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State Bar Court of California
Hearing Department
Los Angeles

PUBLIC MATTER

Counsel For The State Bar Eli D. Morgenstern Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2299 Bar # 190560	Case Number (s) 02-O-15670 RAP	(for Court's use) <div align="center"> FILED OCT 02 2007 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Daniel Stephen March 17291 Irvine Blvd., Suite 101 Tustin, CA 92780 (714) 665-4223 Bar # 106854	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: Daniel Stephen March Bar # 106854 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 29, 1982**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **12** 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 284, Rules of Procedure.
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: **Please see page 13 for further explanation of payment of disciplinary costs.**
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - ☐ costs 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

Respondent has been a Member of the Bar since December 29, 1982 and has no prior record of discipline. But, the current misconduct is deemed serious because it involves funds held in trust.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **one (1) 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 **one (1) year**, 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 **90 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 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 321(a)(1) & (c), 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
Daniel Stephen March

Case number(s):
02-O-15670-RAP

A Member of the State Bar

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 reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

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

c. Client Funds Certificate

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

b. Respondent has kept and maintained the following:

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

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

- i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

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

Attachment language begins here (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: DANIEL STEPHEN MARCH

CASE NUMBER(S): 02-O-15670-RAP

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes.

Facts

1. On or about April 2, 2001, Luis Aguirre ("Aguirre") employed Respondent to represent him in a claim for personal injuries that he sustained in an automobile accident that occurred on March 28, 2001. Respondent agreed to represent Aguirre on a contingency fee basis.
2. Respondent also agreed to negotiate and pay all of Aguirre's medical bills on his behalf upon settlement.
3. Following his accident, Aguirre was hospitalized at St. Francis Medical Center. His medical bill was \$8,620.25. On January 22, 2002, Los Angeles County Emergency Medical Services paid \$1,960 to St. Francis on behalf of Aguirre. In or about April 2002, St. Francis received the check from the County and wrote off the balance of the debt as charity. However, St. Francis did not notify Aguirre or Respondent that the debt was satisfied.
4. On March 28, 2002, Respondent filed a complaint in Los Angeles County Superior Court entitled *Luis Aguirre v. Oscar Munoz*, case no. 02C00177 ("Aguirre action").
5. In or about February 2003, Respondent settled the Aguirre action with the insurance company for the defendant, Infinity Insurance Company ("Infinity"), for the policy limits of \$15,000.
6. At the time of settlement, Aguirre had incurred the following medical bills pertaining to the Aguirre action:

<u>Medical Provider</u>	<u>Bill Amount</u>
Firestone Chiropractic	\$ 8,775.00
St. Francis Medical Center	\$ 8,620.25
Reda Gamal, M.D. ("Dr. Gamal")	\$ 5,590.00
Khalid Ahmed, M.D. ("Dr. Ahmed")	\$ 1,365.00
MRI Network	\$ 3,800.00
Dedicated Medical Imaging Center ("DMIC")	\$ 1,240.00
<u>American Medical Response</u>	<u>\$ 513.75</u>
Total medical bills:	\$29,904.00

7. Firestone Chiropractic ("Firestone"), Dr. Gamal, Dr. Ahmed, and DMIC possessed liens on Aguirre's settlement. A lien for MRI Network purportedly bearing Respondent's signature is contained in Respondent's court file for the Aguirre action. But, Respondent alleges that the MRI lien does not bear his genuine signature. Nevertheless, Respondent agreed to pay the MRI bill for Aguirre out of the settlement fund.

8. St. Francis Medical Center did not possess a lien. Nor did American Medical Response.

9. On March 26, 2003, Infinity issued a settlement check in the amount of \$15,000 and properly mailed it to Respondent. Respondent received the settlement check.

10. On or about April 4, 2003, Respondent mailed a letter to all the medical providers listed in paragraph 5 informing them of the \$15,000 settlement and asking them to reduce their bills to specified amounts. Respondent also stated that he would reduce his attorney fees and costs from \$6,900 to \$4,000.

11. In or about 2003, Firestone and DMIC communicated to Respondent that they would accept \$3,080.70 and \$434.70, respectively, in full satisfaction of their liens.

