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State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION

<p>Counsel for the State Bar</p> <p><b>Cindy Chan</b> Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017 (213) 765-1292</p> <p>Bar # 247495</p>	<p>Case Number(s): 16-O-12311-YDR</p>	<p>For Court use only</p> <p><b>FILED</b> E.A. <b>OCT 18 2018</b> STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p><b>Stanley Howard Kimmel</b> Law Offices of Stanley H. Kimmel, Esq. 10727 White Oak Avenue, Suite 202 Granada Hills, California 91344-4634</p> <p>Bar # 77007</p>	<p><b>PUBLIC MATTER</b></p> <p>kwiktag® 241 070 308</p>  <p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>STANLEY HOWARD KIMMEL</b></p> <p>Bar # 77007</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 **Decemer 21, 1977**.
- (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 **19** 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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

 (Effective July 1, 2018)

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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. It is recommended that (check one option only):
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
  - Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. **SELECT ONE** of the costs must be paid with Respondent's membership fees for each of the following years:  
  
If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be 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.
- (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.

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- (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 page 14.**
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.
- (10)  **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. **See page 14.**
- (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 [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 Respondent's 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 Respondent's 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 Respondent.
- (7)  **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

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- (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 Respondent, 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 Respondent's control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's 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 Respondent's 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:**

**No Prior Record of Discipline - see page 14.**

**Good Character - see pages 14-15.**

**Pretrial Stipulation - see page 15.**

**D. Recommended Discipline:**

- (1)  **Actual Suspension:**
- Respondent is suspended from the practice of law for **one (1) year**, the execution of that suspension is stayed, and Respondent is placed on probation for **one (1) year** with the following conditions.
- Respondent must be suspended from the practice of law for the first **sixty (60) days** of the period of Respondent's probation.
- (2)  **Actual Suspension "And Until" Rehabilitation:**
- Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.
- Respondent must be suspended from the practice of law for a minimum of the first \_\_\_\_\_ of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)
- (3)  **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**
- Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.





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compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

- (2)  **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3)  **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.
- (4)  **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5)  **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6)  **Quarterly and Final Reports:**
- a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.
- b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
- c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

**d. Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

- (7)  **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8)  **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because
- (9)  **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10)  **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within \_\_\_\_\_ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete \_\_\_\_\_ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (11)  **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.
- (12)  **Minimum Continuing Legal Education (MCLE):** Within \_\_\_\_\_ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete \_\_\_\_\_ hour(s) of California Minimum Continuing Legal Education-approved participatory activity in **SELECT ONE** \_\_\_\_\_ and must



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provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

- (13)  **Other:** Respondent must also comply with the following additional conditions of probation:
- (14)  **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (15)  **The following conditions are attached hereto and incorporated:**
- Financial Conditions                       Medical Conditions
- Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

#### F. Other Requirements Negotiated by the Parties (Not Probation Conditions):

- (1)  **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter or during the period of Respondent's actual suspension, whichever is longer, and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.
- (2)  **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because
- (3)  **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the

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date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (4)  **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (5)  **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because

- (6)  **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements:



10. On February 26, 2016, respondent appeared for trial, but because he failed to exchange witness and exhibit lists with Sniperella's counsel, plaintiff was precluded from offering any evidence at trial. Without any evidence, plaintiff could not satisfy his burden of proof, and so the case was dismissed with prejudice.

11. The court further found that plaintiff had failed to diligently prosecute the case.

***Ahmed v. Aguirre, Case No. 11CM2333***

12. On September 9, 2011, respondent filed a complaint on behalf of Mr. Ahmed in the Superior Court of California, Los Angeles County, Case No. 11CM2333 ("*Aguirre*") where Mr. Ahmed sought damages from Mr. Aguirre, a former tenant who resided on property owned by Mr. Ahmed, after he had allegedly caused property damage to the property while he resided there.

13. On September 27, 2012, the court held a status conference at which the trial in this matter was set for February 26, 2013.

14. On October 1, 2012, respondent filed and served a Notice of Trial which set forth the February 26, 2013 trial date.

15. Respondent did not notify Mr. Ahmed of the trial date.

16. On February 26, 2013, the court called the matter for trial, but neither respondent nor Mr. Ahmed appeared at trial, and so the case was dismissed.

17. Respondent did not notify Mr. Ahmed of the dismissal and Mr. Ahmed did not discover that the case had been dismissed until several years later.

