation, Respondent had no prior record of discipline in 14 years of practice, although the misconduct began after only five years of practice.

In the instant case Respondent Walter Henry Hackett's misconduct is less egregious than that of the Respondent's in the *Wells, supra.*, and *Franklin, supra.*, matters. As such, discipline consisting of a one year stayed suspension, two years probation with conditions is appropriate discipline in the instant case.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

Case No.	Count	Alleged Violation
10-O-09760	One	rule 4-100(A)
10-O-09760	Two	Business & Professions Code section 6106
10-O-09760	Three	rule 4-100(B)(1)
10-O-09760	Four	rule 4-100(B)(3)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 30, 2011, the prosecution costs in this matter are \$3,312.40. 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.

(Do not write above this line.)

In the Matter of
WALTER HENRY HACKETT
Member #230607

Case number(s):
10-O-09760

SIGNATURE OF THE PARTIES

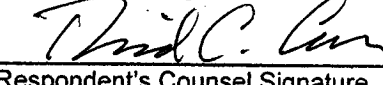
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

12/9, 2011
Date


Respondent's Signature


Walter H. Hackett
Print Name

12/12/11
Date


Respondent's Counsel Signature

David C. Carr
Print Name

12/14/11, 2011
Date


Deputy Trial Counsel's Signature

Michael J. Glass
Print Name

(Do not write above this line.)

In the Matter of:
WALTER HENRY HACKETT
Member #230607

Case number(s):
10-O-09760

STAYED SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date.** (See rule 9.18(a), California Rules of Court.)

Date

1/9/12

Judge of the State Bar Court

RICHARD A. HUNN

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 12, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION

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:

**DAVID C. CARR
LAW OFFICE OF DAVID CAMERON CARR
530 B ST STE 1410
SAN DIEGO, CA 92101**

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

MICHAEL GLASS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 12, 2012.



Tammy Cleaver
Case Administrator
State Bar Court