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State Bar Court of California		
Hearing Department <input type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar SHARI SVENINGSON OFFICE OF THE CHIEF TRIAL COUNSEL 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1000 Bar #195298	Case number(s) 02-O-16067	(for Court's use) <b>PUBLIC MATTER</b>  <b>FILED</b> MAY 10 2005 STATE BAR COURT CLERKS OFFICE LOS ANGELES
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent SUSAN MARGOLIS Margolis & Margolis 2000 Riverside Drive Los Angeles, CA 90039 (323) 953-8996 Bar # 104629	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge	
In the Matter of SIDNEY FRANKLIN, JR.  Bar # 37135 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  STAYED SUSPENSION; NO ACTUAL SUSPENSION  <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 June 14, 1965  
(date)
- (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 and order consist of 10 pages.
- (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.

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(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a)  costs added to membership fee for calendar year following effective date of discipline  
(b)  costs to be paid in equal amounts prior to February 1 for the following membership years:  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)  
(c)  costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"  
(d)  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 00-0-11566  
(b)  Date prior discipline effective September 12, 2002  
(c)  Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct, Rule 4-100 (A)

(d)  Degree of prior discipline Six months suspension, stayed, one year probation.

(e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline".  
State Bar Case No. 89-0-12756; Date effective: May 15, 1994  
Violations: Former Rules of Prof. Conduct, Rules 6-101(A) & 6-101(A) (2) [Both Rules now governed by Rule 3-110(A)]  
Degree of Discipline: Public Reproval

- (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.

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- (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)  **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.

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- (10)  **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.
- (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:**

The misconduct in this matter occurred during the same time period as the misconduct in Case No. 00-0-11566, in which Respondent received six months stayed suspension. See, In the Matter of Mapps, on page 8.

**D. Discipline**

1.  Stayed Suspension.

- (a)  Respondent must be suspended from the practice of law for a period of eight (8) months
- 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 is placed on probation for a period of one (1) year, which will commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

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**E. Additional Conditions of Probation:**

- (1)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  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.
- (3)  Within 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.
- (4)  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 in each report whether there are any proceedings pending against him or her in the State Bar Court and, if so, the case number and current status of that proceeding. If the first report would cover less than 30 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.*

- (5)  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.
- (6)  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.
- (7)  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: \_\_\_\_\_
- (8)  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.
- (9)  The following conditions are attached hereto and incorporated:
  - Substance Abuse Conditions       Law Office Management Conditions
  - Medical Conditions                       Financial Conditions

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**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 within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.

No MPRE recommended. Reason: \_\_\_\_\_

(2)  Other Conditions:

**ATTACHMENT TO**

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

IN THE MATTER OF:       SIDNEY FRANKLIN, JR.

CASE NUMBER(S):        02-O-16067

**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:

1.     Between in or about July 1999 and in or about June 2000, Gihan Wasef, Blanca Preciado and Kerri Doman (hereinafter referred to as "the clients") each employed Respondent to handle their respective personal injury matters.
2.     Prior to employing Respondent, each of these clients had sought the assistance of Robert Solo ("Solo"), a non-attorney. After agreeing to represent the clients, Respondent allowed Solo to continue to assist in processing the cases.
3.     Between in or about July 1999 and in or about June 2000, Solo told each of the defendant insurance companies that he was an attorney. As a result, the defendant insurance companies sent correspondence to Solo, addressing him as an attorney in Respondent's law office.
4.     On or about July 20, 2000, a Request for Dismissal ("Dismissal") in one of the personal injury matters, Wasef v. Yatouze, case no. 99K24624 was filed in the Los Angeles Superior Court. The Dismissal was signed by Solo as the attorney for Wasef.
5.     Respondent failed to properly supervise Solo.

## **LEGAL CONCLUSION**

By allowing Solo to represent himself as an attorney to the defendant insurance companies and by allowing Solo to file the Dismissal, Respondent failed to properly supervise Solo and therefore failed to perform legal services competently.

## **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was by letter dated April 13, 2005.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of **April 13, 2005**, the estimated prosecution costs in this matter are approximately **\$1,983**. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

## **AUTHORITIES SUPPORTING DISCIPLINE.**

In the Matter of Raymond E. Mapps (1990) 1 Cal. State Bar Ct. Rptr 1:

The respondent's multiple instances of misconduct occurred during the same period of time and the respondent attributed them to the same circumstances he was in at that time. The court found this to be properly considered in mitigation.

Waysman v. State Bar (1986) 41 Cal. 3d 452:

The respondent was found culpable failing to supervise an employee resulting in commingling and misappropriating \$24,000 in client funds. The court found 6 months stayed suspension, 1 year probation was appropriate in light of the facts that strongly suggested respondent was simply negligent and had no specific intent to defraud his clients.

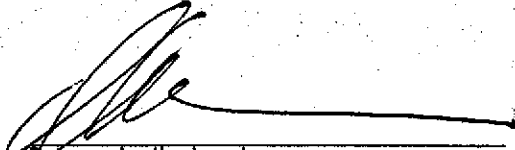

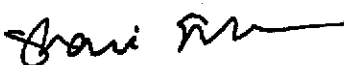


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In the Matter of SIDNEY FRANKLIN, JR.	Case number(s): 02-0-16067
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### SIGNATURE OF THE PARTIES

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

<u>4-19-05</u> Date	 Respondent's signature	<u>Sidney Franklin, Jr.</u> Print name
<u>4-21-05</u> Date	 Respondent's Counsel's signature	<u>Susan Margolis</u> Print name
<u>4/26/05</u> Date	 Deputy Trial Counsel's signature	<u>Shari Sveningson</u> Print name

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In the Matter of SIDNEY FRANKLIN, JR.	Case number(s): 02-O-16067
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### 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 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 953(a), California Rules of Court.)

5-5-05

Date

  
Judge of the State Bar Court  
**ROBERT M. TALCOTT**

**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 May 10, 2005, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING, filed May 10, 2005**

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:

**SUSAN MARGOLIS, A/L  
MARGOLIS & MARGOLIS  
2000 RIVERSIDE DR  
LOS ANGELES CA 90039-3758**

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

**SHARI SVENINGSON, A/L, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 10, 2005.



\_\_\_\_\_  
**Rose M. Luthi**  
Case Administrator  
State Bar Court