#### State Bar Court of California **Hearing Department** Los Angeles **ACTUAL SUSPENSION** Counsel For The State Bar Case Number(s): For Court use only 16-O-10803 Murray B. Greenberg 16-O-15854 **Senior Trial Counsel PUBLIC MATTER** 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1258 FILED Bar # 142678 JAN -3 2017 In Pro Per Respondent STATE BAR COURT **CLERK'S OFFICE** David Alan Hancock LOS ANGELES 417-B W. Foothill #258 Glendora, CA 91741 (626) 862-6121 Submitted to: Settlement Judge Bar # 288134 STIPULATION RE FACTS, CONCLUSIONS OF LAW AND **DISPOSITION AND ORDER APPROVING** In the Matter of: DAVID ALAN HANCOCK **ACTUAL SUSPENSION** Bar # 288134 ☐ PREVIOUS STIPULATION REJECTED A Member of the State Bar of California (Respondent)

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, 2012**.
- (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 11 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".

kwiktag \* 211 097 127

ot write	above this line.)			
The	parties must include supporting authority for the recommended level of discipline under the heading porting Authority."			
No r	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.			
Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):				
	relief is obtained per rule 5.130, Rules of Procedure.			
/lisc	evating Circumstances [Standards for Attorney Sanctions for Professional binduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are red.			
□ (a)	Prior record of discipline  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.			
	Intentional/Bad Faith/Dishonesty: Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.			
	Misrepresentation: Respondent's misconduct was surrounded by, or followed by, misrepresentation.			
	Concealment: Respondent's misconduct was surrounded by, or followed by, concealment.			
	Overreaching: Respondent's misconduct was surrounded by, or followed by, overreaching.			
	<b>Uncharged Violations:</b> Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.			
	<b>Trust Violation:</b> 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.			
	The "Sup No m pend			

(Do no	t write	above this line.)				
(8)		Harm: Respondent's misconduct harmed significantly a client, the public, or the administration of justice. See attachment p. 9				
(9)		Indifference: Respondent demonstrated indifference toward rectification of or atonement for the				
(10)		consequences of his or her misconduct.  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)	$\boxtimes$	<b>Multiple Acts:</b> Respondent's current misconduct evidences multiple acts of wrongdoing. See attachment p. 9				
(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.				
Addi	tiona	al aggravating circumstances:				
	_	ating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating mstances are required.				
(1)		<b>No Prior Discipline:</b> 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 recognitio of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduc				
(5)		<b>Restitution:</b> Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.				
(6)		<b>Delay:</b> 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)		<b>Emotional/Physical Difficulties:</b> 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.				

(Do n	ot writ	e abov	e this line.)				
(9)		whic	ere Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress in resulted from circumstances not reasonably foreseeable or which were beyond his/her control and the 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)		<b>Rehabilitation:</b> Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.					
(13)		No	mitigating circumstances are involved.				
Addi	tion	al mit	igating circumstances:				
			nition of Wrongdoing (See attachment, page 9) ng Stipulation (See attachment, page 9)				
D. D	isci	iplin	9:				
(1)	$\boxtimes$	Stay	red Suspension:				
	(a)	$\boxtimes$	Respondent must be suspended from the practice of law for a period of <b>one year</b> .				
		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)	$\boxtimes$	The above-referenced suspension is stayed.				
(2) 🗵 Probation:		pation:					
			ent must be placed on probation for a period of <b>one year</b> , which will commence upon the effective date preme Court order in this matter. (See rule 9.18, California Rules of Court)				
(3)	$\boxtimes$	Actu	al Suspension:				
	(a)		Respondent must be actually suspended from the practice of law in the State of California for a period of <b>30 days</b> .				
		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.				

(Do 1	not writ	te above this line.)
		iii.  and until Respondent does the following: .
E. /	Addi	tional Conditions of Probation:
(1)	$\boxtimes$	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)	$\boxtimes$	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)	$\boxtimes$	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)	$\boxtimes$	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.

