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State Bar Court of California Hearing Department San Francisco REPROVAL		
<p>Counsel For The State Bar</p> <p><b>Britta G. Pomrantz</b> Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2292</p> <p>Bar # 310644</p>	<p>Case Number(s): 16-O-13836-LMA</p>	<p>For Court use only</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b></p> <p>NOV 06 2017 <i>WJ</i></p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p><b>Glen R. Olson</b> Long &amp; Levit LLP Merchants Exchange Bldg 465 California Street, 5th Floor San Francisco, CA 94104 (415) 397-2222</p> <p>Bar # 111914</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: <b>DAVID CLINE JOHNSTON</b></p> <p>Bar # 71367</p> <p>A Member of the State Bar of California (Respondent)</p>	<p><b>PUBLIC REPROVAL</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 **December 22, 1976**.
- (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 **eleven (11)** pages, not including the order.

(Effective April 1, 2016)



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- (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 (public reproof).
  - Case ineligible for costs (private reproof).
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.
- (9) The parties understand that:
- (a)  A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b)  A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c)  A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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 **88-O-10116 (See Exhibit 1; see Attachment, p. 8).**
  - (b)  Date prior discipline effective **April 3, 1991**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Failure to Render an Accounting, former Rules of Professional Conduct, rule 8-101(B)(3).**

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- (d)  **Degree of prior discipline Public reproof**
- (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.
- (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 investigation and proceedings.

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(Effective April 1, 2016)

Reproof

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- (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 Attachment, p. 8.**
- (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.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

Pretrial stipulation, see Attachment, p. 8.

**D. Discipline:**

- (1)  **Private reproof (check applicable conditions, if any, below)**
- (a)  Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b)  Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2)  **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1)  Respondent must comply with the conditions attached to the reproof for a period of **1 year**.

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- (2)  During the condition period attached to the reproof, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  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.
- (4)  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 reproof. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the reproof conditions period, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of reproof with the probation monitor to establish a manner and schedule of compliance. During the reproof conditions period, Respondent must furnish 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 monitor.
- (7)  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 conditions attached to the reproof.
- (8)  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 Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (9)  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.
- (10)  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 of the effective date of the reproof.

No MPRE recommended. Reason: **The protection of the public and the interests of the respondent do not require passage of the MPRE in this case. (See In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181 and rule 9.19, Cal. Rules of Court.)**

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(11)  The following conditions are attached hereto and incorporated:

Substance Abuse Conditions

Law Office Management Conditions

Medical Conditions

Financial Conditions

**F. Other Conditions Negotiated by the Parties:**

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

IN THE MATTER OF:                      DAVID CLINE JOHNSTON

CASE NUMBER:                              16-O-13836-LMA

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 16-O-13836-LMA (Complainant: Curt Nizzoli)

**FACTS:**

1.        On May 5, 2015, Curt Nizzoli (“Nizzoli”) asked respondent to prepare offers in compromise in connection with Nizzoli’s debts owed to the Internal Revenue Service and the State Board of Equalization. In fixing the terms of the representation, respondent asked Nizzoli to send him a retainer of \$2,000. On June 7, 2015, Nizzoli paid respondent \$2,000 in advanced fees.

2.        In an exchange of emails on June 6 and 7, 2015, Nizzoli informed respondent that he wanted to offer each tax agency \$10,000. On June 7, 2015, respondent provided financial forms to Nizzoli which itemized the documents Nizzoli was to return. After receiving incomplete paperwork from Nizzoli, respondent did not respond with a request for additional documents or prepare the offers of compromise on behalf of Nizzoli.

3.        On June 18, 2015, Nizzoli sent respondent an email asking whether any additional information was needed for respondent to proceed with the offers in compromise; respondent received the email, but did not respond. On June 26 and August 12, 2015, Nizzoli emailed respondent seeking status updates. Respondent received those emails, but did not respond.

4.        On December 11, 2015, Nizzoli sent respondent a letter detailing his efforts to contact respondent about the case, and demanding that respondent either refund the \$2000 in advanced fees or produce proof of completed offers in compromise submitted on Nizzoli’s behalf. Respondent received the letter, but did not respond.

