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**State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION**

<p>Counsel For The State Bar</p> <p>AGUSTIN HERNANDEZ Senior Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 765-1713</p> <p>Bar # 161625</p>	<p>Case Number(s): 11-O-11247 (Inv. Case No. 12-O-11564)</p>	<p>For Court use only</p> <p align="center"><b>FILED</b> MAR 27 2012 <i>Yrc</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p align="center"><b>PUBLIC MATTER</b></p>
<p>In Pro Per Respondent</p> <p>SCOTT NELSON HARLOW 225 South Civic Drive, Suite 2-15 Palm Springs, CA 92262 (760) 325-8818</p> <p>Bar # 107024</p>	<p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: SCOTT NELSON HARLOW</p> <p>Bar # 107024</p> <p>A Member of the State Bar of California (Respondent)</p>		

**Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.**

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted December 7, 1982.
- (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 15 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):
  - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

**B. Aggravating Circumstances [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.
- (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. See Attachment, pages 7-9, paragraphs 4-13 and 21; and page 10, paragraphs 27-30 and 35.
- (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.

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- (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:**

Although Respondent's misconduct is serious, he is entitled to some limited mitigation for having no record of prior discipline since being admitted in 1982.

**D. Discipline:**

- (1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of two years.

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:

(b)  The above-referenced suspension is stayed.

- (2)  **Probation:**

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

- (3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of one 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:

**E. Additional Conditions of Probation:**

(1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

(3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
  - No Ethics School recommended. Reason: .
- (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)  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 during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

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No MPRE recommended. Reason:

- (2)  **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3)  **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4)  **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5)  **Other Conditions:**

Attachment language (if any):

ATTACHMENT TO STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SCOTT NELSON HARLOW

CASE NUMBERS: 11-O-11247 & 12-O-11564

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. 11-O-11247 (Complainant: Brahm Elmendorp):

FACTS:

1. In 1999, Brahm Elmendorp ("Elmendorp") employed Respondent to represent him in a civil matter against his landlords Gershwin Haltman and Ellen Eloise Haltman dba Haltman Enterprises (collectively the "Haltmans"). Elmendorp had found a prospective buyer for his business, Gravel Pit, LLC, but the Haltmans refused to grant Elmendorp consent to assign the lease to the prospective buyer. Elmendorp claimed damages of \$90,000 as a result of not being able to sell his business ("Elmendorp matter").
2. Elmendorp had a credit of \$1,325 with Respondent from unearned fees previously advanced in other unrelated legal matters. Respondent was to apply this \$1,325 toward fees incurred in the Elmendorp matter.
3. At no time did Respondent provide any legal services in the Elmendorp matter.
4. From 1999 through 2011, Respondent misrepresented to Elmendorp that Respondent had filed a lawsuit with the court pertaining to the Elmendorp matter, but it kept getting continued by the court due to a lack of availability of judges. At the time Respondent made this statement, the statement was false and Respondent knew or was grossly negligent in not knowing that his statement was false. At no time did Respondent file a lawsuit with the court pertaining to the Elmendorp matter.
5. In 2007, Respondent recommended to Elmendorp that he should elect to proceed with arbitration because judges were still not available. Elmendorp accepted Respondent's recommendation and agreed to proceed to arbitration. Thereafter, Respondent told Elmendorp that the Elmendorp matter was proceeding to arbitration. At the time Respondent made this statement, the statement was false and Respondent knew or was grossly negligent in not knowing that his statement was false. At no time did Respondent file a petition or any other pleading to arbitrate the Elmendorp matter.
6. In June 2007, Respondent prepared a purported declaration for Elmendorp to sign in support of his arbitration claim. On June 10, 2007, Elmendorp signed the declaration and provided it to Respondent. Respondent prepared and provided this declaration to Elmendorp to mislead him into believing that Respondent was working on the Elmendorp matter. At the time Respondent provided this declaration to Elmendorp, Respondent knew that there was no arbitration pending in the Elmendorp matter.

7. Thereafter, Respondent told Elmendorp that he had obtained a judgment of \$85,000 in his favor against the Haltmans. At the time Respondent made this statement, the statement was false and Respondent knew or was grossly negligent in not knowing that his statement was false. At no time did Respondent obtain a judgment.