(Do n	ot write	above	this line.)		
(10)		The following conditions are attached hereto and incorporated:			
			Substance Abuse Conditions		Law Office Management Conditions
			Medical Conditions		Financial Conditions
F. C	ther	Con	ditions Negotiated by the Parties	s:	
(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)		Cali	fornia Rules of Court, and perform the act	s speci	must comply with the requirements of rule <b>9.20</b> , fied in subdivisions (a) and (c) of that rule within 30 e 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)		peri			I cases only]: Respondent will be credited for the lated period of actual suspension. Date of
(5)		Oth	er Conditions:		

## **ATTACHMENT TO**

# STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

DAVID ALAN HANCOCK

**CASE NUMBERS:** 

16-O-10803 and 16-O-15854

#### 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. 16-O-10803 (Complainant: Saeid Jamalifar)

#### **FACTS:**

- 1. On October 28, 2015, Saeid Jamalifar employed Respondent to perform legal services, namely, to represent him in his dissolution of marriage case.
- 2. Mr. Jamalifar paid Respondent \$2,000 in advanced legal fees on that date. Respondent failed to substitute into Mr. Jamalifar's case or perform any other legal work on his behalf.
- 3. On January 15, 2016, after termination of respondent's employment, respondent failed to release promptly to Mr. Jamalifar, all of the client's files and documents following Mr. Jamilifar's request for the client's file.
- 4. Despite receiving \$2,000 in advanced fees to perform work on Mr. Jamilifar's dissolution of marriage case and having failed to substitute into Mr. Jamalifar's case or provide any legal services for the client, respondent did not promptly refund any part of the \$2,000 to Mr. Jamilifar after termination of his employment.
- 5. Respondent failed to respond promptly to reasonable status inquiries made by his client, Saeid Jamalifar, including five emails from his client on December 9, 2015, December 19, 2015, December 28, 2015, January 3, 2016 and January 17, 2016, as well as a letter dated January 15, 2016, that respondent received, regarding the status of Mr. Jamalifar's marital dissolution matter in which Respondent had agreed to provide legal services.
- 6. On October 20, 2016, Respondent refunded \$2,000 to Mr. Jamilifar as well as his client file and documents.

#### **CONCLUSIONS OF LAW:**

7. By failing to substitute into Mr. Jamalifar's case or doing any legal work on his behalf, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

- 8. By failing to promptly release Mr. Jamilifar's client file and documents after Mr. Jamilifar's request, respondent failed to promptly release the client's file upon termination of employment in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).
- 9. By failing to return any of the \$2,000 paid as advanced legal fees from Mr. Jamilifar, despite having performed no legal services, respondent failed to promptly refund unearned fees upon termination of employment, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).
- 10. By failing to respond to any of Mr. Jamilifar's e-mails or his January 15, 2016 letter, respondent failed to respond to reasonable status inquiries of his client, in willful violation of Business and Professions Code, section 6068(m).

## Case No. 16-O-15854 (Complainant: Lorain Yocky)

#### **FACTS:**

- 11. In June 2014, Loraine Yocky employed respondent to assist her in a civil matter involving her property and allegations that there were squatters living on the premises.
- 12. Ms. Yocky paid respondent \$3,600 and on July 14, 2014 respondent filed a lawsuit on her behalf in San Bernardino Superior Court, Case Number CIVDS 141048 (Yocky v. Nancy).
- 13. On February 25, 2016, respondent failed to appear in court on Ms. Yocky's case for a trial readiness conference. On March 25, 2016, respondent failed to appear in court on Ms. Yocky's behalf for a hearing on sanctions and dismissal of her case for failing to appear at the February 25, 2016 conference. As a result, the court dismissed Ms. Yocky's case, however, no sanctions were issued.
- 14. Although Respondent initially communicated with Ms. Yocky when he was employed by her, he stopped communicating after August 2015 and did not inform her that her case was dismissed.
- 15. Ms. Yocky requested her client file from respondent on several occasions, however, respondent did not respond to those requests until after Ms. Yocky filed a complaint with the State Bar.
- 16. On November 2, 2016, Respondent refunded \$3,600 to Ms. Yocky and on November 10, 2016, he returned her client file and documents to her.