5.        On May 27, 2016, Nizzoli filed a complaint against respondent with the State Bar.

6.        On July 14, 2016, December 7, 2016, and April 5, 2017, the State Bar investigator sent respondent a letter requesting respondent’s response to the allegations. Respondent received the letters, but did not respond. On April 5, 2017, the State Bar investigator left a voicemail message for respondent asking that he contact her to discuss the matter. Respondent received the voicemail message, but did not respond.

7. It was not until September 7, 2017, after formal charges were filed in the instant matter, that respondent refunded to Nizzoli the \$2,000 in unearned fees.

#### CONCLUSIONS OF LAW:

8. By failing to prepare and execute offers in compromise in connection with Nizzoli's outstanding debts, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

9. By failing to respond promptly to four reasonable written status inquiries made by Nizzoli between June 18, 2015 and December 11, 2015, which respondent received in a matter in which he had agreed to provide legal services, respondent failed to communicate in willful violation of Business and Professions Code, section 6068(m).

10. By failing to provide a substantive, written response to the State Bar's written inquiries, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 16-O-13836, respondent failed to operate in a State Bar Investigation, in willful violation of Business and Professions Code, section 6068(i).

#### AGGRAVATING CIRCUMSTANCES

Prior Record of Discipline: In 1991, in State Bar case no. 88-O-10116, respondent stipulated to a single charge of failing to render an accounting, and received a public reproof, effective April 3, 1991. In mitigation, it was stipulated that respondent had no prior record of discipline, was cooperative with the State Bar investigation, provided the requested accounting to his client, and, at the time of the misconduct, was experiencing personal and professional difficulties. No aggravating factors were included in the stipulation. The misconduct at issue in that case took place in late 1987.

#### MITIGATING CIRCUMSTANCES

Standard 1.6(d), Emotional/Physical Difficulties: At the time of the misconduct and continuing into early 2017, including during the period of the State Bar investigation, respondent was suffering from extreme difficulties in his personal life, including his own and his wife's serious medical conditions, the deaths of his father-in-law and mother-in-law, and the deaths of close friends and other family members. (*In re Naney* (1990) 51 Cal.3d 186, 197 [mitigation credit may be available for personal difficulties if extreme and directly responsible for the misconduct]; *In the Matter of Kaplan* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509, 519.) Respondent has recovered from his illness and has family members to assist in his wife's case.

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving State Bar Court 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].) The weight to be accorded to respondent's entry into a pretrial stipulation is tempered by his failure to cooperate in the investigation.

#### 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 failed to perform and communicate in a single client matter, over a period of several months and failed to cooperate in the State Bar investigation. Standard 2.7(c) applies to this type of misconduct and provides: “Suspension or reproof is the presumed sanction for performance, communication, or withdrawal violations, which are limited in scope or time. The degree of sanction depends on the extent of the misconduct and the degree of harm to the client or clients.”

Additionally, pursuant to Standard 1.8(a), “where a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous conduct was not serious enough to that imposing greater discipline would be manifestly unjust.” In his single prior disciplinary matter, State Bar case no. 88-O-10116, respondent stipulated to the charge of failing to render an accounting, and received a public reproof. The misconduct occurred in 1987. Accordingly, because respondent’s prior misconduct occurred 26 years before the current misconduct, there is good cause to deviate from the requirements of Standard 1.8(a).

In determining the appropriate level of discipline, consideration must be given to both aggravating and mitigating circumstances. In mitigation, respondent entered into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving the State Bar Court time and resources. This, however, is tempered by respondent’s failure to cooperate in the State Bar investigation. With regard to aggravation, respondent has a prior record of discipline.

Given the limited scope and time of respondent’s present misconduct, alongside the mitigation and lack of significant aggravation, discipline at the low end of the standards is appropriate.

Case law is instructive. In *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, the court recommended a six-month stayed suspension for an attorney who failed to perform in a criminal appellate and habeas corpus proceedings, failed to obey court orders and failed to report sanctions in a single client matter. In aggravation, the court found multiple acts of misconduct and harm. In mitigation, the court found no prior record of discipline in 17 years of practice, no further misconduct, good character and cooperation for entering into a fact stipulation.