***Sami v. Pacific Specialty Insurance Company, Case No. BC549278***

18. On June 19, 2014, respondent filed a complaint on behalf of Mr. Ahmed and his mother, Ms. Sami, in the Superior Court of California, Los Angeles County, Case No. BC549278, against defendant, Pacific Specialty Insurance Company ("*PSIC*"), after PSIC denied their claim for reimbursement of costs after their home was allegedly burglarized ("*PSIC* matter").

19. On July 2, 2015, PSIC filed a Motion for Summary Judgment/Adjudication ("motion for summary judgment").

20. Respondent did not file an opposition to the motion for summary judgment.

21. On September 17, 2015, the court held a hearing on PSIC's motion for summary judgment. Respondent did not appear. The motion for summary judgment was granted, as no opposition had been filed, and the case was dismissed.

22. Respondent did not advise either Mr. Ahmed or Ms. Sami of the dismissal until October 2015 when Mr. Ahmed called respondent to inquire about the case.

***P. Vincent Mehdizadeh v. Ahmed, Case No. BC574400***

23. On March 3, 2015, while Case No. BC436823 was pending, P. Vincent Mehdizadeh filed a complaint in Superior Court of California, Los Angeles County, Case No. BC574400 ("*Mehdizadeh*").

(BC574400)”) against Mr. Ahmed and Leo Najarian, arising from allegations of illegal wiretapping. Mr. Ahmed was personally served with the summons and complaint in this action on the same date.

24. Counsel for P. Vincent Mehdizadeh agreed to an extension of time for respondent to file responses on behalf of Mr. Ahmed and the co-defendant, Mr. Najarian, up to and including April 18, 2015.

25. Respondent did not file responsive pleadings on behalf of Mr. Ahmed or Mr. Najarian by the April 18, 2015 due date.

26. On April 28, 2015, counsel for P. Vincent Mehdizadeh sent an e-mail to respondent that indicated that defendants’ answers to the complaint were due on or before April 18, 2015. That same day, respondent responded to said e-mail and requested an additional 15-day extension of time to file responses on behalf of defendants. Mr. Mehdizadeh’s counsel responded that per the rules, the parties could only stipulate to a 15-day extension absent court approval, and that if respondent wanted more time, he would need to draft a stipulation to be presented to the court. She further indicated that they would only stipulate to an additional extension if defendants filed an answer, as opposed to a responsive motion, by May 4, 2015.

27. No stipulation to an additional extension was reached and respondent did not file a motion to the court for additional time to file a response to the complaint.

28. On May 29, 2015, default was entered against Mr. Ahmed and the co-defendant, Mr. Najarian, for failure to file an answer to the complaint.

#### CONCLUSIONS OF LAW:

29. Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in his representation of Mr. Ahmed in willful violation of Rules of Professional Conduct, rule 3-110(A) by the following:

(A) failing to appear at trial on the originally noticed date and failing to timely exchange witness and exhibit lists with the opposition in accordance with the rules of the court in the action entitled *Abdul A. Ahmed, et al. v. Pejman Mehdizadeh*, Case No. BC436823, filed in the Superior Court of California, Los Angeles County;

(B) failing to appear at trial on February 26, 2013 on behalf of Mr. Ahmed in the matter entitled *Abdul A. Ahmed, et al. v. Bernardino Aguirre*, Case No. 11CM2333, filed in the Superior Court of California, Los Angeles County; and

(C) failing to timely file a response to the complaint and summons served on Mr. Ahmed or otherwise obtain additional time to file a response to the complaint and summons on behalf of Mr. Ahmed in the matter entitled *P. Vincent Mehdizadeh v. Abdul A. Ahmed, et al.*, Case No. BC574400, filed in the Superior Court of California, Los Angeles County.

30. By failing to inform Mr. Ahmed that the civil action in which he was representing Mr. Ahmed - *Abdul A. Ahmed, et al. v. Bernardino Aguirre*, Case No. 11CM2333 – had been dismissed, respondent failed to keep Mr. Ahmed reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

31. By failing to prepare and file an opposition to the defendant's summary judgment motion on behalf of his clients, Mr. Ahmed and Ms. Sami, in *Sami v. Pacific Specialty Insurance Company*, Case No. BC549278 and failing to appear at the September 17, 2015 hearing on said motion, respondent intentionally, recklessly, and repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

32. By failing to inform Mr. Ahmed and Ms. Sami that the civil action – *Farhat Sami v. Pacific Specialty Insurance Company*, Case No. BC549278 – had been dismissed as a result of his failure to file an opposition to the defendant's summary judgment motion, respondent failed to keep his clients reasonably informed of significant developments 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.**

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent failed to perform legal services competently for his client by failing to diligently prosecute the *Mehdizadeh* (BC436823), *Aguirre*, and *PSIC* matters when he failed to appear at trial at the *Mehdizadeh* (BC436823) and *Aguirre* matters, failed to file an opposition to defendant's summary judgment motion in the *PSIC* matter, and failed to appear at trial and timely exchange exhibit and witness lists with opposing counsel in the *Mehdizadeh* (BC436823) matter. Furthermore, respondent failed to diligently defend his client in the *Mehdizadeh* (BC574400) matter when he failed to begin working on a response to the complaint until well after the due date and failed to obtain an additional extension from the court to file a response. Respondent also failed to keep his clients reasonably informed of the dismissal of the *Aguirre* and *PSIC* matters.

**Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)):** The *PSIC* action was dismissed as a result of respondent's failure to file an opposition to defendant's summary judgment motion, the *Aguirre* matter was dismissed as a result of respondent's failure to appear at trial, and the *Mehdizadeh* (BC436823) matter was dismissed as a result of respondent's failure to timely exchange exhibit and witness lists with opposing counsel. Thus, respondent's clients were significantly harmed as a result of respondent's misconduct. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 642, 646 [court found "harm" as an aggravating circumstance even though the client's claim was weak and they could not have reasonably expected to receive a substantial settlement or judgment]; *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 283 [where the court did not make a determination of the extent of the economic harm to the client, but still found that the five year delay in resolving her claim caused her harm under then standard 1.2(b)(iv) because she lost her cause of action].)

#### **MITIGATING CIRCUMSTANCES.**

**No Prior Discipline:** Respondent was admitted to the State Bar on December 21, 1977. Thus, he had over 35 years of discipline free practice prior to February 2013, when the alleged misconduct began. (*In the Matter of Friedman* (1990) 50 Cal. 3d 235, 245 [more than 20 years of unblemished record was "highly significant"].)

**Good Character:** Respondent has submitted character letters from ten (10) witnesses, two of which are licensed attorneys and one of which is a consultant to a Councilmember in the City of Los Angeles, who have been acquainted with respondent in a personal or professional context for a significant period of time. Many of the character witnesses are former or current clients of respondent and have reported that respondent has been diligent in his representation of their matters and is highly

communicative. Most of these witnesses have demonstrated an understanding of the alleged misconduct and still believe respondent to be of extraordinary good character and an excellent attorney. (*In the Matter of Dale* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798, 810-811 [great weight given to testimony of seven character witnesses, three of which were attorneys, who testified that attorney was honest and forthright]; *Tardiff v. State Bar* (1980) 27 Cal.3d 395, 403 [where testimony of eight character witnesses, five of whom were attorneys, was given great consideration in reinstatement proceeding].)

**Pretrial Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*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 Silvertown* (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 violating Rules of Professional Conduct, rule 3-110(A) [Failure to Perform with Competence] and Business and Professions Code section 6068(m) [Failure to Keep Client Reasonably Informed of Significant Developments]. 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 2.7(b), which applies to respondent's violations of Rules of Professional Conduct, rule 3-110(A) and Business and

Professions Code section 6068(m) involving two clients in four separate matters. Standard 2.7(b) provides that “actual suspension is the presumed sanction for performance, communication, or withdrawal violations in multiple client matters, not demonstrating habitual disregard of client interests.”

Respondent’s failure to perform occurred beginning in February 2013 when he failed to appear at trial in the *Aguirre* matter, which led to its dismissal, and continued intermittently through February 2016 when he failed to appear for trial in the *Mehdizadeh* (BC436823) matter and failed to exchange witness and exhibit lists with opposing counsel, which led to the dismissal of the case. During these three years, he failed to file an opposition to a summary judgment motion in the *PSIC* matter, which led to its dismissal, and he failed to diligently defend Mr. Ahmed in *Mehdizadeh* (BC574400). Furthermore, he failed to inform his clients of the dismissals of the *Aguirre* and *PSIC* matters in violation of section 6068(m).

Significant aggravating weight should be given to the fact that respondent failed to perform on multiple matters for which he was hired to provide legal services, and additionally failed to inform his clients of the dismissals in two matters under Standard 1.5(b). Mr. Ahmed and Ms. Sami were significantly harmed due to respondent’s misconduct. The *PSIC* matter was dismissed as a result of respondent’s failure to file an opposition to defendant’s summary judgment motion, the *Aguirre* matter was dismissed as a result of respondent’s failure to appear at trial, and the *Mehdizadeh* (BC436823) matter was dismissed as a result of respondent’s failure to exchange exhibit and witness lists with opposing counsel. (*In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 283 [attorney’s failure to perform resulting in lost cause of action is significant client harm].) Respondent took no actions to rectify the dismissal in the *Aguirre* matter after the matter was dismissed as a result of his failure to appear at trial. In fact, he did not even inform his client of the dismissal and they were unaware of the dismissal until 2016.

