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- (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: (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case **11-O-17733 et al. See Attachment at page 8.**
  - (b)  Date prior discipline effective **February 6, 2014.**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Rule, 3-110(a), Rules of Professional Conduct [failure to perform with competence]; rule 3-700(D)(2) [failure to refund unearned fees]; rule 4-100(B)(3) [failure to account]; 6068(a) [failure to comply with laws]; Business and Professions Code section 6068(m) [failure to communicate with client]; Business and Professions Code section 6068(i) [failure to cooperate in State Bar investigation]; and Business and Professions Code section 6106 [moral turpitude – dishonesty].**
  - (d)  Degree of prior discipline **Three-year suspension, execution of which was stayed, and three years of probation on the condition that Respondent be suspended for the first two years and until he provides proof to the State Bar Court of his rehabilitation, fitness to practice, and present learning and ability in the law.**
  - (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 intentional, 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. **See Attachment at page 8.**

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- (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)  **Restitution:** Respondent failed to make restitution.
- (9)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances**

**C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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.

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- (11)  **Good Character:** Respondent's extraordinarily 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 subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

**Pretrial Stipulation: See Attachment at page 9.**

#### D. Discipline:

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **one year**.

- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), 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 **one year**, 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 has been ordered to provide proof of attendance at a session of the State Bar Ethics School and passage of the test at the end of that session as part of the Disciplinary Order in Supreme Court Case No. S214210, effective February 6, 2014. (See Rule 5.135, Rules of Procedure of the State Bar of California).**
- (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 has been ordered to provide proof of passage of the MPRE as part of the Disciplinary Order in Supreme Court Case No. S214210, effective February 6, 2014. Therefore, the protection of the public and the interests of the Respondent do not require passage of the MPRE in this case. (See In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181).**
- (2)  **Other Conditions:**

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

IN THE MATTER OF:        LEON ARAKELIAN

CASE NUMBER:            12-O-15272

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 12-O-15272 (Complainant: Eliza Khastar)

FACTS:

1. On September 22, 2010, Eliza Khastar hired Respondent to represent her in legal matters arising out of a three-car accident that occurred on September 17, 2010.
2. Between September 22, 2010 and January 4, 2011, Khastar's daughter called Respondent's office once to twice a month, and each time left a voice message requesting that Respondent provide a status report about her mother's legal matter. Respondent received the voice messages, but did not provide a status report or otherwise communicate with Khastar or her daughter.
3. On January 4, 2011, Khastar's daughter sent an email to Respondent stating that her attempts to communicate with Respondent by telephone had been unsuccessful, that Khastar had received a notice of fault from an insurance carrier, and that Khastar was requesting a status report.
4. On January 6, 2011, Respondent responded to Khastar's daughter by email, stating that the January 4<sup>th</sup> email was the first communication he had received from her and that he had been informed that Khastar had retained another attorney. He acknowledged that a miscommunication had occurred and stated that he understood that he still represented Khastar, and would contact the insurance carrier, ascertain why it found Khastar at fault for the accident, and contact her regularly in the future to provide status reports
5. On January 10, 2011, Respondent sent an email to Khastar's daughter requesting that she provide him with the documents that Khastar had received from the insurance carrier and medical providers, and the names and telephone numbers of any employees of the insurance carrier that Khastar and/or her daughter had spoken with.
6. Between January 10, 2011 and January 14, 2011, Khastar's daughter mailed a letter to Respondent enclosing the notice of fault. Respondent received the letter.
7. On January 14, 2011, Khastar's daughter sent an email to Respondent asking if he had received the notice of fault that she had sent him and if there was anything else that he needed. Respondent received the email, but did not otherwise communicate with Khastar or her daughter.

8. Between January 14, 2011 and July 2012, Khastar's daughter called Respondent's office once a month and each time left a voice message requesting that Respondent provide a status report about her mother's legal matter. Respondent received the voice messages, but did not provide a status report or otherwise communicate with Khastar or her daughter.

9. On January 26, 2011, Khastar's daughter sent an email to Respondent stating that she had not received a response from Respondent to her last email or telephone call, and was requesting a status report about her mother's legal matter. Respondent received the email, but did not provide the requested status report or otherwise communicate with Khastar or her daughter.

10. Respondent did not file a lawsuit or negotiate a settlement on behalf of Khastar against either of the other drivers prior to the expiration of the statute of limitations.

11. By failing to communicate with Khastar or her daughter after January 10, 2011, and to file a lawsuit or negotiate a settlement on behalf of Khastar before the expiration of the statute of limitations, Respondent constructively terminated his representation of Khastar effective January 10, 2011.

