



**ORIGINAL**

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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
Counsel For The State Bar  <b>Alex Hackert</b> Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1498  Bar # 267342	Case Number(s): 15-O-10504-YDR 15-O-10736	For Court use only  <div style="text-align: center;"> <b>FILED</b>                       MAR 29 2016 <i>AC</i>                       STATE BAR COURT                      CLERK'S OFFICE                      LOS ANGELES                 </div>
In Pro Per Respondent  <b>Joseph Dulles Allen</b> P.O. Box 91260 Santa Barbara, CA 93190 (805) 892-2480  Bar # 48922	<div style="font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	
In the Matter of: <b>JOSEPH DULLES ALLEN</b>  Bar # 48922  A Member of the State Bar of California (Respondent)	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

**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 **January 12, 1971**.
- (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 **17** 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".

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- (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: **Three billing cycles immediately following the effective date of the Supreme Court order in this matter.** (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
- (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)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5)  **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6)  **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7)  **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.

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- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See page 13.**
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10)  **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See page 13.
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. 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 likely to recur.
- (2)  **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 with a good faith belief that was honestly held and objectively reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

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- (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 extraordinarily 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:**

**No Prior Record of Discipline - see page 13.**

**Pretrial Stipulation - see page 13.**

**Good Character - see page 13.**

**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 fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) 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 **two 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 **sixty days**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), 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: **see page 15.**

**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 present learning and ability in the general law, pursuant to standard 1.2(c)(1), 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.

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(10)  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:**

- (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.**
- 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:**



8. On April 3, 2014, respondent replied to Mr. Cornwall, advising him of the results of the motion to stay and his preference to file suit in federal court in Los Angeles.

9. On September 16, 2014, respondent wrote to defense counsel in the Element litigation to inquire whether they would consent to a diversity complaint being filed in the United States District Court, Central District of California.

10. On October 4, 2014, Mr. Cornwall met with respondent to address Mr. Cornwall's complaints that respondent had done nothing to advance the case against Element hotel since March and that respondent had not secured a \$5,000 first party insurance medical payment settlement from the Element hotel that was pending when respondent was first employed. Respondent replied that he had been distracted by health issues but was now capable of moving the litigation forward. Respondent promised to file a complaint in federal court the following week. Respondent also promised that he would secure the \$5,000 first party insurance medical payment settlement from the Element hotel as soon as possible.

11. Respondent never thereafter filed a complaint in Nevada state court or any federal court, never associated with competent Nevada counsel to handle filing of a complaint in Nevada state or federal court and never obtained the \$5,000 medical payment settlement payment or any other settlement payment from the Element hotel on Mr. Cornwall's behalf.

12. On November 19, 2014, Mr. Cornwall sent respondent a letter regarding respondent's failure to take further action on the Element litigation and his failure to respond to Cornwall's earlier requests for status updates. Mr. Cornwall requested that the \$6,000 paid to respondent be refunded in full.

13. On November 24, 2014, Mr. Cornwall sent respondent another letter, again requesting that the \$6,000 paid to respondent be refunded in full.

14. On November 26, 2014, Respondent sent an email to Mr. Cornwall, wherein he refused to refund the \$6,000, stating that he needed instead to calculate a possible refund of unearned fees. Respondent also stated that he was withdrawing from his representation of Mr. Cornwall due to concerns over his health, and therefore Mr. Cornwall needed to make arrangements for further handling of the Element litigation.

15. On December 2, 2014, Mr. Cornwall sent an email to respondent requesting an accounting, as respondent still had not provided any accounting or itemized bill for the Element litigation.

16. Respondent never provided Mr. Cornwall with an accounting or itemized bill for the Element litigation, nor has respondent ever refunded any fees or costs to Mr. Cornwall.