12. On or about April 11, 2003, Respondent deposited Aguirre's settlement check into his client trust account No. 657-007688 at Bank of the West ("CTA").

13. In or about April 2003, Respondent issued a check drawn from his CTA to himself in the sum of \$4,000.

14. In or about July 2004, Respondent telephoned St. Francis Medical Center ("St. Francis"). During the telephone conversation, St. Francis agreed to accept \$2,200 in full satisfaction of their bill. At no time was the agreement reduced to a writing. As stated in paragraph 3, before Respondent contacted St. Francis, St. Francis was prepared to cancel the debt owed by Aguirre. At no time did St. Francis advise Respondent or Aguirre that the County had paid \$1,960 to St. Francis, and that in or about April 2002, St. Francis had decided to cancel the balance of the debt owed by Aguirre.

15. On or about June 24, 2004, Respondent issued and disbursed check #5013 from his CTA to Firestone in the amount of \$3,080.70.

16. On July 14, 2004, Respondent issued and disbursed check No. 4923 from his CTA to Aguirre in the amount of \$2,727.85 as his share of the settlement proceeds.

17. On July 14, 2004, Respondent also provided a disbursement sheet to Aguirre indicating that Respondent had reached agreements with Firestone Chiropractic, Dr. Gamal, Dr. Ahmed, and DMIC to reduce their liens. The disbursement sheet also indicated that St. Francis had agreed to reduce its bill to \$2,200. MRI Network's bill was not included in the disbursement sheet. The disbursement sheet further indicated that Respondent was reducing his fees from \$6,000 to \$4,000 and waiving his costs; and that Aguirre would be responsible for American Medical Response's bill of \$513.75.

18. On July 14, 2004, Aguirre also requested that Respondent hold in his trust account the funds reasonably necessary to cover St. Francis' bill, until such time as St. Francis contacted Respondent or Aguirre. Respondent agreed to comply with the request. At this time, neither Respondent nor Aguirre knew that St. Francis' s bill was satisfied.

19. Without an agreement in writing, Respondent was concerned that he could not be assured that Aguirre was fully protected from being sued by St. Francis for the entire debt, which was \$8,620. Consequently, Respondent never disbursed any funds to St. Francis. Respondent was also reluctant to disburse any of the negotiated lien amounts to Dr. Gramal, Dr. Ahmed, DMIC, or pay MRI Network's bill until he was certain that St. Francis had agreed to accept the sum of \$2,200. In other words, until Respondent was certain that St. Francis had agreed to accept \$2,200 in full satisfaction of their bill, Respondent did not know if there was enough settlement funds to pay the negotiated liens held by Dr. Gamal, Dr. Ahmed, and DMIC. The problem was compounded by MRI Network's bill of \$3,800.

20. Nevertheless, Respondent did not take any appropriate steps to resolve the dispute. For instance, he never sent St. Francis a document which could have been signed by the hospital and returned to Respondent memorializing the agreement to accept \$2,200 in full satisfaction of the debt. At no time did Respondent commence a civil action in interpleader, which would have left the resolution of the payment of the lienholders to the court.

21. On June 10, 2005, International Recovery Systems, Inc. ("International"), a collection agency, mailed a letter to Aguirre demanding payment of \$4,050 on behalf of MRI Network.

22. Immediately after receiving International's letter, Aguirre contacted Respondent's office, informed him of the letter, and inquired about the status of his medical bills.

23. On June 28, 2005, Respondent sent Aguirre a letter stating that he would be willing to negotiate MRI Network's bill "as a courtesy" to Aguirre and upon the condition that Aguirre did not contact the State Bar.

24. On December 3, 2005, Respondent issued check No. 4927 from his CTA to DMIC in the amount of \$432.70.

25. On July 6, 2006, Respondent issued check Nos. 6228 and 6229 to Dr. Ahmed from his general account No. 657-004511 at Bank of the West in the amounts of \$975 and \$250, respectively, for a total of \$1,225 in full satisfaction of the \$1,365 lien.