Respondent's misconduct is considerably less egregious than that in *Riordan*, is not accompanied by the same quantum of aggravation. In light of the foregoing, discipline below that recommended in *Riordan* is appropriate.

On balance, a public reproof with conditions for one year will serve the purposes of attorney discipline.

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of September 14, 2017, the discipline costs in this matter are \$3,758. 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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT**

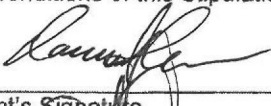

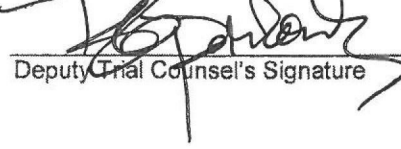
Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: David C. Johnston	Case number(s): 16-O-13836
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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>Oct. 11, 2017</u> Date	 Respondent's Signature	<u>David C. Johnston</u> Print Name
<u>Oct. 13, 2017</u> Date	 Respondent's Counsel Signature	<u>Glen Olson</u> Print Name
<u>October 13, 2017</u> Date	 Deputy Trial Counsel's Signature	<u>Britta G. Pomrantz</u> Print Name

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In the Matter of: David C. Johnston	Case Number(s): 16-O-13836
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### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

1. On page 2 of the Stipulation, at paragraph B.(1)(b), "April 3, 1991" is deleted, and in its place is inserted "June 13, 1991".
2. On page 8 of the Stipulation, at numbered paragraph 10, line 3, "operate" is deleted, and in its place is inserted "cooperate".
3. On page 8 of the Stipulation, under "Aggravating Circumstances," line 2, "April 3, 1991" is deleted, and in its place is inserted "June 13, 1991".
4. On page 9 of the Stipulation, at paragraph 5, line 6, "26 years" is deleted, and in its place is inserted "over 27 years".
5. On page 9 of the Stipulation, at paragraph 6, line 5, after the sentence ending in "investigation," the following sentence is inserted: "In mitigation, Respondent also had extreme difficulties in his personal life."
6. The second to the last page of Exhibit 1 attached to the Stipulation pertains to cases other than this matter and to a respondent other than David Cline Johnston. The last page of Exhibit 1 bears a certified stamp which appears to pertain to the document on the previous page based on its placement in the exhibit. Therefore, upon the effective date of the Stipulation, the court's case administrator is directed to remove the last two pages of Exhibit 1 attached to the Stipulation. Pursuant to Evidence Code section 452, subdivision (d), the court takes judicial notice of respondent's prior record of discipline in case No. 88-O-10116.

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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

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**Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

November 6, 2017

Date

  
Judge of the State Bar Court



**THE STATE BAR  
OF CALIFORNIA**

**OFFICE OF THE STATE BAR COURT**

Senior Executive, STUART A. FORSYTH

COURT CLERK'S OFFICE, 100 VAN NESS AVENUE, 28th FLOOR, SAN FRANCISCO, CALIFORNIA 94102-5238

(415) 241-2050

**P E R S O N A L   A N D   C O N F I D E N T I A L**

**NOTICE ACCOMPANYING SERVICE OF  
STIPULATION AS TO FACTS AND DISPOSITION  
AND ORDER APPROVING SAME IN**

**CASE NUMBER 88-O-10116 AKG THE MATTER OF DAVID CLINE JOHNSTON**

Enclosed is a copy of the Stipulation As To Facts and Disposition entered into in the above-entitled matter pursuant to rules 405 and 406 of the Rules of Procedure of the State Bar, and a copy of the Order Approving Stipulation filed pursuant to rule 407 of said Rules.

A Copy of rules 405-407, Transitional Rules of Procedure of the State Bar, Amended California Rules of Court and Rule 1400 of the Provisional Rules of Practice are also enclosed for reference. Your attention is directed to these rules which set forth post-stipulation time limitations and procedure applicable to this proceeding before the State Bar Court and the Supreme Court.