#### CONCLUSIONS OF LAW:

17. By failing to file a civil action on behalf of Mr. Cornwall after March 24, 2014, but prior to the August 12, 2014 expiration of the applicable statute of limitations, failing to file an opposition to the motion to stay or dismiss for inconvenient forum, failing to appear or send appearance counsel at the March 24, 2014 hearing on said motion, and failing to file a first party insurance medical payment prior to the expiration of the statute of limitations, respondent repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).



18. By failing to render an appropriate accounting of the \$5,000 in legal fees and \$1,000 in advanced costs paid to respondent, pursuant to Mr. Cornwall's request for an accounting, respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

Case No. 15-O-10736 (Complainant: Ira M. Friedman)

FACTS:

19. On January 13, 2005, Katherine Hopkins filed a petition for dissolution in Los Angeles Superior Court, in a matter entitled *In re the Marriage of: Katherine Hopkins and Thomas Hopkins*, case no. BD419266 ("Hopkins Dissolution Matter".) Thomas Hopkins was represented by respondent and Mrs. Hopkins was represented by attorney Ira M. Friedman.

20. On August 16, 2011, a judgment of dissolution was entered in the Hopkins Dissolution Matter.

21. On July 11, 2012, attorney David Pasternak was appointed as Receiver in the Hopkins Dissolution Matter.

22. On August 29, 2014, respondent filed a complaint in the United States District Court, Central District of California, in a matter entitled *Robert Holbrook v. David Pasternak, et al.*, case no. CV14-06795 ("Federal Litigation") seeking monetary damages and injunctive relief to reverse the receivership order and other orders issued by the court in the Hopkins Dissolution Matter. In the complaint, respondent named as defendants Mrs. Hopkins, Mr. Friedman and his firm, Mr. Pasternak as an individual and in his capacity as the court appointed receiver in the Hopkins Dissolution Matter, Mr. Pasternak's firm, another attorney and the judge assigned to the Hopkins Dissolution Matter. Respondent filed the Federal Litigation on behalf of Robert Holbrook, the brother-in-law of Thomas Hopkins, in Mr. Holbrook's capacity as the trustee of the trust that owns all the stock in the business entity under which Mr. Hopkins practiced medicine.

23. Defendant David Pasternak filed a motion to dismiss in the Federal Litigation. Respondent did not file an opposition to the motion or a notice of non-opposition. On October 8, 2014, the court in the Federal Litigation granted the motion to dismiss. The court also granted Mr. Pasternak's unopposed request for sanctions against respondent, and ordered respondent to meet and confer with opposing counsel regarding the amount of sanctions.

24. Respondent was timely served with, and received, the court's October 8, 2014 order.

25. On October 21, 2014, respondent filed the first amended complaint in the Federal Litigation.

26. Respondent failed to meet and confer with opposing counsel regarding the sanctions for Mr. Pasternak's motion to dismiss.

27. On November 3, 2014, the court in the Federal Litigation issued an order requiring respondent to pay \$13,578.25 in monetary sanctions to Mr. Pasternak in regards to the motion to dismiss and request for sanctions. The court also ordered respondent to pay \$500 in monetary sanctions to the Clerk of the Court for violating the Local Rules for the Central District of California in connection with the motion. Respondent was ordered to pay both sanctions by November 17, 2014. These sanctions were not imposed for discovery violations.

28. Respondent was timely served with, and received, the court's November 3, 2014 order.

29. Respondent never paid the \$13,578.25 in monetary sanctions to Mr. Pasternak.

30. Respondent never paid the \$500 in monetary sanctions to the Clerk of the Court.

31. Respondent never reported to the State Bar the \$13,578.25 sanction that had been imposed against him in the Federal Litigation.

32. Mr. Friedman filed a motion to dismiss as to the first amended complaint in the Federal Litigation. On November 17, 2014, the court granted Mr. Friedman's motion to dismiss and the accompanying request for sanctions. Again, respondent failed to file an opposition to the motion to dismiss or a notice of non-opposition.