#### CONCLUSIONS OF LAW:

12. By constructively terminating his representation of Khastar without notice effective January 10, 2011, Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

13. By failing to respond to the requests for status reports made by Khastar's daughter between September 22, 2010 and January 4, 2011, and between January 14, 2011 and July 2012, Respondent failed to respond to client inquiries in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

#### AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has one prior record of discipline. Effective February 6, 2014, Respondent was suspended from the practice of law for three years, execution of which was stayed, and placed on a three-year disciplinary probation with conditions that included a two-year actual suspension and until he provides proof to the State Bar Court of his rehabilitation, fitness to practice, and present learning and ability in the law. Between July 2010 and April 2012, Respondent committed misconduct in three client matters, which included violations of rule, 3-110(a), Rules of Professional Conduct [failure to perform with competence]; rule 3-700(D)(2) [failure to refund unearned fees]; rule 4-100(B)(3) [failure to account]; 6068(a) [failure to comply with laws]; Business and Professions Code section 6068(m) [failure to communicate with client]; Business and Professions Code section 6068(i) [failure to cooperate in State Bar investigation]; and Business and Professions Code section 6106 [moral turpitude – dishonesty]. Additionally, as a condition of his disciplinary probation, Respondent must pay restitution to two clients and complete the State Bar's Ethics School.

**Harm (Std. 1.5(f)):** Respondent's abandonment of his client harmed her by depriving her of her opportunity to obtain a recovery from the motor vehicle accident. (See *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 283 [loss of cause of action due to attorney's failure to perform is significant client harm].)



## MITIGATING CIRCUMSTANCES.

### **Additional Mitigating Circumstances:**

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a stipulation prior to the trial, thereby conserving the time and resources of the State Bar and State Bar Court. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

## AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence 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 attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, Respondent admits to committing two acts of professional misconduct. Standard 1.7(a) requires that where a Respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to Respondent’s misconduct is found in Standard 2.15, which applies to Respondent’s violation of rule 3-700(A)(2). Standard 2.15 states that a suspension not to exceed three years or reproof is appropriate for a violation of rule 3-700(A)(2).

Standard 1.8(a) states that if an attorney has a single prior record of discipline, the discipline in the pending proceeding must be greater than the prior discipline, unless the prior discipline was so remote in time or the offense was not serious enough that imposing greater discipline would be manifestly unjust.

The misconduct involved in Respondent's prior imposition of discipline occurred between July 2010 and April 2012, which is not remote in time. In addition, the prior misconduct, which included dishonesty was serious. The misconduct in this matter occurred between September 2010 and July 2012, which is, in large part, during the same timeframe as the prior misconduct. Therefore, it is appropriate to consider 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." (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618.)

If the misconduct stipulated to in this matter had been considered with the misconduct established in the prior matters, the discipline would not change from the two-year actual suspension, three-year stayed suspension, and three-year probation imposed in the prior matter. The misconduct in the present matter is similar to the lower level misconduct in the prior matters, *i.e.*, failing to perform and communicate. However, the prior matters involve more significant misconduct, including failures to account, failures to refund unearned legal fees, failures to cooperate in State Bar investigations, and dishonesty. Therefore, had the misconduct in the present matter been brought at the same time as the three prior matters, the proper level of discipline would have been unchanged because the prior discipline is of sufficient magnitude to include the present misconduct. Accordingly, the imposition of a one-year stayed suspension and one-year probation will not impact the prior discipline because its periods of actual suspension, stayed suspension, and probation are longer than the periods of stayed suspension and probation in this matter, and will fulfill the purposes of attorney discipline of protecting the public, the courts, and the legal profession, maintaining the highest professional standards, and preserving public confidence in the legal profession.

#### **DISMISSALS.**

The parties respectfully request that the Court dismiss the following alleged violation in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
12-O-15272	3	Business and Professions Code section 6068(i)

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

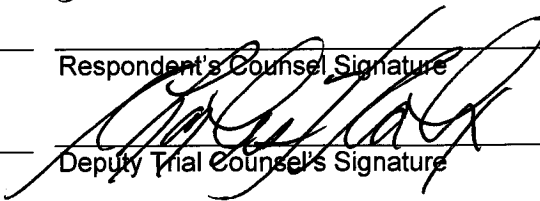
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of February 13, 2014, the prosecution costs in this matter are \$7,119.08. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: LEON ARAKELIAN, Member No. 243180	Case number(s): 12-O-15272-DFM
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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.

February 13, 2014 Date	 Respondent's Signature	Leon Arakelian Print Name
Date	Respondent's Counsel Signature	Print Name
February 13, 2014 Date	 Deputy Trial Counsel's Signature	Charles T. Calix Print Name

(Do not write above this line.)

In the Matter of: Leon Arakelian	Case Number(s): 12-O-15272
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### 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.)**

2-28-14

Date



GEORGE E. SCOTT, JUDGE PRO TEM  
Judge of the State Bar Court

**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 February 28, 2014, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION**

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:

**LEON ARAKELIAN  
19407 LORNE SREET  
RESEDA, CA 91335**

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

**CHARLES CALIX, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 28, 2014.



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Tammy Cleaver  
Case Administrator  
State Bar Court