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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Anand Kumar Senior Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1714 Bar # 261592	Case Number(s): 16-O-12641-YDR 16-O-13467 16-O-16159	For Court use only <div style="text-align: center;"> FILED JUN 21 2017  STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Dermot Damian Givens 468 N. Camden Drive, Suite 305 Beverly Hills, CA 90210 (310) 854-8823 Bar # 194571	PUBLIC MATTER	
In the Matter of: DERMOT DAMIAN GIVENS Bar # 194571 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 **March 11, 1998**.
- (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 **13** 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."



- (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: **two (2) billing cycles immediately following the effective date of the Supreme Court order in this matter.** (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.

- (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 Stipulation, at page 9.)
- (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. (See Stipulation, at page 10.)
- (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. (See Stipulation, at page 10.)

- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☒ **Good Character:** Respondent's 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. **(See Stipulation, at page 10.)**
- (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

Prefiling Stipulation (see Stipulation, at page 10)

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **one (1) year**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and 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 **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the

probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

- (4) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5) ☒ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (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 checked="" 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:**

Conditions re State Bar Ethics School and Client Trust Accounting School:

As reflected above at section E(7), within one (1) year of the effective discipline herein, as a condition of his disciplinary probation, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of State Bar Ethics School, within the same period of time, and passage of the test given at the end of the session. Similarly, as reflected at page 8 of the Stipulation, within one (1) year of the effective discipline herein, as a condition of his disciplinary probation, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of State Bar Client Trust Accounting School, within the same period of time, and passage of the test given at the end of the session. If Respondent attends either or both of the classes prior to the effective date of the instant discipline, Respondent's provision of satisfactory proof of attendance at the session(s), and passage of the test given at the session(s) to the Office of Probation within one (1) year of the effective date of the discipline will satisfy those respective conditions of his probation to be imposed herein.

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In the Matter of: DERMOT DAMIAN GIVENS	Case Number(s): 16-O-12641, 16-O-13467, 16-O-16159
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Financial Conditions

a. Restitution

- ☐ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- ☐ 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.

c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: DERMOT DAMIAN GIVENS

CASE NUMBERS: 16-O-12641, 16-O-13467, 16-O-16159

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 Nos. 16-O-12641, 16-O-13467, 16-O-16159 (State Bar Investigations)

FACTS:

1. Between January 4, 2016 and September 14, 2016, respondent commingled funds in his client trust account by depositing eight checks from the State of California in his Client Trust Account at Bank of America ("CTA") totaling \$20,225 while client funds were also held in trust. Specifically, respondent deposited the eight checks, which were legal fees for his representation of inmates for the Board of Parole Hearings, and did so without bad faith or illegitimate purpose.
2. On January 26, 2016, respondent also commingled funds by making a \$370.23 payment for his firm's malpractice insurance, a business expense, from his CTA while client funds were also held in trust. No client funds were used for respondent's payment of the malpractice insurance.
3. During the State Bar investigation, respondent enrolled in the August 9, 2017 session of State Bar Client Trust Accounting School.

CONCLUSIONS OF LAW:

4. By making eight deposits of personal funds into his CTA between January 4, 2016 and September 14, 2016, respondent deposited and commingled funds belonging to respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).
5. By making a payment for his malpractice insurance from his CTA on January 26, 2016, while client funds were held in his CTA, respondent commingled funds belonging to respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed multiple acts in violation of the Rules of Professional Conduct. Accordingly, respondent's commission of multiple acts of misconduct is an aggravating circumstance here.

MITIGATING CIRCUMSTANCES.

No Prior Discipline (Std. 1.6(a)): Respondent was admitted in March 1998 and had been practicing law for nearly 18 years at the time of the misconduct without prior discipline. This is a significantly mitigating factor. (*Friedman v. State Bar* (1990) 50 Cal.3d 235, 245 [20 years of discipline-free is “highly significant”]; *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [more than 10 years of discipline-free entitled to significant mitigation].)

Extreme Emotional Difficulties (Std. 1.6(d)): At the time of misconduct, respondent was suffering from extreme emotional difficulties as a result of his father’s deteriorating health and subsequent passing, which directly contributed to his misconduct, as attested to by his treating therapist, and which no longer pose a risk that respondent will commit misconduct. Respondent was his father’s primary caretaker until November 2015, when his father began in-home hospice care until he died in February 2016, and respondent thereafter had to handle the affairs of his father’s estate, during which time he failed to properly observe his CTA duties due to feeling emotionally overwhelmed by the stress of dealing with his father’s death leading to his poor judgment. The therapist confirmed that respondent no longer suffers from the same stressors and therefore his extreme emotional difficulties no longer pose a risk that the misconduct will recur.

Extraordinary Good Character (Std. 1.6(f)): Respondent submitted seven character letters from a widespread sample of the legal and general communities, all of whom are aware of the full extent of the misconduct, including three attorneys, two former clients and two other professional acquaintances who know him through his community service, and all of the letters attest to his good character. Respondent has also engaged in significant pro bono work and community service on behalf of the Black Lives Matter movement wherein he represented a client at trial in a criminal matter after the client had been arrested during a protest and is also pursuing a civil rights action on behalf of the client. Respondent also served as a board member for a Southern California adoption agency and spoke to students of a local Long Beach middle school and high school for at-risk students regarding the practice of law after delivering the keynote speech at a 2011 graduation ceremony for the school. Respondent also hosted community meetings to discuss the repeal of anti-affirmative action law in 2015. (See *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service is mitigating factor]; *In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359 [performance of civic service and charitable work is entitled to mitigation as evidence of good character]; see also *Porter v. State Bar* (1990) 52 Cal.3d 518, 529.)