33. On December 3, 2014, the court in the Federal Litigation issued an order requiring respondent to pay \$10,746.36 in monetary sanctions to Mr. Friedman regarding the motion to dismiss and \$500 in monetary sanctions to the Clerk of the Court for respondent's repeated violations of the Local Rules for the Central District of California, both due by December 29, 2014. These sanctions were not imposed for discovery violations.

34. Respondent was timely served with, and received, the court's December 3, 2014 order.

35. Respondent never paid the \$10,746.36 in monetary sanctions to Mr. Friedman.

36. Respondent never paid the \$500 in monetary sanctions to the Clerk of the Court.

37. Respondent never reported to the State Bar the \$10,746.36 sanction that had been imposed against him against him in the Federal Litigation.

38. Mr. Pasternak filed a motion to dismiss in the Federal Litigation as to the first amended complaint. On December 10, 2014, the court granted Mr. Pasternak's motion to dismiss and the accompanying request for sanctions. The court ordered the parties to meet and confer in person concerning the amount of the sanctions, and set a further hearing on the issue for January 5, 2015.

39. Respondent was timely served with, and received, the court's December 10, 2014 order.

40. Gary S. Starre, Esq., counsel for Mrs. Hopkins, filed a motion to dismiss in the Federal Litigation as to the first amended complaint. On December 16, 2014, the court granted Mr. Starre's motion to dismiss and the accompanying request for sanctions. The court ordered the parties to meet and confer in person concerning the amount of the sanctions, and set a further hearing on the issue for January 5, 2015.

41. Respondent was timely served with, and received, the court's December 16, 2014 order.

42. Respondent did not meet and confer with the opposing parties as ordered by the court on December 10 and 16, 2014, nor did he appear at the January 5, 2015 hearing regarding the requests for sanctions of Mr. Pasternak and Mr. Starre.

43. On January 6, 2015, the court in the Federal Litigation issued an order for sanctions against respondent, ordering him to pay \$10,647 to Mr. Pasternak and \$7,720 to Mr. Starre regarding their respective motions to dismiss and requests for sanctions. These sanctions were not imposed for

discovery violations. The order did not specify a deadline by which the sanctions were due. The court also issued an Order Show to Cause requiring respondent's written explanation as to respondent's failure to meet and confer with opposing counsel on the amount of sanctions and respondent's failure to appear at the January 5, 2015 hearing. The response to the Order Show to Cause was by January 13, 2015.

44. Respondent was timely served with, and received, the court's January 6, 2015 order.

45. Respondent never paid the \$10,647 in monetary sanctions to Mr. Pasternak.

46. Respondent never paid the \$7,720 in monetary sanctions to Mr. Starre.

47. Respondent never reported to the State Bar the \$10,647 sanction that had been imposed against him in the Federal Litigation.

48. Respondent never reported to the State Bar the \$7,720 sanction that had been imposed against him in the Federal Litigation.

49. Respondent did not respond to the Order to Show Cause by the January 13, 2015 deadline.

50. On February 2, 2015, the court in the Federal Litigation issued an order requiring respondent to pay \$1,000 in sanctions to the Clerk of the Court for failing to respond to the January 6, 2015 Order to Show Cause. Payment of these sanctions was due by February 16, 2015. These sanctions were not imposed for discovery violations.

51. Respondent was timely served with, and received, the court's February 2, 2015 order.

52. Respondent never paid the \$1,000 in monetary sanctions to the Clerk of the Court.

53. Respondent never reported to the State Bar the \$1,000 sanction that had been imposed against him in the Federal Litigation.

54. On December 10, 2014, the court in the Hopkins Dissolution Matter granted Mr. Friedman's motion to quash eight deposition subpoenas issued by respondent and granted Mr. Friedman's request for sanctions against respondent.

55. On January 8, 2015, the court in the Hopkins Dissolution Matter issued an order regarding the motion to quash, requiring respondent to pay \$4,140 in monetary sanctions to Mr. Friedman within thirty days of the order.