26. On April 18, 2007, Respondent issued check No. 4954 from his CTA to Dr. Gamal in the sum of \$1,862.45 as full satisfaction of the \$5,590 lien.

27. On August 17, 2007, MRI Network agreed to accept \$1,700 in full satisfaction of their bill. On August 29, 2007, Respondent issued check No. 5187 from his CTA to MRI Network in the sum of \$1,700 as full satisfaction of the MRI Network bill.

28. On September 3, 2007, Respondent issued check No. 5264 in the sum of \$219.93 from his CTA to Aguirre.

Legal Conclusions

By not paying Aguirre's medical liens to Firestone and DMIC until June 24, 2004, and December 5, 2005, respectively, when they had agreed to a reduction in their liens in or about 2003, and by not paying Aguirre's medical liens to Dr. Ahmed and Dr. Gamal until July 6, 2006 and April 18, 2007, when they had agreed to a reduction in their liens by no later than July 14, 2004, Respondent failed to promptly pay client funds to lienholders in wilful violation of Rule 4-100(B)(4) of the Rules of Professional Conduct.

By telling Aguirre that he would attempt to negotiate the MRI Network bill on his behalf upon the condition that he did not contact the State Bar, Respondent sought an agreement that a plaintiff would withdraw a disciplinary complaint or would not cooperate with the investigation or prosecution conducted by the disciplinary agency, in wilful violation of Business and Professions Code section 6090.5(a)(2).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was September 6, 2007.

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>
02-O-15670	ONE	Business and Professions Code § 6106
02-O-15670	TWO	Business and Professions Code § 6106

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 6, 2007, the estimated prosecution costs in this matter are \$2,366. The costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order.

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.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to Section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code Section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, Rule 286.)

MITIGATION CIRCUMSTANCES

Respondent displayed good faith. (Std. 1.2(e)(ii).

Aguirre asked that St. Francis' bills be paid before any of the other medical bills were paid. In good faith to Aguirre, Respondent abided by his client's instructions. However, as set forth below, Respondent also owed the lienholders a fiduciary duty. In abiding by Aguirre's instructions, Respondent did not maintain the fiduciary duty that he owed to the lienholders.

Respondent displayed spontaneous candor and cooperation to the State Bar during the disciplinary proceedings. (Std. 1.2(e)(v).).

Respondent responded promptly to all State Bar inquiries and willingly provided any and all documentation requested.

OTHER FACTORS IN CONSIDERATION.

There is no evidence that Respondent failed to maintain Aguirre's funds in his client trust account.

International Recovery System, Inc. never reported Aguirre to any credit reporting agency. At no time did Firestone, DMIC, Dr. Ahmed, or Dr. Gamal contact Respondent or Aguirre about their outstanding lien.

The delay in paying the medical lienholders was partly attributable to the client's request that the settlement funds not be disbursed to the lienholders until St. Francis' bill was satisfied. The delay was also attributable to the fact that the liens were greater than the settlement.

Nevertheless, Respondent acknowledges that he had a fiduciary duty to the lienholders. (*See, In the Matter of Riley* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91, 114.) Respondent acknowledges that he

had a duty to either pay the lienholders in full, or take appropriate steps to resolve the dispute promptly. (*Id.*)

Respondent further acknowledges that when the client either requests the attorney to distribute trust funds to the client or maintain funds in trust, and where another person to whom the attorney owes a fiduciary duty claims a lien on those same funds, the attorney violates Rule 4-100(B)(4) if the attorney does not take appropriate steps to resolve the dispute in order to disburse the funds. (*In the Matter of Kaplan* (Review Dept. 1996) 3 Cal. State Bar. Ct. Rptr. 547, 560.)

An example of an appropriate, substantive step would have been to commence an action in interpleader, which would have divested Respondent of the responsibility for the payment of the funds to the competing lienholders and left resolution of the dispute to the court. (State Bar Formal Opn. No. 1988-101.)

AUTHORITIES SUPPORTING DISCIPLINE.