Prefiling Stipulation: While some of the instant facts are easily provable, 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 committing multiple 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 here is found in Standard 2.2 for respondent’s commingling. Standard 2.2(a) provides that actual suspension of three months is the presumed sanction for commingling.

Respondent’s misconduct is serious, because it reflects poor CTA management over a 10-month period, and involves poor judgment considering he knowingly deposited eight paychecks in his CTA. However, as stated above, there are several significantly mitigating circumstances present, which require consideration as stated in Standard 1.7(c), which provides:

If mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard. On balance, a lesser sanction is appropriate of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future.

Here, while respondent's misconduct was willful, it did not involve bad faith. Willfulness in the context of attorney discipline only requires that the member charged with wrongdoing intended either to commit the act or to abstain from committing it. (See *Durbin v. State Bar* (1979) 23 Cal.3d 461, 467 [no intent to violate law, to injure another, or to acquire advantage required]; see also *Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186 [willfulness does not require bad faith or knowledge of provision violated].) Respondent's misconduct also does not appear to involve any misappropriated funds or harm to his clients, and appears to have been isolated to an approximate 10-month period. As attested to by his therapist, his misconduct occurred under aberrational conditions involving extreme emotional difficulties, which no longer pose a risk of recurrence. Taking into consideration the other mitigating factors surrounding his misconduct, including his significant community service and good character, his admission of the misconduct to the State Bar during its investigation and registration for State Bar CTA School, demonstrates Respondent's ability and willingness to conform his conduct to his ethical responsibilities. Lastly, and most importantly, Respondent's lack of discipline over 17-years of practice is "highly significant" mitigating factor, because it demonstrates that his misconduct is unlikely to recur.

Therefore, when viewed in totality, the net effect of the mitigating circumstances warrants a compelling justification to deviate from the presumed sanction of the three-month actual suspension and impose a period of stayed suspension with a lengthy period of probation. (See *In re Silverton*, *supra*, 36 Cal.4th at p. 92.) Accordingly, discipline consisting of a one (1) year stayed suspension and a two (2) year probation with conditions is appropriate to protect the public, the courts and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession.

Case law also supports the instant disciplinary recommendation. In *In the Matter of Respondent E* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716, an attorney was found to have engaged in commingling involving his bookkeeper's mishandling of a single client check due to a mistake imputed to him despite an otherwise adequate billing system, which resulted in an unpaid expert witness fee. The Court found that the attorney's misconduct was surrounded by several mitigating circumstances, including no prior record of discipline over 30 years, good character and pro bono work, and candor and cooperation with the State Bar, while finding no aggravating circumstances present. Applying former Standard 2.2(a), which called for a three-month actual suspension, the same presumed sanction as current Standard 2.2(a), the Court found it appropriate to deviate from the Standard and impose lesser discipline (private reproof). Here, respondent's misconduct stems primarily from his own faulty decision to deposit eight personal checks into his CTA (as opposed to mishandling one client check), and he has far less years in practice than did the attorney in *In the Matter of Respondent E*, and accordingly respondent's misconduct warrants more significant discipline than a reproof.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of May 18, 2017, the prosecution costs in this matter are approximately \$5,267. 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.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, respondent may not receive MCLE credit for completion State Bar Ethics School or Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

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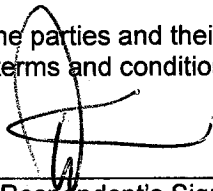
In the Matter of:
DERMOT DAMIAN GIVENS

Case number(s):
16-O-12641, 16-O-13467, 16-O-16159

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.

May 23, 2017
Date


Respondent's Signature

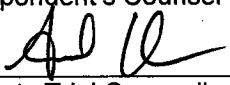
Dermot Damian Givens
Print Name

Date

Respondent's Counsel Signature

Print Name

May 24, 2017
Date


Deputy Trial Counsel's Signature

Anand Kumar
Print Name

(Do not write above this line.)

In the Matter of:
DERMOT DAMIAN GIVENS

Case Number(s):
16-O-12641, 16-O-13467, 16-O-16159

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. The "X" in the box at page 5 of the Stipulation, paragraph E.(5) is deleted.
2. On page 6 of the Stipulation, the last sentence is deleted, and in its place is inserted the following: "If Respondent attends either or both of these courses and provides to the Office of Probation proof of passage of the test given at the end of either or both of those courses prior to the effective date of the discipline imposed in this matter, that will satisfy the Ethics School and Client Trust Accounting School probation conditions as set forth in this Stipulation."
3. On page 9 of the Stipulation, at numbered paragraph 5, line 3, the following is inserted after "import": "and improperly used his client trust account to pay a personal expense."
4. On page 10 of the Stipulation, at paragraph 1, lines 3-4 and line 5, "practice" is inserted after "discipline-free".
5. On page 12 of the Stipulation, first paragraph, line 7, "an approximately 10-month period" is deleted, and in its place is inserted "a more than eight month period".

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date

June 20, 2017

YVETTE D. ROLAND
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 June 21, 2017, 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:

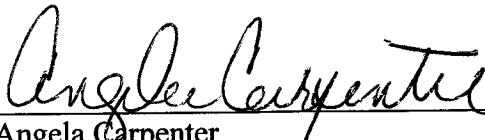
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DERMOT D. GIVENS
468 N CAMDEN DR STE 305
BEVERLY HILLS, CA 90210

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

Anand Kumar, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 21, 2017.



Angela Carpenter
Case Administrator
State Bar Court