**DECLARATION OF SERVICE**

I, the undersigned, over the age of 18 years, whose business addressed and place of employment is 100 Van Ness Avenue, 28th Floor, San Francisco, California, declare that I am not a party to the within action; that in the City and County of San Francisco, on the date shown below, I deposited true copies of this Notice, the Stipulation As to Facts and Disposition, the Order Approving Stipulation, and rules 405-407, Transitional Rules of Procedure of the State Bar, Amended California Rules of Court and Rule 1400 of the Provisional Rules of Practice in a sealed envelope addressed as follows:

In a facility regularly maintained by the United States Postal Service, with postage thereon fully prepaid addressed to:

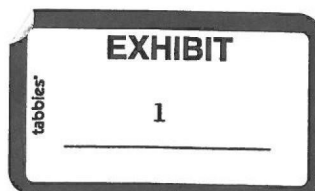
David Cline Johnston, Esq.  
P.O. Box 4516  
Modesto, CA 95352

Gregory B. Sloan, Esq.  
State Bar of California  
555 Franklin Street  
San Francisco, CA 94102

I declare under penalty of perjury at San Francisco, California, that the foregoing is true and correct. Dated this 3rd day of April, 1991.

*Jayna Blackwell*  
Jayna Blackwell  
Deputy Court Clerk  
State Bar Court

Within document forwarded to  
Hearing Panel on 4/3/91  
STATE BAR COURT CLERK'S OFFICE  
By: *JL*



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STATE BAR COURT  
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HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of ) Case No.: 88-O-10116-AGK  
DAVID C. JOHNSTON, #71367 )  
A Member of the State Bar ) ORDER APPROVING  
STIPULATION WITH  
MODIFICATIONS

A Stipulation as to Facts and Discipline pursuant to Rules 401 through 407 of the Transitional Rules of Procedure of the State Bar of California was submitted by the parties on March 29, 1991.

A conference was held with the parties on April 1, 1991, after the submission of the Stipulation, to review certain modifications of the Stipulation with the parties. My approval of this Stipulation is because the parties consented in the recorded conference to the following modifications: (1) the Stipulation is modified at page 2 in numbered paragraph 4, lines 14 to 17, which deals with the understanding of the parties to the Stipulation in the section entitled "Proceedings Involved", to add a subsection (b) that the parties also understand that Stipulations as to proposed discipline are not binding upon the Supreme Court; (2) the Stipulation is modified and corrected at page 5, line 5 of the section entitled "Other Considerations" to add the word "were" in

1 between "(\$7,715.66)" and "paid"; (3) the Stipulation is modified  
2 at page 6, line 20 of the Recommended Discipline by replacing the  
3 word "may" with the word "shall". The parties agreed in the April  
4 1, 1991 conference to have the above changes reflected in the  
5 Court's order approving the Stipulation as modified rather than to  
6 re-submit an Amended Stipulation. The Stipulation filed on January  
7 11, 1991 as modified and as approved here is binding on the parties  
8 unless either seeks to withdraw or modify it pursuant to Rule  
9 407(c) of the State Bar Court's Transitional Rules of Procedure  
10 within fifteen days of service of this Order.

11 I have fully examined and considered the submitted  
12 Stipulation, its admitted facts, conclusions resulting from those  
13 facts, and proposed disposition. The proposed disposition of a  
14 public reproof on condition of compliance with certain conditions  
15 provides adequate discipline for the failure of David Cline  
16 Johnston, respondent ("respondent") to provide an accounting to his  
17 client in light of the mitigating facts presented on pages 4 and 5  
18 of the Stipulation which show that respondent had been in practice  
19 14 years with no prior record of discipline, had been cooperative,  
20 had serious personal problems at the time the accounting was  
21 requested which had distracted respondent, respondent ultimately  
22 provided the accounting and the client suffered no monetary loss  
23 due to the delay. The Stipulation for a public reproof on  
24 condition of a one year period of probation with reporting  
25 provisions and requirements that respondent attend the Ethics  
26 School held by the State Bar and take and pass the California  
27 Professional Responsibility Examination thus appears fair to the  
28 parties and will adequately protect the public.



