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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>STAYED SUSPENSION</b>			<b>PUBLIC MATTER</b>
Counsel For The State Bar  Mia R. Ellis Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015  Bar # 228235	Case Number(s): 09-O-10432; 09-O-15864	For Court use only  <b>FILED</b>  NOV 17 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES	
In Pro Per Respondent  Michael Wayne Champ Champ & Associates 21550 Oxnard St. Floor 3 Woodland Hills, CA 91367  Bar # 95784	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: Michael Wayne Champ  Bar # 95784  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 16, 1980.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 11 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



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- (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):
  - Costs are added to membership fee for calendar year following effective date of discipline.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2013, 2014 and 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 07-O-11209 and 08-O-13826
  - (b)  Date prior discipline effective January 9, 2011
  - (c)  Rules of Professional Conduct/ State Bar Act violations: 3-100(A); 3-700(a)(2); 4-100(B)(1); 4-100(B)(2); 4-100(B)(3).
  - (d)  Degree of prior discipline 30 days actual suspension
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "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.

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- (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. Beginning in September 2007, Respondent's in laws began having health problems. His mother in law was hospitalized seven times and father in law hospitalized three times. He had to move his in laws to an assisted living home near Respondent's home. Since the home did not have a nursing facility, Respondent and his wife had to provide these services to his in laws. Respondent's father in law died in June 2010. In November 2009, Respondent's 25 year old son was hospitalized for one week due to diverticulitis.

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- (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**

In August 2009, Respondent also began having personal health problems. Respondent maintains that he had two kidney surgeries.

#### D. Discipline:

(1)  **Stayed Suspension:**

- (a)  Respondent must be suspended from the practice of law for a period of 2 years.
- 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:

The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent is placed on probation for a period of 3 years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

#### 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 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.
- (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 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.

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- (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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: Respondent was ordered to attend Ethics School in his prior record of discipline Supreme Court order S186887. Respondent completed Ethics School on June 9, 2011.
- (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:
- |                                                     |                                                           |
|-----------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input 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 within one year. **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: Respondent was ordered to take the MPRE in his prior record of discipline Supreme Court order number S186887.
- (2)  **Other Conditions:**



9. On July 27, 2010, Respondent mailed Vivenzio a letter. In the letter Respondent informed Vivenzio that he was able to pay Dr. Silver's lien for \$4000. Respondent enclosed a check payable to Vivenzio in the amount of \$1,076, which reflected the amount due to her for the reduction of the medical liens.

10. On April 4, 2011, Respondent mailed Vivenzio a letter outlining the payment of the ten liens.

#### CONCLUSIONS OF LAW:

By not responding to Vivenzio's inquiries about the status of the medical liens, Respondent failed to respond to client inquiries in violation of Business and Professions Code section 6068(m).

Case No. 09-O-15864 (Complainant: Abdolmajid Jaberri and Elaheh Peimani)

#### FACTS:

1. On September 20, 2005, Abdolmajid Jaberri ("Jaberri") and Elaheh Peimani ("Peimani"), husband and wife, employed Respondent to represent them in a wrongful death action.

2. On April 2, 2007, Respondent filed an action for wrongful death in the Los Angeles County Superior Court, entitled *Mafid Jaberri and Elaheh Peimani v. Julio Gonzalez; Carmen Gonzalez, Bienvenidos Foster Family Agency*. case number PC040451 ("Jaberri case").

3. On August 6, 2009, attorney P. Paul Aghabala ("Aghabala") mailed Respondent a letter informing him that Jaberri had hired Aghabala as his attorney. In the same letter, Aghabala requested the entire file be made available by August 10, 2009.

4. On August 8, 2009, Respondent mailed Aghabala a letter stating that he had the file for copying and when it had been fully copied, Respondent will contact Aghabala to pick up the file. Respondent also stated that he would be out of the office until August 18, 2009, but that the file should be ready by that date.

5. On August 24, 2009, Aghabala mailed Respondent another letter inquiring about the file. Respondent received the letter but did not reply.

6. Respondent contends that he mistakenly believed that he had the file because at the time he was preparing to undergo surgery. However, he later discovered that the file had been inadvertently lost and destroyed.

#### CONCLUSIONS OF LAW:

By failing to provide Aghabala with Jaberri's file, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property in violation of Rules of Professional Conduct, rule 3-700(D)(1).

#### PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was October 13, 2011.



## AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 provides that the primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct 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. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of sanctions for professional misconduct.

Standard 1.7(a) If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

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

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.

In *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602 Respondent was found culpable of six counts of misconduct in seven client matters, including the misappropriation of \$13,807.34 in trust funds, failure to perform competently, failure to communicate with clients and failure to advise clients of potential conflicts of interest, and failure to comply with the terms of a previously imposed disciplinary probation.

The Hearing Department recommended that Respondent be actually suspended for two years. Both the Respondent and the State Bar appealed. One of the issues on appeal was whether the Hearing Department appropriately declined to consider Respondent's prior disciplinary matter, where Respondent was actually suspended for 80 days, as aggravating because the misconduct in the prior matter and the cases at issue, aside from the probation violation, occurred during the same time period. 2 Cal. State Bar Ct. Rptr. at 618.

The Review Department held that the impact of a prior disciplinary matter was diminished because it occurred during the same time as the misconduct in the case at issue. 2 Cal. State Bar Ct. Rptr. at 618. Accordingly, the Review Department considered the "totality of the findings in the two cases to determine what the discipline would have been had all the charged misconduct in this period been brought as one case." *Id.* Sklar. The misconduct addressed here could reasonably have been expected to not increase the level of discipline as was imposed in Respondent's first imposition, 30 days actual suspension. One of Respondent's prior impositions of discipline occurred during the same time period as the cases at issue in the instant stipulation.

**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>
09-O-10432	One	3-110(A)
09-O-10432	Two	4-100(B)(4)
09-O-10432	Three	4-100(B)(3)
09-O-15864	Five	3-110(A)
09-O-15864	Six	6068(m)

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of October 13, 2011, the prosecution costs in this matter are \$6089. 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.

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In the Matter of: Michael Wayne Champ	Case number(s): 09-O-10432; 09-O-15864
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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.

11-7-11                                            Michael Wayne Champ  
Date                              Respondent's Signature                      Print Name

11/7/11                                            Mia R. Ellis  
Date                              Respondent's Counsel Signature                      Print Name  
11/7/11                      Deputy Trial Counsel's Signature                      Print Name

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In the Matter of:  
Michael Wayne Champ

Case Number(s):  
09-O-10432; 09-O-15864

### STAYED 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

11/17/11

Judge of the State Bar Court



**DONALD F. MILES**

**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 17, 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:

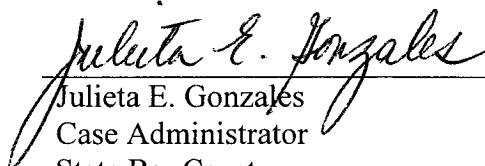
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL WAYNE CHAMP ESQ  
CHAMP & ASSOCIATES  
21550 OXNARD ST FL 3  
WOODLAND HILLS, CA 91367 - 7105

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

Mia R. Ellis, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 17, 2011.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court