


<p>Counsel for the State Bar</p> <p>THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL JOY CHANTARASOMPOTH NO. 222009 1149 SOUTH HILL STREET LOS ANGELES, CALIFORNIA 90015 TELEPHONE: 213.765.1718</p>	<p>Case number(s)</p> <p>03-O-04419 and 04-O-14313</p> <p>kwiktag® 022 605 147</p> 	<p>(for Court's use)</p> <p>FILED <i>ADS</i></p> <p>FEB 01 2005</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p> <p>PUBLIC MATTER</p>
<p>Counsel for Respondent</p> <p>CHRISTOPHER J. O'KEEFE, NO. 165197 4810 SUSSEX DRIVE SAN DIEGO, CALIFORNIA 92116 TELEPHONE: 619.283.6510</p> <p>IN PROPRIA PERSONA</p>	<p>Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of CHRISTOPHER J. O'KEEFE</p> <p>Bar # 165197</p> <p>A Member of the State Bar of California (Respondent)</p>		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 18, 1993 (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 11 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) 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.
- (7) 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:

(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth under "Partial Waiver of Costs"
 - costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

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 or under "Prior Discipline".
- (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 to 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 shall 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 to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- iii. and until Respondent does the following: _____

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of one (1) year which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

A. Respondent shall 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 to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- 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 shall 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 shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, 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) Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall 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. If the first report would cover less than 30 days, that report shall 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 shall be assigned a probation monitor. Respondent shall 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 shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (6) Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel 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 shall provide to the Probation Unit 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.
- (8) Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|-----------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |
- (10) Other conditions negotiated by the parties: See page 9, attachment page 4.
- Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel 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 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended.
- Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: CHRISTOPHER J. O'KEEFE

CASE NUMBERS: 03-O-04419 and 04-O-14313

PENDING PROCEDURES

The disclosure date referred to, on page one, paragraph A (6) was January 3, 2005.

STIPULATION AS TO FACTS AND CONCLUSIONS OF LAW

Respondent and the State Bar hereby waive any variance in the facts and conclusions of law as set forth in the Notice of Disciplinary Charges in Case Nos. 03-O-04419 and 04-O-14313.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and Rules of Professional Conduct, or has otherwise committed acts of misconduct warranting discipline.

FACTS AND CONCLUSIONS OF LAW.

Case No. 03-O-04419

Between in or about February 2003 and March 2003, Respondent repeatedly issued checks drawn upon Respondent's client trust account number 065-0088404 at Wells Fargo Bank ("Respondent's CTA") against insufficient funds, including:

<u>CHECK NUMBER</u>	<u>CHECK AMOUNT</u>	<u>DATE PRESENTED</u>	<u>ACCOUNT BALANCE WHEN CHECK PRESENTED</u>	<u>BANK ACTION</u>
874	\$2490.00	3/6/03	\$2215.62	Paid NSF
872	\$80.00	3/10/03	-292.38	Paid NSF
873	\$200.00	3/10/03	-292.38	Paid NSF

Respondent issued the checks set forth above when he knew or should have known there were insufficient funds in Respondent's CTA to pay them. Respondent also failed to maintain records of Respondent's CTA. More specifically, Respondent failed to maintain a

client trust account ledger, a trust account journal and a monthly reconciliation of Respondent's CTA.

On October 28, 2003, the State Bar opened an investigation, case number 03-O-04419, pursuant to notification received from Wells Fargo Bank of NSF checks presented upon Respondent's CTA ("the SBI matter").

On December 4, 2003, State Bar investigator Barbara Field wrote to Respondent regarding the SBI matter. The letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the SBI matter by December 18, 2003. Respondent received the letter.

On December 18, 2003, Investigator Field received a facsimile from Respondent requesting a 14-day extension. Respondent agreed to provide a written response to the SBI matter by January 1, 2004. In the December 19, 2003 letter, Respondent did not respond to the specific allegations in Investigator Field's letter.

On January 11, 2004, Investigator Field received another facsimile from Respondent requesting an additional 30-day extension. In the letter, Respondent did not respond to the specific allegations in Investigator Field's letter.

On January 29, 2004 State Bar Investigator Joy Nunley ("Investigator Nunley") wrote to Respondent regarding the SBI matter and granted Respondent his requested extension. Investigator Nunley requested that Respondent respond to the allegations by February 11, 2004. Respondent received the letter. However, Respondent did not respond to Investigator Nunley's letter or otherwise communicate with Investigator Nunley.

By repeatedly issuing checks drawn upon Respondent's CTA when he knew or should have known that there were insufficient funds in the account to pay them, Respondent committed acts involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106.

By failing to maintain a client ledger, trust account journal and reconciliation, Respondent wilfully failed to maintain and preserve complete records of Respondent's CTA in violation of Rules of Professional Conduct, rule 4-100(B)(3).

By not providing a written response to the allegations in the SBI matter or otherwise cooperating in the investigation of the SBI matter, Respondent failed to cooperate in a disciplinary investigation in violation of Business and Professions Code section 6068(i).

Case 04-O-14313

In May 2004, Respondent authorized an electronic check to be drawn upon Respondent's CTA against insufficient funds as follows:

<u>CHECK NUMBER</u>	<u>CHECK AMOUNT</u>	<u>DATE PRESENTED</u>	<u>ACCOUNT BALANCE WHEN CHECK PRESENTED</u>	<u>BANK ACTION</u>
Electronic	\$39.95	5/25/04	\$10.23	Paid NSF

Respondent authorized the electronic check set forth above when he knew or in the absence of gross negligence should have known that there were insufficient funds in Respondent's CTA to pay it.