8. Thereafter, Respondent told Elmendorp that he had attached a \$75,000 certificate of deposit owned by the Haltmans through a writ of execution as a partial satisfaction of the judgment. At the time Respondent made this statement, the statement was false and Respondent knew or was grossly negligent in not knowing that his statement was false. At no time did Respondent obtain a writ of execution or attach a \$75,000 certificate of deposit owned by the Haltmans.

9. In March 2010, Respondent told Elmendorp that there was a court hearing in the Elmendorp matter scheduled for April 1, 2010. At the time Respondent made this statement, the statement was false and Respondent knew or was grossly negligent in not knowing that his statement was false. There was no court hearing scheduled for April 1, 2010, in the Elmendorp matter.

10. On April 1, 2010, Respondent sent an email to Elmendorp stating that Gershwin Haltman had appeared in court that day without any of the documents that he had been ordered to produce at the hearing. Respondent stated that the judge ordered Gershwin Haltman to appear in court on April 9, 2010 with all of the documents that Respondent had requested him to produce. Respondent stated that if Gershwin Haltman appeared in court on April 9, 2010, without the documents, he would be arrested. At the time Respondent made these statements, the statements were false and Respondent knew or was grossly negligent in not knowing that his statements were false. There was no court hearing held on April 1, 2010, in the Elmendorp matter.

11. On April 9, 2010, Respondent sent Elmendorp an email stating that Respondent had appeared in court that day and tried to have Gershwin Haltman arrested but the judge would not arrest him. At the time Respondent made this statement, the statement was false and Respondent knew or was grossly negligent in not knowing that his statement was false. There was no court hearing held on April 9, 2010, in the Elmendorp matter.

12. On May 23, 2011, Elmendorp went to Respondent's office to inquire about the status of his case. Respondent told Elmendorp that he had obtained a judgment of \$110,000 in Elmendorp's favor against the Haltmans. On this date, Respondent also told Elmendorp that he needed to pay a \$405 court fee to file a petition to confirm the arbitration award. During this visit, Elmendorp's friend, Eve Vykdyal, who was also present at this meeting issued a check to Respondent in the amount of \$405 to pay for the court's fee. (Respondent did not negotiate this check.) At the time Respondent made these statements, the statements were false and Respondent knew or was grossly negligent in not knowing that his statements were false. At no time did Respondent obtain a judgment or arbitration award in the Elmendorp matter.

13. On May 23, 2011, Respondent provided to Elmendorp a purported judgment in the amount of \$110,000 in favor of Elmendorp against the Haltmans, and a purported writ of execution for \$110,000. Respondent prepared and provided the purported judgment and writ of execution to Elmendorp to mislead him into believing that Respondent was working on the Elmendorp matter. At the time Respondent provided the judgment and writ of execution to Elmendorp, Respondent knew that he had not obtained a judgment or writ of execution.



14. Respondent did not provide any legal services of value to Elmendorp.
15. Respondent did not earn any portion of the fees paid by Elmendorp.
16. To date, Respondent has failed to refund to Elmendorp any portion of the advanced fees that he was paid.
17. On October 21, 2010, Elmendorp sent a letter to Respondent requesting copies of all documents filed with the court on the Elmendorp matter. Respondent received the letter.
18. In June 2011, attorney Michael Zitomer ("Zitomer") contacted Respondent on behalf of Elmendorp and requested the return of the client file. Respondent told Zitomer that he would forward Elmendorp's file to him forthwith.
19. At no time did Respondent release Elmendorp's file to him or to Zitomer.

#### CONCLUSIONS OF LAW:

20. By failing to perform any legal services in the Elmendorp matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
21. By knowingly or grossly negligently making false statements to Elmendorp orally and by email, and by creating the purported declaration, judgment and writ of execution, Respondent committed an act involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.
22. By failing to refund to Elmendorp any portion of the \$1,325 in advanced fees, which he has not earned, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).
23. By not releasing the client file to Elmendorp or Zitomer, 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 willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

Case No. 12-O-11564 (Complainant: Rodd Gerardi):

#### FACTS:

24. In April 2005, Rodd Gerardi ("Gerardi") employed Respondent to represent him in a civil matter against Synergy Financial Management Corporation dba DirectLender.com to recover unpaid commissions in the alleged amount of \$24,021.88 ("Gerardi matter").
25. On May 17, 2005, Gerardi paid Respondent \$1,000 in advanced fees to represent him the Gerardi matter.

