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State Bar Court of California Hearing Department San Francisco REPROVAL		
<p>Counsel For The State Bar</p> <p>Christine Souhrada Deputy Trial Counsel 180 Howard Street, 7th fl. San Francisco, CA 94105 (415) 538-2183</p> <p>Bar # 228256</p>	<p>Case Number(s): 11-O-17270</p>	<p>For Court use only</p> <p style="text-align: center;">NOT FOR PUBLICATION</p> <p style="text-align: center;">PUBLIC MATTER FILED</p> <p style="text-align: center;">JUN 12 2012</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Craig Lee Henderson 5134 Archcrest Way Sacramento, CA 95835</p> <p>Bar # 194953</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PRIVATE REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Craig Lee Henderson</p> <p>Bar # 194953</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 26, 1998.
- (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 9 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."



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- (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 (public reproof).
 - Case ineligible for costs (private reproof).
 - 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.
- (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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline

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- (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

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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:

Respondent has no prior record of discipline since he was admitted in 1998.

Further, although respondent initially failed to cooperate in the State Bar's investigation resulting in the 6068(i) violation described herein; after charges were filed against respondent, he began cooperating by collecting information and documents related to the matter being investigated by the State Bar from the New York courts, as well as others involved. Normally, this would not warrant mitigation, however, it should be noted that in this particular case, the matter being investigated was almost 20 years old and documents were difficult to obtain. Respondent, through multiple communications with the court clerk(s), was able to obtain additional documents which had not been obtained previously.

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 one 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.

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- (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 reprobation. 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 reprobation 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 reprobation.
- (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) 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 reprobation.

No MPRE recommended. Reason:

- (11) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Craig Lee Henderson

CASE NUMBER(S): 11-O-17270

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-17270 (State Bar Investigation)

FACTS:

1. On September 9, 2011, the State Bar opened an investigation into case no. 11-O-17270.
2. On December 8, 2011, a State Bar investigator mailed a letter to respondent regarding respondent's conduct in the matter being investigated as case no. 11-O-17270. This letter requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar.
3. Respondent received the letter but did not provide a written response or otherwise cooperate in the State Bar's investigation.

CONCLUSIONS OF LAW:

4. By failing to respond to the State Bar investigator's December 8, 2011 letter, Respondent failed to cooperate and participate in a disciplinary investigation against him in willful violation of Business and Professions Code, section 6068(i).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was May 30, 2012.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

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AUTHORITIES SUPPORTING DISCIPLINE.

A violation of Business and Professions Code, section 6068(i) is covered by standard 2.6, which reads:

2.6 OFFENSES INVOLVING OTHER SPECIFIED SECTIONS OF THE BUSINESS AND PROFESSIONS CODE

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;
- (b) Sections 6103 through 6105;
- (c) Section 6106.1;
- (d) Sections 6125 and 6126;
- (e) Sections 6128 through 6130; or
- (f) Sections 6151 through 6153

However, standard 1.6(b) states "The appropriate sanction shall be the sanction imposed unless: ... (ii) Mitigating circumstances are found to surround the particular act of misconduct found or acknowledged and the net effect of those mitigating circumstances, by themselves and in balance with any aggravating circumstances found, demonstrates that the purposes of imposing sanctions set forth in standard 1.3 will be properly fulfilled if a lesser degree of sanction is imposed. In that case, a lesser degree of sanction than the appropriate sanction shall be imposed or recommended."

In this case, respondent has practiced 16 years with no prior record of discipline and cooperated post-filing as described above.

Further, despite standard 2.6, case law does not support disbarment or suspension for a single aberrational violation of Business and Professions Code, section 6068(i) by an attorney with no prior record of discipline in 14 years of practice who subsequently cooperated. Although a case directly on point was not able to be found, two cases can be analogized:

In the Matter of Respondent Y (Rev. Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862 involved a different but analogous subsection of section 6068: subsection(o). Subsections (o) and (i) both involve an attorney's duty to communicate and cooperate with the State Bar before charges have been brought but at a time when the state bar is investigating or may choose to investigate a member's conduct. The review department found that the attorney violated not only 6068(o) [failure to report a sanction], but also 6103 [failure to pay the sanction]. Despite the additional 6103 charge the review department recommended only a private reproof citing to the attorney's lack of prior discipline and the "narrow" violations.

In the Matter of Respondent C (Rev. Dept. 1991) 1 Ca. State Bar Ct. Rptr. 439 involved another analogous subsection of 6068: subsection (m) (however, in this case, the court found a violation of the commonlaw duty to communicate/ 6068(a) violation as the misconduct occurred before 6068(m) was effective). The attorney, who had practiced for 30 years without prior discipline, committed only a single failure to communicate. The court recommended an admonition.

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DISMISSALS.

After the filing of the Notice of Disciplinary Charges in this matter, additional information and documents have been obtained by the State Bar. The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:



<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
11-O-17270	1	Business and Professions Code, section 6106

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In the Matter of: Craig Lee Henderson	Case number(s): 11-O-17270
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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.

<u>6/11/12</u> Date	<u></u> Respondent's Signature	<u>Craig Lee Henderson</u> Print Name
<u>6/11/12</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Christine Souhrada</u> Print Name

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In the Matter of:
Craig Lee Henderson

Case Number(s):
11-O-17270

REPROVAL 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 5.58(E) & (F), 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.

Date

June 12, 2012

Judge of the State Bar Court

Pat McElroy

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on June 12, 2012, 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 San Francisco, California, addressed as follows:

CRAIG L. HENDERSON
5134 ARCHCREST WAY
SACRAMENTO, CA 95835

COURTESY COPY TO:
CRAIG L. HENDERSON
1430 T STREET
SACRAMENTO, CA 95811

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

CHRISTINE A. SOUHRADA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 12, 2012.



Mazie Yip
Case Administrator
State Bar Court