56. Respondent was timely served with, and received, the court's January 8, 2015 order.

57. Respondent never paid the \$4,140 in monetary sanctions to Mr. Friedman.

#### CONCLUSIONS OF LAW:

58. By failing to pay \$13,578.25 in monetary sanctions to Mr. Pasternak in the Federal Litigation by November 17, 2014, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in wilful violation of Business and Professions Code, section 6103.

59. By failing to report to the State Bar within thirty days of the time respondent had knowledge of the imposition of judicial sanctions against him in the Federal Litigation on November 3, 2014 in the amount of \$13,578.25, respondent willfully violated Business and Professions Code section, 6068(o)(3).

60. By failing to pay \$10,746.36 in monetary sanctions to Mr. Friedman in the Federal Litigation by December 29, 2014, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in wilful violation of Business and Professions Code, section 6103.

61. By failing to report to the State Bar within thirty days of the time respondent had knowledge of the imposition of judicial sanctions against him in the Federal Litigation on December 3, 2014 in the amount of \$10,746.36, respondent willfully violated Business and Professions Code section, 6068(o)(3).

62. By failing to pay \$10,647 in monetary sanctions to Mr. Pasternak in the Federal Litigation within a reasonable time of the order, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in wilful violation of Business and Professions Code, section 6103.

63. By failing to report to the State Bar within thirty days of the time respondent had knowledge of the imposition of judicial sanctions against him in the Federal Litigation on January 6, 2015 in the amount of \$10,647, respondent willfully violated Business and Professions Code section, 6068(o)(3).

64. By failing to pay \$7,720 in monetary sanctions to Mr. Starre in the Federal Litigation within a reasonable time of the order, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in wilful violation of Business and Professions Code, section 6103.

65. By failing to report to the State Bar within thirty days of the time respondent had knowledge of the imposition of judicial sanctions against him in the Federal Litigation on January 6, 2015 in the amount of \$7,720, respondent willfully violated Business and Professions Code section, 6068(o)(3).

66. By failing to pay \$4,140 in monetary sanctions to Mr. Friedman in the Hopkins Dissolution Matter by February 7, 2015, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in wilful violation of Business and Professions Code, section 6103.

67. By failing to pay \$1,000 in monetary sanctions to the Clerk of the Court in the Federal Litigation by February 16, 2015, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in wilful violation of Business and Professions Code, section 6103.

68. By failing to report to the State Bar within thirty days of the time respondent had knowledge of the imposition of judicial sanctions against him in the Federal Litigation on February 2, 2015 in the amount of \$1,000, respondent willfully violated Business and Professions Code section, 6068(o)(3).

69. By failing to pay \$500 in monetary sanctions to the Clerk of the Court in the Federal Litigation by November 17, 2014, respondent disobeyed or violated an order of the court requiring

respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in wilful violation of Business and Professions Code, section 6103.

70. By failing to pay \$500 in monetary sanctions to the Clerk of the Court in the Federal Litigation by December 29, 2014, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in wilful violation of Business and Professions Code, section 6103.

#### **AGGRAVATING CIRCUMSTANCES.**

**Harm (Std. 1.5(f)):** Respondent's misconduct caused significant harm to his clients and the administration of justice. In the first case, respondent's failure to prosecute Mr. Cornwall's personal injury claim has caused the statute of limitations to expire. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646 [loss of case constitutes significant harm, even if the amount of damages would have been relatively modest].)

In the second matter, respondent's failure to pay or report any of the sanctions harmed the administration of justice in that they created the need for several additional hearings and caused the parties to file additional pleadings which was an avoidable waste of court resources. (See *In the Matter of Scott* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446, 454 [continuing on a course of action rejected by the court through denial orders harms the public, the administration of justice, and even the clients]; *In the Matter of Dixon* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 23, 45 [abuse of court process found to cause harm to the administration of justice, the public, and the profession].)

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent's misconduct herein involves sixteen counts of misconduct across two matters including failures to perform legal services with competence, a failure to account, eight failures to obey court orders and five failures to report sanctions to the State Bar within thirty days of respondent's knowledge of the sanction orders. (*In the Matter of Elkins* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 160, 168 [multiple acts of misconduct are an aggravating factor].)

