

(Do not write above this line.)

- (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: **three billing cycles following the effective date of the Supreme Court order.** (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(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (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 a separate attachment entitled "Prior Discipline."
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **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..
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See attachment, page 10.**

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- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See attachment, page 10.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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.

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- (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 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

No Prior Record of Discipline, see attachment, page 10.
Pretrial Stipulation, see attachment, page 10.

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 fitness to practice and present learning and ability in the general 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.

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- (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.
- (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: .
- (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: .
- (2) **Other Conditions:**

7. On June 19, 2014, Holenstein sent respondent an e-mail inquiring as to whether the AOO for Kalmia had been filed. Respondent received the e-mail, but did not respond to the e-mail.

8. On September 9, 2014, Holenstein sent respondent an e-mail notifying him that she had not received any documentation from the State of California indicating that he had filed the AOO for Kalmia. She advised respondent that she would contact the State Bar and request that her complaint be reopened if he did not respond within three days. Respondent received the e-mail, but did not respond to the e-mail.

9. On March 18, 2015, a State Bar investigator sent a letter to respondent at his prior State Bar membership records address, located at 43460 Ridgepark Drive, Suite 200, Temecula, CA 92590, as well as an additional address, located at P.O. Box 1105, Temecula, CA 92593, advising him that State Bar case no. 14-O-00247 had been reopened. Respondent received the letter.

10. On July 15, 2015, Holenstein informed the State Bar investigator that respondent had drafted documents for the California LLC, but failed to file the documents.

11. On July 26, 2015, Holenstein sent an e-mail to respondent requesting a refund of \$1,800 for not completing the work regarding Kalmia. Respondent received the e-mail, but did not respond to the e-mail. Respondent did not provide Holenstein with a refund or accounting.

CONCLUSIONS OF LAW:

12. By failing to file the Articles of Organization for Kalmia with the Secretary of State on behalf of Holenstein, a client, respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

13. By failing to render an appropriate accounting of advanced legal fees to Holenstein, a client, upon the client's request on July 26, 2015, respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

Case No. 15-O-13013 (Complainant: Audrey Cilurzo)

FACTS:

14. On April 8, 2014, defendant Audrey Cilurzo ("Audrey") employed respondent to defend her and her husband, defendant Vincent Cilurzo ("Vincent"), in *Cziraki v. Cilurzo, et al.*, case number MCC1300007, in the Riverside County Superior Court ("the civil matter"). Respondent was paid a fee of \$15,000. There was no written legal services agreement.

15. On May 15, 2014, respondent filed a Demurrer to Plaintiff's First Amended Complaint in the civil matter on behalf of Audrey and Vincent on the grounds that the First Amended Complaint was barred by the applicable statute of limitations.

16. On June 10, 2014, the court sustained the demurrer in the civil matter for defendants Audrey and Vincent ("the Cilurzoes"), and the plaintiffs were given 30 days leave to amend the First Amended Complaint.

17. On July 10, 2014, the plaintiffs filed and served a Second Amended Complaint in the civil matter. Respondent received the Second Amended Complaint

18. On July 15, 2014, respondent e-mailed Audrey a copy of the Second Amended Complaint filed by the plaintiffs.

19. On September 10, 2014, respondent filed and served a Demurrer to the Second Amended Complaint in the civil matter, on behalf of the Cilurzos, on the grounds that the complaint was barred by the applicable statute of limitations.

20. On September 10, 2014, plaintiffs Cziraki, filed and served an opposition to the Cilurzos' Demurrer to the Second Amended Complaint. Respondent received the opposition.

21. On September 17, 2014 respondent filed and served a reply to the opposition, in support of the defendants' Demurrer to the Second Amended Complaint.

22. On September 24, 2014, respondent was present in court at a hearing regarding the demurrer to the Second Amended Complaint. The demurrer was overruled and the court gave the Cilurzos 30 days leave to file an answer to the Second Amended Complaint. Respondent never filed an answer on behalf of the Cilurzos.

23. On September 26, 2014, respondent e-mailed Audrey advising her that the court had overruled their demurrer, and that respondent would file a writ of mandate with the Court of Appeals to have the Superior Court's ruling on the demurrer reversed. Audrey received the e-mail.

24. On October 17, 2014, the Cilurzos paid respondent an additional \$15,000, pursuant to respondent's request, for advanced legal fees for the writ of mandate.

25. On October 22, 2014, a Petition for Writ of Mandate was filed in the Fourth Appellate District, Division of the California Court of Appeals, by respondent on behalf of the Cilurzos, seeking to reverse the ruling by the Riverside County Superior Court on the demurrer to the Second Amended Complaint.