Respondent’s 35 years of discipline free practice prior to the misconduct will be entitled to significant mitigating weight. Respondent has also provided character letters from ten (10) witnesses, two of which are licensed attorneys and one of which is a consultant to a Councilmember in the City of Los Angeles, who have been acquainted with respondent in a personal or professional context for a significant period of time. Many of the character witnesses are former or current clients of respondent and have reported that respondent has been diligent in his representation of their matters and is highly communicative. Most of these witnesses have demonstrated an understanding of the alleged misconduct and still believe respondent to be of extraordinary good character and an excellent attorney.

However, the mitigation here does not outweigh the seriousness of the misconduct and the aggravating factors, and thus a **one-year period of suspension, stayed, and one-year period of probation with conditions, including a 60-day period of actual suspension** is appropriate to achieve the purposes of discipline expressed in standard 1.1, including protection of the public.

Case law supports the recommended level of discipline. Failure to perform with competence in violation of rule 3-110 has resulted in the imposition of actual suspension, even where the attorney has no prior record of discipline. In *Bach v. State Bar* (1991) 52 Cal.3d 1201, the attorney had no record of prior discipline in 20 years of practice, but received a 12-month stayed suspension and an actual suspension of 30 days after he had repeatedly and with reckless disregard failed to perform legal services competently for one of his clients in an uncontested marital dissolution proceeding over a period of two and half years, had withdrawn his representation without the client’s consent or court approval, had failed to refund unearned fees paid to him in advance, and failed to respond to written inquiries from a State Bar investigator regarding the matter. In aggravation, *Bach* exhibited “a persistent lack of insight into the deficiencies of his professional behavior,” in his failure to accept responsibility



for the delays, costs, and anxiety suffered by the client, his refusal to participate in fee arbitration, and his failure to cooperate with the State Bar investigation. (*Id.* at 1208)

In *Layton v. State Bar* (1990) 50 Cal.3d 889, the Supreme Court imposed a 30-day actual suspension on an attorney who, over more than a five-year period, failed to conserve the assets and obtain the distribution of an estate for which he was the attorney and executor. (*Id.* at p. 897.) Due to his neglect, the probate court removed the attorney as estate executor. (*Ibid.*) The attorney's misconduct significantly harmed a beneficiary by denying her distribution from the estate at a time when she was experiencing extreme financial need and also harmed the estate by depriving it of interest and causing it to incur tax penalties. (*Ibid.*) The attorney was also indifferent toward rectification or atonement. In mitigation, the attorney had practiced law for over 30 years without discipline and had been under considerable emotional and physical strain due to the need to care for his terminally-ill mother. (*Ibid.*)

Respondent's failure to perform is much more extensive than that exhibited by the attorneys in *Bach* and *Layton*, both of which only involved one client matter. Here, respondent failed to diligently prosecute/defend Mr. Ahmed in at least three separate lawsuits over the course of three years and failed to file a summary judgment motion on behalf of Mr. Ahmed and his mother, Ms. Sami, in a fourth matter. His failure to perform in these matters was reckless, repeated, and caused harm to his clients in the form of lost causes of actions. Furthermore, respondent failed to keep his clients apprised of significant developments in the cases he was handling, primarily that his lack of diligence in prosecuting the matters resulted in dismissals. Thus, a lengthier period of suspension than that imposed in *Bach* and *Layton* seems appropriate here.

In *Calvert v. State Bar* (1991) 54 Cal.3d 765, the Supreme Court imposed a 60-day actual suspension on the attorney because, in a single client matter, she failed to perform competently, continued to represent the client when she knew that she did not have the time to do so, and improperly withdrew. Calvert had provided impressive evidence in mitigation as to substantial *pro bono* activities and community service. Her one prior discipline occurred at the same time as the later matter; thus it was not deemed aggravating.

While respondent's failure to perform is much more extensive than that exhibited by the attorney in *Calvert*, which only involved one client matter, respondent has more mitigation than that found in *Calvert*. In addition to the character witnesses who attest to his good character, respondent has 35 years of discipline free practice prior to the misconduct, which will be entitled to significant mitigating weight, whereas Calvert had one prior record of discipline, though it was not deemed aggravating.