26. At no time did Respondent provide any legal services in the Gerardi matter.
27. From 2005 through December 2011, Respondent misrepresented to Gerardi that Respondent had filed a lawsuit with the court pertaining to the Gerardi matter. At the time Respondent made this statement, the statement was false and Respondent knew or was grossly negligent in not knowing that his statement was false. Respondent made this statement to mislead Gerardi into believing that Respondent was working on the Gerardi matter. At no time did Respondent file a lawsuit with the court pertaining to the Gerardi matter.
28. In early 2007, Respondent told Gerardi that the Gerardi matter was proceeding to judicial arbitration in April 2007. At the time Respondent made this statement, the statement was false and Respondent knew or was grossly negligent in not knowing that his statement was false. Respondent made this statement to mislead Gerardi into believing that Respondent was working on the Gerardi matter. At no time was there an arbitration hearing scheduled in the Gerardi matter.
29. On April 20, 2007, Respondent prepared a purported arbitrator's award indicating that the arbitrator had awarded Gerardi \$24,021.88 in the Gerardi matter. Respondent simulated the purported arbitrator's signature on the arbitrator's award. Respondent prepared and provided this arbitrator's award to Gerardi to mislead him into believing that Respondent was working on the Gerardi matter. At the time Respondent prepared and provided this arbitrator's award to Gerardi, Respondent knew or was grossly negligent in not knowing that an arbitration hearing had never been held in the Gerardi matter.
30. From November 2007 through March 2011, Respondent sent Gerardi numerous emails indicating that due to the court's busy calendar, the Gerardi matter had not yet been set for trial. At the time Respondent made this statement, the statement was false and Respondent knew or was grossly negligent in not knowing that his statement was false. Respondent made this statement to mislead Gerardi into believing that Respondent was working on the Gerardi matter. At no time did Respondent file a lawsuit with the court pertaining to the Gerardi matter.
31. Respondent did not provide any legal services of value to Gerardi.
32. Respondent did not earn any portion of the fees paid by Gerardi.
33. To date, Respondent has failed to refund to Gerardi any portion of the advanced fees that he was paid.

#### CONCLUSIONS OF LAW:

34. By failing to perform any legal services in the Gerardi matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
35. By knowingly or grossly negligently making false statements to Gerardi, creating a false arbitrator's award, and simulating the purported arbitrator's signature, Respondent committed an act involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

36. By failing to refund to Gerardi any portion of the \$1,000 in advanced fees, which he has not earned, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

#### SUPPORTING AUTHORITY.

##### Standards:

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.”

Standard 2.3 provides that “[c]ulpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to the court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member’s acts within the practice of law.”

Standard 1.6(a) states that “[i]f two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.”

Standard 2.4(b) provides that “[c]ulpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.”

##### Case Law:

The Supreme Court has emphasized the importance of the standards and has held that great weight should be given to the application of the standards in determining the appropriate level of discipline. (In re Silverton (2005) 36 Cal. 4th 81.) The standards must be followed unless there is a compelling reason justifying a deviation from the standards. (In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404.) The Supreme Court has held that unless it has “grave doubts as to the propriety of the recommended discipline,” it will uphold the application of the standards. In re Silverton, supra, 36 Cal. 4th at p. 91-92.

The Supreme Court imposed a six-month actual suspension on an attorney who failed to perform legal services on behalf of a client and then misrepresented the status of a case to the client. In mitigation, the attorney had no record of prior discipline. (Hansen v. State Bar (1978) 23 Cal.3d 68.)

Respondent's misconduct is more serious than the misconduct in Hansen and warrants more discipline. In this case, Respondent made misrepresentations to two clients to conceal that he had failed to prosecute their respective cases. To compound his misrepresentations, Respondent also fabricated documents in both matters and even simulated an arbitrator's signature to further mislead the clients into believing that he had

been working on their cases. Respondent carried out these misrepresentations for twelve years with Elmendorp and six years with Gerardi.