During the period of in or about May 2004, Respondent left personal funds in Respondent's CTA for the payment of personal expenses as needed.

During the period of in or about June 2004, Respondent repeatedly authorized electronic personal deposits into Respondent's CTA as follows: June 2, 2004 - personal deposit of \$39.95 and again on June 2, 2004 - personal deposit of \$39.95.

In about May 2004, Respondent authorized an electronic check drawn upon Respondent's CTA to pay his personal expenses as follows:

<u>CHECK NUMBER</u>	<u>CHECK AMOUNT</u>	<u>DATE PRESENTED</u>	<u>PAYEE</u>
Electronic	\$39.95	5/25/04	Zbill.net

On about September 13, 2004, the State Bar opened an investigation, case number 04-O-14313, pursuant to the notice received from Wells Fargo Bank regarding the insufficient funds electronic check paid by Wells Fargo Bank on Respondent's CTA (the "CTA matter").

On September 28, 2004 and October 13, 2004, State Bar Investigator Joy Nunley wrote to Respondent regarding the CTA matter. Respondent received the letters.

Investigator Nunley's letters to Respondent requested that he respond in writing to specified allegations of misconduct being investigated by the State Bar in the CTA matter. Respondent did not respond to Investigator Nunley's letters or otherwise communicate with Investigator Nunley.

By authorizing an electronic check drawn upon Respondent's CTA when he knew or should have known that there were insufficient funds in the account to pay it, Respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

By leaving personal funds in and/or depositing personal funds into Respondent's CTA for withdrawal as needed to pay personal expenses, Respondent commingled funds belonging to Respondent in a client trust account.

By not providing a written response to the allegations in the CTA matter or otherwise cooperating in the investigation of the CTA matter, Respondent failed to cooperate in a disciplinary investigation in willful violation of Business and Professions Code section 6068(i).

AGGRAVATING CIRCUMSTANCES.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

B. (7) Multiple Acts of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing as he committed acts involving moral turpitude; failed to maintain a client ledger, trust account journal and reconciliation of his CTA; commingled personal funds in his CTA and failed to cooperate in the State Bar investigation of both matters.

CASE SUPPORT

In *In the Matter of Heiser* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 47, the respondent issued several checks drawn upon his personal checking accounts and his client trust accounts when the accounts were either closed or were without sufficient funds. The Review Department quoted the following from the California Supreme Court: "It is settled that the continued practice of issuing [numerous] checks which [the attorney knows will] not be honored violates 'the fundamental rule of ethics—that of common honesty—without which the profession is worse than valueless in the place it holds in the administration of justice.'" (*Id.* at p. 54.) Furthermore, the court found that in every instance where an attorney wrote multiple bad checks, the Supreme Court of California has found such continued conduct to be an act of moral turpitude. (See *id.*) The respondent also failed to cooperate with the State Bar investigation. (See *id.* at p. 55.) The Review Department recommended that the respondent be suspended from the practice of law for one year, stayed, and that he be placed on probation for two years upon several conditions, including actual suspension for the first six (6) months.

OTHER CONDITIONS

Respondent shall attend Client Trust Accounting School within one (1) year of the effective date of the discipline herein. Respondent shall provide to the Probation Unit

satisfactory proof of attendance at a session of Client Trust Accounting School. Respondent shall receive three (3) Minimum Continuing Legal Education ("MCLE") credits for successful completion of Client Trust Accounting School and six (6) MCLE credits for completion of Ethics School.

Date 12/26/04


Respondent's signature

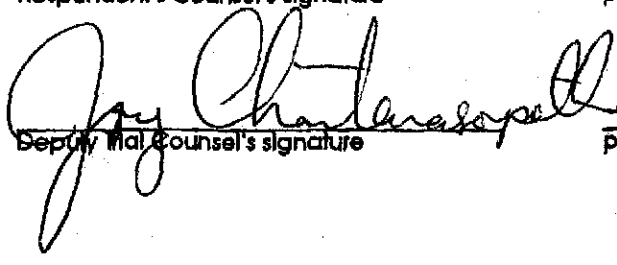
Christopher J. O'Keefe
print name

Date _____

Respondent's Counsel's signature _____

print name _____

Date 1-3-05


Deputy Trial Counsel's signature

Joy Chantarasompoth
print name

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.

See attached modifications.

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.)

Date 2/1/05


Judge of the State Bar Court

IN THE MATTER OF CHRISTOPHER J. O'KEEFE
State Bar Court Case Nos. 03-O-04419 and 04-O-14313

COURT'S MODIFICATIONS TO STIPULATED FACTS,
CONCLUSIONS OF LAW AND DISPOSITION

1. At page 3, under "Mitigating Circumstances," the court takes judicial notice of its own records and the fact that Respondent does not have a prior record of discipline.
2. At page 9, in the second full paragraph, the court finds that by leaving personal funds in and/or depositing personal funds into his client trust account for withdrawal as needed to pay personal expenses, Respondent commingled funds in his client trust account in wilful violation of rule 4-100(A) of the Rules of Professional Conduct.

Dated: February 1, 2005


JOANN M. REMKE
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. 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 San Francisco, on February 1, 2005, 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 San Francisco, California, addressed as follows:

CHRISTOPHER J. O'KEEFE
4810 SUSSEX DR
SAN DIEGO CA 92116

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

JOY CHANTARASOMPOTH , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on February 1, 2005.



Laine Silber
Case Administrator
State Bar Court