Standards

The determination of discipline begins "by looking to the purpose of sanctions for attorney misconduct." (*In re Morse* (1995) 11 Cal.4th 184, 205.) "The primary purposes of disciplinary proceedings . . . are the protection of the public, the courts[,] and the legal profession; the maintenance of high professional standards by attorneys[;] and the preservation of public confidence in the legal profession." (Std. 1.3.)

The standards provide guidance and deserve "great weight." (*In re Silvertown* (2005) 36 Cal. 4th 81, 92; *In re Morse, supra*, 11 Cal.4th at p. 205; *In re Naney* (1990) 51 Cal.3d 186, 190; *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, 933, fn. 5.) "[A]dherence 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 misconduct." (*In re Naney, supra*, 51 Cal.3d at p. 190; see also *In re Brown* (1995) 12 Cal.4th 205, 220.) The California Supreme Court accepts a disciplinary recommendation resulting from application of the standards unless it has "grave doubts" about the recommendation's propriety. (*In re Morse, supra*, 11 Cal.4th at p. 206; *In re Lamb* (1989) 49 Cal.3d 239, 245.)

In this case, Standard 2.2(b) of the Standards for Attorney Sanctions for Professional Misconduct ("Standard(s)") applies. Standard 2.2(b) provides that:

"Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances."

Business and Professions Code Section 6090.5(a)(2) provides that:

“(a) It is cause for suspension, disbarment, or other discipline for any member, whether as a party or as an attorney for a party, to agree or seek agreement, that:

(2) The plaintiff shall withdraw a disciplinary complaint or shall not cooperate with the investigation or prosecution conducted by the disciplinary agency.”

Case Law

In *In the Matter of Riley, supra*, 3 Cal. State Bar Ct. Rptr. 91, 114, the attorney failed to promptly pay lienholders, among other acts of misconduct. The Review Department recommended that the attorney be actually suspended for 90 days as a condition of a three-year probation, with a one-year stayed suspension.

STATE BAR ETHICS AND TRUST ACCOUNT SCHOOLS.

Because Respondent has agreed to attend State Bar Ethics and Trust Account Schools as part of this stipulation, Respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of the State Bar Ethics and Trust Account Schools.

(Do not write above this line.)

In the Matter of
Daniel Stephen March

Case number(s):
02-O-15670-RAP

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 Fact, Conclusions of Law and Disposition.

9-26-07
Date


Respondent's Signature


Daniel S. March
Print Name

9/26/07
Date


Respondent's Counsel Signature

GEORGE R. BEAS
Print Name

9/28/07
Date


Deputy Trial Counsel's Signature

Eli D. Morgenstern
Print Name

(Do not write above this line.)

In the Matter Of
Daniel Stephen March

Case Number(s):
02-O-15670-RAP

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 1 - PARAGRAPH A.(3) 16 PAGES (DELETE 12 PAGES).

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 135(b), 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.)**

10/02/07
Date


Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; 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 October 2, 2007, 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:

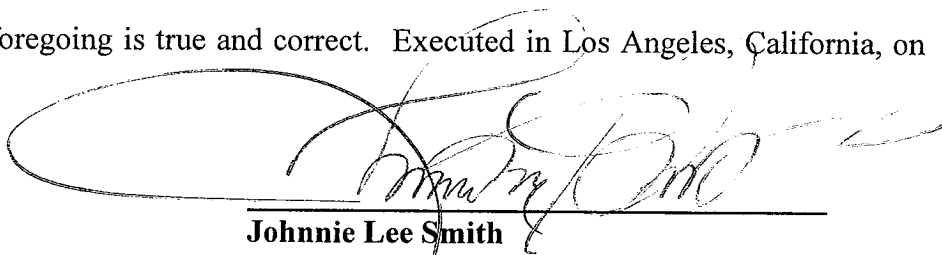
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**GEORGE ROSWELL BEAN
16036 BRANLE CT
CHINO HILLS, CA 91709**

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

ELI MORGENSTERN , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **October 2, 2007.**

A large, stylized handwritten signature in black ink, appearing to read 'Johnnie Lee Smith', is written over a horizontal line.

Johnnie Lee Smith
Case Administrator
State Bar Court