#### **MITIGATING CIRCUMSTANCES.**

**No Prior Record of Discipline:** Respondent had been in practice nearly 44 years without a prior record of discipline when the misconduct in this matter occurred. The Review Department has found an attorney with 24 years of practice without discipline to be entitled to "significant" mitigation. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 167.)

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into this stipulation prior to trial, thereby preserving State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

**Good Character:** Respondent provides pro bono legal services for homeless people, including homeless veterans, through a local homeless shelter, in addition to volunteering at a local shelter for women with children in crisis. Civic service can be considered in mitigation as evidence of good character. (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359.)

## AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Here, respondent has committed fifteen counts of misconduct across two matters. In the first matter, respondent has failed to perform legal services with competence resulting in his client’s loss of ability to bring any claims for damages due to the expiration of the statute of limitations as well as a failure to account. In the second matter, respondent failed to obey eight sanctions orders (totalling \$48,831.61) and failed to report five of the eight sanction orders to the State Bar.

Standard 1.7(a) requires that where a respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.” In this matter, the most severe sanction applicable to respondent’s misconduct is found in Standard 2.12(a) relating to the violations of court orders. Standard 2.12(a) provides that, “Disbarment or actual suspension is the presumed sanction for disobedience or violation of a court order related to the member’s practice of law, the attorney’s oath, or the duties required of an attorney under Business and Professions Code section 6068(a)(b)(d)(e)(f) or (h).”

However, the totality of respondent’s misconduct is related to his multiple failures to perform with competence, especially in the Element litigation. Respondent’s inaction and indifference to Mr. Cornwall’s personal injury claim ultimately cost his client the right to pursue damages against the hotel defendant. Also, based on the statements of the judge in the Federal Litigation, both from the bench and in court orders, the multiple sanction orders against respondent spring from the deficient complaint, respondent’s failures to appear and of course, his failures to comply with court orders. Therefore, the similarity that underlies respondent’s misconduct in both cases herein is his failure to perform. Standard 2.7(c) calls for suspension or reproof where the failure to perform is limited in scope or time,

depending on the extent of misconduct and the degree of the harm. Standard 2.7(c) should therefore also be considered with Standard 2.12(a).

Actual suspension is warranted when considering the extent of respondent's misconduct under Standard 2.7(c) and 2.12(a), in light of the aggravating factors of the multiple acts of misconduct, and the harm caused to Mr. Cornwall and the harm to the administration of justice in the Federal Litigation. On the other hand, respondent's misconduct, spanning February 2014 through February 2015, seems aberrant in an otherwise discipline-free and very lengthy history of law practice. Based on these considerations, the recommended level of discipline is a two year stayed suspension, two years' probation on standard terms and conditions, including a sixty-day actual suspension. The period of actual suspension shall last until respondent pays the sanctions ordered against him in the Hopkins Dissolution Matter and in the Federal Litigation. (See *In the Matter of Respondent Y* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, 869 [appropriate to require payment of an underlying sanction order as a condition of discipline].)

A sixty-day actual suspension in this matter is also supported by case law. In *Harris v. State Bar* (1990) 51 Cal.3d 1082, the Supreme Court imposed a ninety-day actual suspension on an attorney who "did virtually nothing for over four years to perform the duties for which she had been retained." (*Id.* at 1088.) *Harris* neglected the personal injury matter for over four years, doing virtually nothing on the case beyond filing it and serving the defendant shortly before the running of the statute of limitations. (*Id.* at 1086-1087.) There was significant harm to the client, who died during the pendency of the case, and considerable financial loss to the estate when the matter was finally settled by new counsel. (*Id.*) Although the attorney practiced law for ten years without misconduct and contracted typhoid six months after being retained, this did not outweigh the fact that she caused substantial prejudice to the client and showed no remorse or even an understanding that her neglect was improper. (*Id.* at 1088.) The attorney was found to be culpable of Business and Professions Code section 6103, the predecessor to rule 3-700 and the predecessor to rule 3-110(A). (*Id.*)