Respondent is entitled to limited mitigation for having no record of prior discipline since being admitted in 1982. However, the misconduct is serious and protracted over a long period of time which warrants significant discipline. Discipline consisting of a two-year stayed suspension with one year of actual suspension and three years of probation is appropriate and sufficient to protect the public, the courts and the integrity of the legal profession.

**PENDING PROCEEDINGS:**

The disclosure date referred to on page 2, section A.(7), was on March 16, 2012.

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In the Matter of: SCOTT NELSON HARLOW	Case Number(s): 11-O-11247 & 12-O-11564
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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
Brahm Elmendorp	\$1,325	January 30, 2004
Rodd Gerardi	\$1,000	May 17, 2005

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 30 days from the effective date of the disciplinary order herein. With respect to Gerardi only, if Respondent can locate and provide to the Office of Probation satisfactory proof of any partial refund of unearned fees on a date prior to the date of this stipulation, Respondent shall be given credit according to proof.

#### 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 a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

- b. Respondent has kept and maintained the following:
    - i. A written ledger for each client on whose behalf funds are held that sets forth:
      - 1. the name of such client;
      - 2. the date, amount and source of all funds received on behalf of such client;
      - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
      - 4. the current balance for such client.
    - ii. a written journal for each client trust fund account that sets forth:
      - 1. the name of such account;
      - 2. the date, amount and client affected by each debit and credit; and,
      - 3. the current balance in such account.
    - iii. all bank statements and cancelled checks for each client trust account; and,
    - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
  - c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
    - i. each item of security and property held;
    - ii. the person on whose behalf the security or property is held;
    - iii. the date of receipt of the security or property;
    - iv. the date of distribution of the security or property; and,
    - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

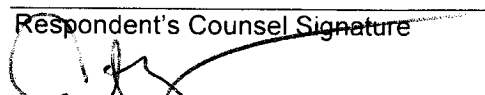
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In the Matter of: SCOTT NELSON HARLOW	Case number(s): 11-O-11247 & 12-O-11564
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**SIGNATURE OF THE PARTIES**

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

3-19-12            SCOTT NELSON HARLOW  
Date      Respondent's Signature      Print Name

March 19, 2012            AGUSTIN HERNANDEZ  
Date      Deputy Trial Counsel's Signature      Print Name

(Do not write above this line.)

In the Matter of: SCOTT NELSON HARLOW	Case Number(s): 11-O-11247 & 12-O-11564
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### ACTUAL SUSPENSION ORDER

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

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

Page 2, Para. B.(2): Dishonesty is deleted as a separate aggravating factor as it is already encompassed within the culpability finding regarding acts of moral turpitude. (See *In the Matter of Burckhardt* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343, 351; *In the Matter of Mapps* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1, 11.)

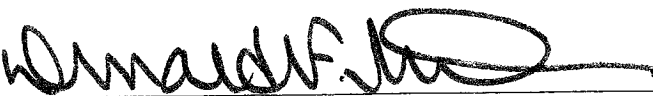
Page 2, Para. B.(4) [Harm]: The box for this aggravating factor is deemed checked.

Page 4 [Additional Mitigating Circumstances]: Respondent is entitled to significant mitigating credit for his years of discipline-free practice before the instant misconduct began. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49 [17 years of discipline-free practice is significant mitigating factor even though misconduct was serious].) In addition, Respondent is entitled to mitigation for admitting his misconduct and entering into an extensive stipulation of facts in this case. (Std. 1.2(e)(v); see also *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [where appropriate, more extensive weight in mitigation is accorded those who admit to culpability as well as facts].)

For authorities supporting the appropriate level of discipline under the above circumstances, see *In the Matter of Peterson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 73.

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.)**

3/27/12  
Date

  
DONALD F. MILES  
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 Los Angeles, on March 27, 2012, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING 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:

**SCOTT NELSON HARLOW  
225 S CIVIC DR STE 2-15  
PALM SPRINGS, CA 92262**

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

**AGUSTIN HERNANDEZ, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 27, 2012.

  
\_\_\_\_\_  
Tammy Cleaver  
Case Administrator  
State Bar Court