The attorneys in *King v. State Bar* (1990) 52 Cal.3d 307 and *Harris v. State Bar* (1990) 51 Cal.3d 1082 received 90-day periods of actual suspension after they were found culpable of failing to perform. In *King*, the attorney was found to have failed to perform legal services in two client matters, which resulted in the dismissal of the cause of action in one of those matters, and failed to return the client files. The Supreme Court found that despite numerous reminders from both clients, King took no action in their cases for long periods of time. As a result of his misconduct, he seriously harmed one of the clients whose cause of action was dismissed, as evidenced by an \$84,000 uncollected malpractice judgment. Moreover, the Supreme Court stated that there was no evidence that King had accepted responsibility for his own actions. In *Harris*, the attorney, in one client matter, "did virtually nothing for over four years to perform the duties for which she had been retained." (*Harris v. State Bar* (1990) 51 Cal.3d at 1088.) Although the attorney practiced law for ten years without misconduct and contracted typhoid six months after being retained, this did not outweigh the fact that she caused substantial prejudice to the client and showed no remorse or even an understanding that her neglect was improper. (*Ibid.*)

While respondent's misconduct is more extensive than that in *King* and *Harris* because respondent failed to perform with respect to two clients on four separate matters, respondent's 35 years of discipline free practice outweighs King's 14 years of discipline free practice and Harris's 10 years of discipline free practice. Furthermore, in contrast to *King* and *Harris*, where there was no evidence that respondents had accepted responsibility for their misconduct, respondent has acknowledged misconduct by entering into a pretrial stipulation and is entitled to mitigation for recognition of wrongdoing. (*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].)

Balancing the seriousness of the misconduct and the significant mitigation from his lack of a prior disciplinary record and evidence of good character, the case of *Calvert* is most instructive and a 60-day period of actual suspension is appropriate here.

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

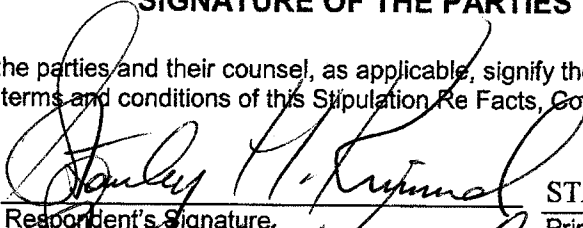
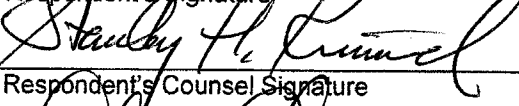
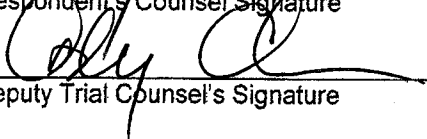
Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of October 10, 2018, the discipline costs in this matter are \$6,114. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: STANLEY HOWARD KIMMEL	Case Number(s): 16-O-12311
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**SIGNATURE OF THE PARTIES**

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

<u>10/11/2018</u> Date	 Respondent's Signature	<u>STANLEY HOWARD KIMMEL</u> Print Name
<u>10/11/2018</u> Date	 Respondent's Counsel Signature	<u><i>in propria persona</i></u> Print Name
<u>10/15/2018</u> Date	 Deputy Trial Counsel's Signature	<u>CINDY CHAN</u> Print Name

(Do not write above this line.)

In the Matter of: STANLEY HOWARD KIMMEL	Case Number(s): 16-O-12311
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**ACTUAL SUSPENSION ORDER**

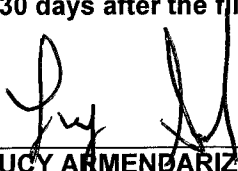
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

On page 17 of the Stipulation, second full paragraph, line 4, "an opposition to" is inserted after "file".

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 Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order. (See Cal. Rules of Court, rule 9.18(a).)**

Oct 18, 2018  
Date

  
LUCY ARMENBARIZ  
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 Court Specialist 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 October 18, 2018, 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:

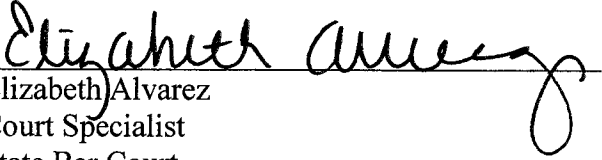
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

STANLEY HOWARD KIMMEL  
LAW OFFICES OF STANLEY H.  
KIMMEL, ESQ.  
10727 WHITE OAK AVE STE 202  
GRANADA HILLS, CA 91344 - 4634

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

Cindy W.Y. Chan, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 18, 2018.

  
Elizabeth Alvarez  
Court Specialist  
State Bar Court