Here, respondent's misconduct is similar to that found in *Harris*. Like *Harris*, respondent's misconduct included long periods of inaction, causing serious harm to his client. Respondent's multiple acts of misconduct also suggests an unwillingness or inability to conform his conduct to ethical norms of the legal profession. However, respondent is entitled to more mitigation than in *Harris*, due to his 44 years in years in practice without a prior record of discipline, entering into a pretrial stipulation and his community service, which makes a minimum term of actual suspension for sixty days appropriate.

#### **ACTUAL SUSPENSION, CONTINUED FROM SECTION D(3), ABOVE.**

Respondent must be actually suspended from the practice of law in the State of California for a period of sixty days, and until respondent does the following: pays in full the sanctions ordered against him in *In re the Marriage of: Katherine Hopkins and Thomas Hopkins*, Los Angeles Superior Court case no. BD419266 in the amount of \$4,140, pays in full the sanctions ordered against him in *Robert Holbrock v. David Pasternak, et al.*, United States District Court, Central District of California case no. CV14-06795 in the total amount of \$48,831.61, and provides satisfactory proof of his compliance to the Office of Probation.

#### **DISMISSALS.**

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>
15-O-10736	Twelve	Business and Professions Code, section 6068(o)(3) [Failure to Report Judicial Sanctions]

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of February 23, 2016, the prosecution costs in this matter are \$4,044. 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.

**EXCLUSION FROM MCLE CREDIT.**

Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

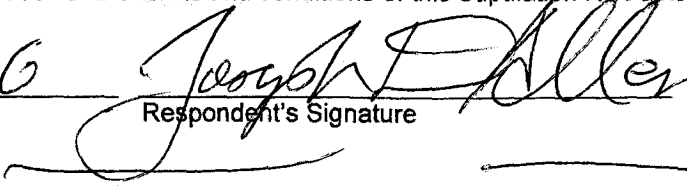
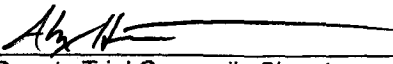


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In the Matter of: <b>JOSEPH ALLEN DULLES</b>	Case number(s): <b>15-O-10504-YDR and 15-O-10736</b>
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**SIGNATURE OF THE PARTIES**

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>3/4/16</u>		Joseph Allen Dulles
Date	Respondent's Signature	Print Name
_____	_____	_____
Date	Respondent's Counsel Signature	Print Name
<u>3/8/2016</u>		Alex Hackert
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: JOSEPH DULLES ALLEN	Case Number(s): 15-O-10504; 15-O-10736
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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.

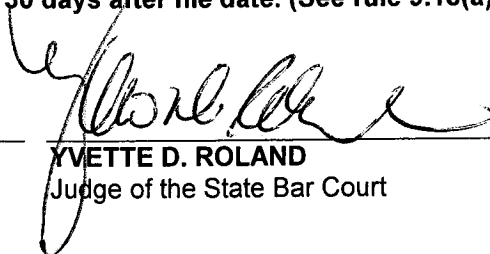
Page 14, paragraph 4, the first sentence should read:

Here, respondent has committed sixteen counts of misconduct across two matters.

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.)**

*March 29, 2016*

Date



YVETTE D. ROLAND  
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 29, 2016, 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:

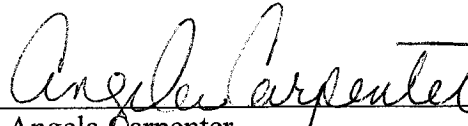
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOSEPH DULLES ALLEN  
JOSEPH D. ALLEN, ATTORNEY AT LAW  
PO BOX 91260  
SANTA BARBARA, CA 93190

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

Alex J. Hackert, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 29, 2016.



Angela Carpenter  
Case Administrator  
State Bar Court