

<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  Mia R. Ellis Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015  Bar # 228235	<b>Case Number(s):</b> 10-O-08958, 11-O-15158 (investigation), 11-O-16248 (investigation)	<b>For Court use only</b>  <b>FILED</b>  NOV 03 2011 <i>AC</i>  STATE BAR COURT CLERK'S OFFICE LOS ANGELES
<b>In Pro Per Respondent</b>  Curtis G. Muck 27520 Hawthorne Blvd. Suite 185 Rolling Hills Estates, CA 90274  Bar # 190328	<b>PUBLIC MATTER</b>	
<b>In the Matter of:</b> Curtis G. Muck  Bar # 190328  A Member of the State Bar of California (Respondent)	<b>Submitted to: Settlement 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 December 1, 1997.
- (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 14 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".
- (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: 2013, 2014, 2015. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are entirely waived.

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1), ☐ **Prior record of discipline** [see standard 1.2(f)]
- (a) ☐ State Bar Court case # of prior case
  - (b) ☐ Date prior discipline effective
  - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
  - (d) ☐ Degree of prior discipline
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☒ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**D. Discipline:**

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of one year.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (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 (60) days.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

**E. Additional Conditions of Probation:**

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

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

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

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:

- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input checked="" 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:**

In the Matter of: Curtis G. Muck	Case Number(s): 10-O-08958, 11-O-15158, 11-O-16248
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## Financial Conditions

### a. Restitution

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

Payee	Principal Amount	Interest Accrues From

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

### b. Installment Restitution Payments

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

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

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

### c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
  1. the name of such client;
  2. the date, amount and source of all funds received on behalf of such client;
  3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
  4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
  1. the name of such account;
  2. the date, amount and client affected by each debit and credit; and,
  3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

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

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      Curtis Muck

CASE NUMBER(S):                      10-O-08958, 11-O-15158, 11-O-16248

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 10-O-08958 (Complainant: Ruth Wilke)

**FACTS:**

1. On December 3, 2009, Ruth Wilke ("Wilke") met with David Tabibi ("Tabibi"). Wilke was seeking legal advice and representation concerning her claim to real property owned by her husband prior to his death. During the meeting, Tabibi discussed Wilke's legal matter with her and advised her she would be able to obtain rights to the property.
2. Tabibi also quoted Wilke a fee of \$5,000 to handle her matter and provided Wilke with a fee agreement to employ Respondent's law office. Wilke assumed that Tabibi was an associate lawyer in Respondent's law firm. Wilke and Respondent never executed the fee agreement.
3. On December 14, 2009, Wilke paid the \$5,000 advanced fees by check. The check was made payable to Advanced Paralegal Services. Tabibi is affiliated with Advanced Paralegal Services. The check was cashed.
4. On December 28, 2009, Respondent filed a substitution of attorney with the Riverside County Superior Court in the case entitled Estate of Ernest Gognavec, case no. RIP093710 ("Gognavec Estate").
5. Respondent and Tabibi shared the \$5,000 in fees received from Wilke.
6. In June 2010, Respondent sent Wilke a letter acknowledging receipt of the \$5000 and informed Wilke that he could no longer represent her in the case. On October 15, 2010, Respondent filed a substitution of attorney signed by Wilke to place her in pro per.
7. On October 20, 2010 and November 3, 2011, an investigator for the State Bar mailed letters to Respondent at his membership records address requesting that he provide a written response to the allegations raised by Wilke's complaint. Respondent received the investigator's letters. Respondent did not respond to the letters or otherwise cooperate in the investigation of Wilke's complaint.

**CONCLUSIONS OF LAW:**

By allowing Tabibi to hold himself out as an attorney to Wilke by giving her legal advice, Respondent willfully violated Rules of Professional Conduct, rule 1-300(A).

By sharing with Tabibi the \$5,000 received from Wilke as advanced fees for legal services, Respondent willfully violated Rules of Professional Conduct, Rule 1-320(A).

By not providing a written response to the allegations raised by Wilke's complaint as requested by the State Bar investigator, Respondent willfully violated Business and Professions Code, section 6068(i)

Case No. 11-O-15158 (Complainant: Adam Sacks) (investigation)

FACTS:

1. On March 1, 2011, David Tabibi ("Tabibi") sent a letter to attorney Adam Sacks regarding Respondent's client Amy Fithian ("Fithian"). The letter was written on Respondent's letterhead and signed by David Tabibi "c/o Curtis Muck."
2. The letter urged Sacks to dismiss his complaint in Bankruptcy Court against Respondent's client Amy Fithian. The letter further stated that if Sacks did not comply, they will litigate the case and ask for attorney's fees. Tabibi also stated that client Fithian is about to file a complaint against Sacks with the State Bar.