#### CONCLUSIONS OF LAW:

- 17. By failing to appear on Ms. Yocky's behalf on two occasions resulting in the dismissal of her case, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).
- 18. By failing to communicate with Ms. Yocky to inform her that her case was dismissed, respondent failed to communicate a significant development to his client, in willful violation of Business and Professions Code, section 6068(m).
- 19. By failing to promptly release Ms. Yocky's client file and documents after Ms. Yocky's requests, respondent failed to promptly release the client's file upon termination of employment in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

#### ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Significant Harm – [1.5(j)] – Respondent's actions caused his client Mr. Saeid to hire new counsel and he received no benefit for the money paid to respondent. His failure to appear in Ms. Yocky's case resulted in the dismissal of her cause of action.

Multiple Acts of Wrongdoing – [1.5(b)] – Respondent's actions of failing to competently perform, return client files and failing to communicate in both the Saeid and Yocky matters displayed multiple acts of wrongdoing.

#### ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

**Prefiling Stipulation** - By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*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]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

**Recognition of Wrongdoing** – Respondent expressed remorse for the harm caused by his actions and has refunded all of the fees paid to him by his clients and has also returned their files, however, this was done after the complaints were made to the State Bar.

## **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).)

In this matter, respondent admits to committing seven acts of professional misconduct. 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." The most severe sanction applicable to respondent's misconduct is found in standard 2.7(b), which provides that actual suspension is the presumed sanction for performance, communication, or withdrawal violations in multiple client matters, not demonstrating habitual disregard of client interests. Here, respondent caused significant harm by performing no work in one client's case and failing to appear in his other client's matter resulting in the dismissal of her cause of action. His failure to return client files and funds in a timely manner also caused additional hardship to both clients. Since he has repaid the clients and returned their files, and has recognized his wrongdoing by expressing remorse for his actions, a one year period of stayed suspension, one year of probation with thirty days of actual suspension, standard conditions of probation, including Multistate Professional Responsibility Examination and Ethics School is adequate to protect the public and the profession, as well as follow the guidelines found in the standards.

#### COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of November 28, 2016, the discipline costs in this matter are \$4,140. 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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT**

Respondent may <u>not</u> receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

In the Matter of:

David Alan Hancock

Case number(s):

16-O-10803

16-O-15854

### 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.

David Alan Hancock
Print Name

Date Respondent's Counsel Signature Print Name

Murray B. Greenberg

**Print Name** 

Deputy Trial Counsel's Signature

In the Ma	iter of:	Case Number(s):
David A	an Hancock	16-O-10803
		16-O-15854
	ACTUAL	. SUSPENSION ORDER
Finding the requested o	stipulation to be fair to the parties and lismissal of counts/charges, if any, is G	that it adequately protects the public, IT IS ORDERED that the GRANTED without prejudice, and:
	The stipulated facts and disposition Supreme Court.	are APPROVED and the DISCIPLINE RECOMMENDED to the
×	The stipulated facts and disposition DISCIPLINE IS RECOMMENDED to	are APPROVED AS MODIFIED as set forth below, and the othe Supreme Court.
	All Hearing dates are vacated.	
• On • On	page 5 of the Stipulation, the "X" page 5 of the Stipulation, the "X"	" in the box at paragraph E.(1) is deleted. " in the box at paragraph E.(9) is deleted.
/ithin 15 da; tipulation. (i	/s after service of this order, is granted See rule 5.58(E) & (F), Rules of Proce	ed unless: 1) a motion to withdraw or modify the stipulation, filed it; or 2) this court modifies or further modifies the approved dure.) The effective date of this disposition is the effective date days after file date. (See rule 9.18(a), California Rules of
1/3	17	Wnaldsha
ate		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 January 3, 2017, 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:

DAVID A. HANCOCK 417-B W FOOTHILL BLVD # 258 GLENDORA, CA 91741

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

MURRAY B. GREENBERG, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 3, 2017.

Mazie Yip

Case Administrator State Bar Court