26. On December 9, 2014, a case management conference hearing was held in the Riverside County Superior Court in the civil matter, but respondent was not present for the hearing. The court issued, in light of Audrey's pending writ of mandate, a Notice of Status Conference and Order to Show Cause ("OSC") re: Failure to File Responsive Pleadings, setting a hearing for March 9, 2015. The Notice of Status Conference and Order to Show Cause was filed and served by plaintiff's counsel, David Demergian ("Demergian"), in Riverside County Superior Court on December 9, 2014. Respondent received the Notice of Status Conference and OSC re: Failure to file Responsive Pleadings.

27. On December 15, 2014, the California Court of Appeals issued an order denying the Cilurzos' Petition for Writ of Mandate and served respondent at his State Bar membership records address. Respondent received the order, but did not notify Audrey or Vincent of this development.

28. On January 26, 2015, plaintiff Cziraki filed and served respondent with a Request for Entry of Default Judgment against the Cilurzos in the civil matter. Respondent received the Request for Entry of Default Judgment.

29. On January 26, 2015, the court entered default against the Cilurzos in the civil matter. Respondent was served at his State Bar membership records address and received the plaintiff's default against the Cilurzos.

30. On February 2, 2015, respondent sent an e-mail to opposing counsel Demergian at david@demergianlaw.com, in which he represented that he had attempted to file an Answer to the Second Amended Complaint via mail on January 13, 2015, and enclosed a copy.

31. On February 3, 2015, Demergian responded to respondent's e-mail noting that default had already been entered. Respondent received the e-mail.

32. On February 3, 2015, respondent sent an e-mail to Demergian asking if Demergian would stipulate to set aside the default. Respondent also offered to prepare the stipulation. Demergian replied via e-mail that same day that he would agree to stipulate to set aside the default. Respondent received the e-mail.

33. On March 9, 2015, the status conference and OSC re: Failure to file Responsive Pleadings was held in the civil matter in Riverside County Superior Court, but respondent was not present for the hearing. The court scheduled a case management conference for May 7, 2015 with notice to be given by plaintiff's counsel. Plaintiff's counsel served respondent with notice of the May 7, 2015 case management conference which respondent received.

34. On March 18, 2015, Audrey's adult son Vinnie Cilurzo ("Vinnie"), sent an e-mail to respondent stating that Audrey had e-mailed and called respondent requesting a status update in the civil matter, but that she had not received a response. Vinnie asked that respondent send Audrey a status update and an accounting. Respondent replied to the e-mail stating that he would send the requested information the following day. Respondent did not respond thereafter.

35. On March 30, 2015, Audrey's son Steven Cilurzo ("Steven") sent an e-mail to Audrey stating that he had just spoken with respondent by telephone who had informed him that the Writ of Mandate had been denied more than two months ago.

36. On March 30, 2015, Vinnie's attorney, Don Winkle ("Winkle"), sent an e-mail to respondent at Michael@newcomb-law.com, requesting a status update on Audrey's case per Vinnie's request.

37. On April 2, 2015, respondent e-mailed Winkle at donwinkle@smlaw.com, and carbon copied Audrey, Vinnie and Audrey's new attorney, Karin Beam ("Beam"), stating that he would respond once he returned to his office.

38. On April 3, 2015, respondent e-mailed Winkle, Audrey, Vinnie and Beam representing that he had prepared a stipulation to set aside default and would obtain signatures on the stipulation and file a motion to set aside the default by the following week. Audrey received respondent's e-mail.

39. On April 15, 2015, Beam, faxed a letter to respondent notifying him that she was now representing Audrey and Vincent and requesting that respondent release the original client file. Respondent received the letter, but did not respond to the letter.

40. On April 30, 2015, a Substitution of Attorney was filed in the civil matter, substituting Beam in as counsel for the Cilurzos in place of respondent, which was signed by both attorneys. Respondent's signature was dated April 28, 2015.

41. From April 15, 2015 to July 16, 2015, Teresa Ramirez, Beam's assistant, and Michelle Fletcher, Beam's paralegal, sent respondent seven e-mails asking for Audrey's client file. Respondent received the e-mails, but did not provide Audrey or Beam's office with Audrey's client file.

CONCLUSIONS OF LAW:

42. By failing to inform Audrey Cilurzo, a client, of the Court of Appeal's denial of her writ of mandate, and waiting until three months had elapsed to inform Audrey Cilurzo that the Riverside County Superior Court had entered a default judgment against her, respondent failed to keep a client reasonably informed of significant developments in a matter in which he had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

43. By failing to promptly release releasing after termination of respondent's employment on April 15, 2015, to Audrey Cilurzo or the office of Karin Beam, Audrey Cilurzo's new attorney, all of the client's papers and property following requests for the file between April 15, 2015 and July 16, 2015, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent's misconduct involves multiple acts of professional misconduct in two different client matters, including failure to inform a client of significant developments, failure to render accounts of client funds, failure to perform legal services and failure to release a client file.