CONCLUSIONS OF LAW:

By allowing Tabibi to hold himself out as an attorney by sending a letter on Respondent's letterhead which communicated the legal theory and direction of the case, and advised that Fithian would file a State Bar complaint, Respondent willfully violated Rules of Professional Conduct, rule 1-300(A).

Case No. 11-O-16248 (Complainant: Sara Leon-Perez) (investigation)

FACTS:

1. On March 5, 2010, Sara Leon-Perez ("Leon-Perez") retained Respondent for a fee of \$4500 to handle dissolution of marriage.
2. On March 5, 2010, Leon-Perez initially met with David Tabibi ("Tabibi") and signed a "purchase order" with Advanced Paralegal Services to complete a "response and attorney representation "Curtis Muck.""
3. Since Ms. Leon-Perez was referred to Tabibi, Leon-Perez primarily dealt with Tabibi. Although Tabibi never said he was an attorney, Leon-Perez believed he was an attorney and Tabibi gave her legal advice.
4. From March 5, 2010 through March 26, 2010, Leon-Perez met with Tabibi about her case.
5. In May 2010, Leon-Perez learned that Tabibi was not an attorney.
6. In June 2010, Leon-Perez decided to retain a new attorney, John Sibbison ("Sibbison").
7. In June 2010, Sibbison requested an itemized accounting.
8. On July 27, 2010, Respondent sent Leon-Perez an accounting of services and a refund check of \$308.70.
9. On August 16, 2010, Sibbison returned the check as he questioned the accounting. Sibbison suggested the appropriate refund of \$3500 for the work performed.

CONCLUSIONS OF LAW:

By allowing Tabibi to hold himself out as an attorney to Leon-Perez by giving her legal advice regarding her case, Respondent willfully violated Rules of Professional Conduct, rule 1-300(A).

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>
10-O-08958	3	4-100(B)(4)

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## PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was September 28, 2011

## AUTHORITIES SUPPORTING DISCIPLINE.

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

Standard 2.6 provides that culpability of a member of a violation of any of the provisions of Business and Professions Code 6068, including 6068(i), shall result in disbarment or suspension depending on the gravity of the offense or harm.

Standard 2.10 – culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or of a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension according to 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.

While the standards are entitled to great weight, “the recommended discipline must rest upon a balanced consideration of relevant factors.” *In the Matter of Sampson*, 3 Cal. State Bar Ct. Rptr. 119 (1994). The Standards need not be applied in a talismanic fashion and may be tempered with consideration peculiar to the offense and the offender. *See In re Van Sickle*, 4 Cal. State Bar Ct. Rptr. 980 (2006).

*In the Matter of Nelson*, (Review Dept. 1993) 1 Cal. State Bar Ct. Rptr. 178 – the Court found that the lawyer entered into an agreement with a non-lawyer to administer a new legal practice using the attorney’s name with legal fees to be divided between the attorney and the non-lawyer, that moral turpitude surrounded his conduct, he withdrew from employment without avoiding foreseeable prejudice to client, failed to notify clients of receipt of trust funds, and failed to convey a settlement offer. Based on the extensive mitigation in that case, the court recommended and the Supreme Court imposed a two years suspension, stayed, two years probation, and six months actual.

Unlike the respondent in *Nelson*, Respondent’s conduct, although serious, is not as egregious. Respondent’s case does not involve moral turpitude, improperly withdrawing from employment, or violating trust account rules. Moreover, in this case, based upon the mitigating factors, the parties submit that a sixty days actual suspension, one year stayed and two years probation with conditions is an appropriate disposition in this matter and will fulfill the purposes of the Standards.

## MITIGATING FACTORS

Though the misconduct is serious, Respondent has no prior record of discipline in the fourteen years he has practiced law.

Respondent has been cooperative to the extent that he has stipulated to facts, conclusions of law and discipline.

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Respondent contends that he did not know Tabibi was holding himself out giving legal advice. Although Tabibi did not specifically tell Wilke and Leon-Perez that he was an attorney, the clients had the impression that he was an attorney because he was giving them legal advice. Respondent acknowledges that this is improper.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 28, 2011, the prosecution costs in this matter are \$4581.00. Respondent further acknowledges that this is an estimate and 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.

## **FEE ARBITRATION - Case Number 11-O-16248**

### **A. Duty to Notify Individuals of Right to Mandatory Fee Arbitration**

No later than thirty (30) days after the effective date of discipline, respondent agrees to send a letter by certified mail, return receipt requested, to the individuals set forth below and agrees to therein offer to initiate, pay any costs and fees associated with the fee arbitration, and participate in binding fee arbitration with said individuals, upon the request of any such individuals, regarding fees respondent received for representation of the former clients set forth below. The letter shall include the address and phone number of the Office of Probation along with a statement that the Office of Probation will be monitoring his fee arbitration conditions and may be contacted by the individual.

Respondent must offer Sara Leon-Perez the option of participating in binding fee arbitration for the attorney's fees.