Harm (Std. 1.5(j)): Respondent's misconduct in case number 15-O-13013 caused significant harm to a client as the client, Holenstein, was required to employ a new attorney after respondent's failure to perform services.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to practice on June 5, 1997. At the time of the misconduct, respondent had practiced law for 15 years without a record of discipline. While respondent's conduct is serious, he is entitled to significant mitigation for practicing for a significant period of time without a record of discipline. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [gave attorney significant weight in mitigation for practicing law for over ten years without misconduct]; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 [discipline-free practice considered to be a significant mitigating factor even when misconduct is serious].)

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged his misconduct and saved the State Bar time and resources. (*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]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

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).)

Standard 1.7(a) further provides that, “If a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.” Here, respondent has committed multiple acts of misconduct in two different client matters.

In the Holenstein matter, respondent failed to render an accounting of advanced attorney’s fees and failed to render competent legal services. In the Cilurzo matter, respondent failed to return a client file and did not inform the client of significant developments.

The applicable Standards are Standard 2.2(b) for respondent’s failure to account and Standard 2.7(c) for respondent’s failure to perform and inform a client of significant developments, which was limited to two matters during a time period covering June 2014 to April 2015. Both Standards provide for a suspension or reproof. Respondent’s misconduct is mitigated by his 15 years of discipline free practice, which is significant, and pretrial stipulation, and aggravated by his multiple acts and harm. On balance, the mitigation outweighs the aggravation. Therefore, a one-year stayed suspension is appropriate to serve the purposes of discipline.

Case law supports this level of discipline. In *Bach v. State Bar* (1991) 52 Cal.3d 1201, the California Supreme Court ordered that the attorney be actually suspended for 30 days in a first time discipline case for failing to perform legal services, failing to respond to client communications, withdrawing improperly, failing to refund and failing to cooperate in a State Bar investigation. The attorney had represented the client in an uncontested marital dissolution for nearly three years before attempting to withdraw after failing to communicate with the client for months at a time and failing to obtain a

judgment. The attorney then did not participate in fee arbitration and did not respond to the State Bar's numerous requests for a response to the allegations of misconduct. At the time of the misconduct, the attorney had been a member of the State Bar 22 years with no prior record of discipline. Bach displayed indifference and caused client harm.

Like the attorney in *Bach*, this is respondent's first disciplinary matter after a significant period of discipline free practice. Respondent also did not inform his client of significant developments. Unlike *Bach*, respondent did not fail to refund fees, abandon a client or fail to cooperate in a State Bar investigation. However, respondent's misconduct occurred in two, as opposed to one, client matter, and respondent failed to render an accounting. Unlike *Bach*, the misconduct here did not span a period of several years. Respondent also has significant mitigation for no prior record of discipline. The discipline here should be less severe than in *Bach* as respondent engaged in less misconduct. Therefore, a one-year stayed suspension is appropriate to protect the public, courts, and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession.

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>
14-O-00247	Three	Business and Professions Code section 6068(m)
15-O-13013	Four	Rules of Professional Conduct, rule 3-110(A)

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

Respondent may not receive MCLE credit for completion of State Bar Ethics School and/or any other educational course(s) to be ordered as a condition of discipline. (Rules Proc. of State Bar, rule 3201.)

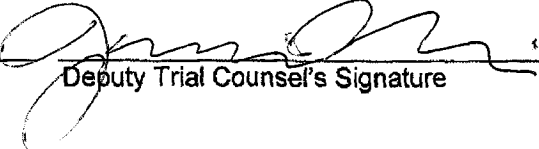
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In the Matter of: MICHAEL WILLIAM NEWCOMB	Case number(s): 14-O-00247; 15-O-13013-WKM
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SIGNATURE OF THE PARTIES

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.

8-4-2016  Michael William Newcomb
Date Respondent's Signature Print Name

8/5/2016  Jamie Kim
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: MICHAEL WILLIAM NEWCOMB	Case Number(s): 14-O-00247, 15-O-13013-WKM
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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.
1. On page 7 of the Stipulation, at numbered paragraph 12, line 2, "and by failing to respond to Holenstein's June 19, 2014, and September 9, 2014, emails" is inserted between "client," and "respondent".
 2. On page 10 of the Stipulation, "No Prior Discipline," line 2, "15" is deleted, and in its place is inserted "17".
 3. On page 11 of the Stipulation, paragraph 6, line 4, "15" is deleted, and in its place is inserted "17".

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.)**

August 9, 2016
Date

Rebecca Meyer Rosenberg
REBECCA MEYER ROSENBERG, 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 August 9, 2016, 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 W. NEWCOMB
MICHAEL W NEWCOMB, ATTORNEY AT LAW
45089 VINE CLIFF ST
TEMECULA, CA 92592**

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

JAMIE J. KIM, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 9, 2016.



Paul Barona
Case Administrator
State Bar Court