### **B. Upon Individual's Consent to Mandatory Fee Arbitration, Duty to Initiate Fee Arbitration**

Within forty (40) days after the effective date of discipline, respondent agrees to provide the Office of Probation with a copy of the letters offering to initiate and participate in fee arbitration with the individuals set forth above, along with a copy of the return receipt from the U.S. Postal Service, or other proof of mailing.

Within sixty (60) days after the effective date of discipline, respondent agrees to provide the Office of Probation a declaration from each of the individuals setting forth that a letter had been received from Respondent offering to initiate, pay any costs and fees associated with the fee arbitration, and participate in fee arbitration.

Respondent agrees to advise the Office of Probation, in writing, of any request to participate in fee arbitration made by any individual set forth above within fifteen (15) days after any such request. Respondent agrees to provide the Office of Probation with any information requested to verify Respondent's compliance, including submission of any written request for fee arbitration or the submission of a declaration from any individual setting forth the date arbitration was requested.

Respondent agrees to initiate fee arbitration within fourteen (14) days of any request, including making any payment required by the organization conducting the fee arbitration. Respondent agrees to fully and promptly participate in the fee arbitration as directed by the organization conducting the fee arbitration. Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration with respect to any of the above individuals.

Respondent further agrees to accept binding arbitration on the arbitration request form.

**C. Duty to Comply with the Arbitration Award**

Within thirty (30) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter, or within thirty (30) days after Respondent's effective date of discipline, whichever is later, Respondent agrees to provide a copy of said award, judgment or stipulated award to the Office of Probation.

Respondent agrees to abide by any award, judgment or stipulated award of any such fee arbitrator and agrees to provide proof thereof to the Office of Probation within thirty (30) days after compliance with any such award, judgment or stipulated award. If the award, judgment or stipulated award does not set forth a deadline for any payment, Respondent is to make full payment within thirty (30) days of the issuance of any such award, judgment or stipulated award.

To the extent that respondent has paid any fee arbitration award, judgment or stipulated award prior to prior to the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent will be given credit for such payment(s) provided satisfactory proof of such payment(s) is or has been shown to the Office of Probation.

**D. Obligation to Pay Restitution to the Client Security Fund.**

If the State Bar Client Security Fund has reimbursed any of the above individuals for all or any portion of any award, judgment or stipulated award pursuant to fee arbitration, respondent agrees to pay restitution to the Client Security Fund of the amount paid, plus applicable interest and costs, in accordance with Business and Professions Code section 6140.5. To the extent the Client Security Fund has paid only principal amounts, respondent will still be liable for interest payments to such individuals. Any restitution to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d).

**E. Waiver of Objections**

If the fee arbitration proceeding results in an award to any of the above individuals, Respondent waives any objections related to the Office of the Chief Trial Counsel, Client Security Fund or State Bar Court notification to any such individual regarding assistance in obtaining restitution or payment from the Client Security Fund or from Respondent. Respondent expressly waives confidentiality for purposes of effectuating this section, has reviewed rule 806 of the Rules of Procedure, and has had an opportunity to consult with counsel prior to this waiver.

**F. Effect of Failure to Comply with Fee Arbitration Conditions**

Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in this Court ordering Respondent to pay back the full amount of attorneys' fees paid to Respondent by each of the individuals listed plus 10% interest from the date Respondent received the fees.

(Do not write above this line.)

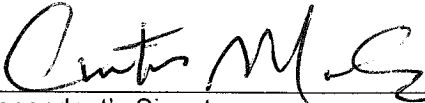
In the Matter of:  
Curtis G. Muck

Case number(s):  
10-O-08958, 11-O-15158 (investigation), 11-O-16248  
(investigation)

### SIGNATURE OF THE PARTIES

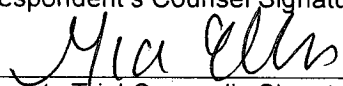
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

10/18/2011  
Date

  
Respondent's Signature

Curtis G. Muck  
Print Name

10/18/11  
Date

  
Respondent's Counsel Signature  
Deputy Trial Counsel's Signature

Print Name  
Mia R. Ellis  
Print Name

In the Matter of: Curtis G. Muck	Case Number(s): 10-O-08958, 11-O-15158 (investigation), 11-O-16248 (investigation)
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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.

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

Date

10/28/11

Judge of the State Bar Court

RICHARD A. HONN

## 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 November 3, 2011, 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:

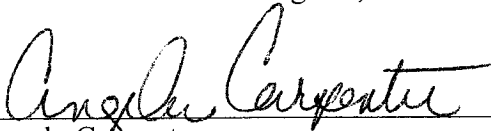
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

CURTIS G MUCK  
27520 HAWTHORNE BLVD STE 185  
ROLLING HILLS ESTATES, CA 90274

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

MIA ELLIS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 3, 2011.

  
\_\_\_\_\_  
Angela Carpenter  
Case Administrator  
State Bar Court