O R D E R

1  
2 IT IS THEREFORE ORDERED that the Stipulation filed  
3 March 29, 1991 as to Facts and Discipline, and as above modified,  
4 in the Matter of DAVID CLINE JOHNSTON, Case No. 88-O-10116-AMG is  
5 approved. The discipline proposed in the Stipulation is the  
6 discipline ordered by me.

7 Respondent, DAVID CLINE JOHNSTON is ordered to be  
8 publicly reprovved. Respondent is further ordered placed on  
9 probation for a period of one (1) year from the date of his letter  
10 of public reprovral in this matter. Pursuant to rule 956,  
11 California Rules of Court, respondent is ordered to comply with the  
12 following conditions:

13 (1) That during the period of probation he shall comply  
14 with the provisions of the State Bar Act and the Rules of  
15 Professional Conduct of the State Bar of California;

16 (2) That during the period of probation, he shall  
17 report not later than January 10, April 10, July 10 and October 10  
18 of each year or part thereof during which the probation is in  
19 effect, in writing, to the Probation Department, State Bar Court,  
20 Los Angeles, which report shall state that it covers the preceding  
21 calendar quarter or applicable portion thereof, certifying by  
22 affidavit or under penalty of perjury (provided, however, that if  
23 the effective date of probation is less than 30 days preceding any  
24 of said dates, he shall file said report on the due date next  
25 following the due date after said effective date):

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1 (a) in his first report, that he has complied with  
2 all provisions of the State Bar Act, and the Rules of  
3 Professional Conduct since the effective date of said  
4 probation;

5 (b) in each subsequent report, that he has  
6 complied with all provisions of the State Bar Act and  
7 Rules of Professional Conduct during said period;

8 (c) provided, however, that a final report shall  
9 be filed covering the remaining portion of the period of  
10 probation following the last report required by the  
11 foregoing provisions of this paragraph certifying to the  
12 matters set forth in subparagraph (b) thereof;

13 (3) That respondent shall be referred to the Department  
14 of Probation, State Bar Court, for assignment of a probation  
15 monitor referee. Respondent shall promptly review the terms and  
16 conditions of his probation with the probation monitor referee to  
17 establish a manner and schedule of compliance, consistent with  
18 these terms of probation. During the period of probation,  
19 respondent shall furnish such reports concerning his compliance as  
20 may be requested by the probation monitor referee. Respondent  
21 shall cooperate fully with the probation monitor to enable him/her  
22 to discharge his/her duties pursuant to rule 611, Transitional  
23 Rules of Procedure of the State Bar;

24 (4) That subject to assertion of applicable privileges,  
25 respondent shall answer fully, promptly and truthfully any  
26 inquiries of the Probation Department of the State Bar Court and  
27 any probation monitor referee assigned under these conditions of  
28 probation which are directed to respondent personally or in writing

1 relating to whether respondent is complying or has complied with  
2 these terms of probation;

3 (5) That respondent shall promptly report, and in no  
4 event in more than ten days, to the membership records office of  
5 the State Bar and to the Probation Department all changes of  
6 information including current office or other address for State Bar  
7 purposes as prescribed by section 6002.1 of the Business and  
8 Professions Code;

9 (6) That within six (6) months of the date of the  
10 letter of public reproof to respondent, respondent shall attend  
11 the State Bar's one-day seminar "Ethics School" which is held  
12 periodically in Saturday sessions at the State Bar of California,  
13 555 Franklin Street, San Francisco, and respondent shall take and  
14 pass the test given at the end of each session.

15 (7) Respondent is further ordered and required as a  
16 condition of his public reproof to take and pass the California  
17 Professional Responsibility Examination, given by the Office of  
18 Admissions, State Bar of California, within one year from the date  
19 of the letter of public reproof of respondent.

20 Respondent is hereby notified that failure to comply with  
21 the above orders may constitute cause for a separate and further  
22 disciplinary proceeding for wilful breach of rule 1-110 of the  
23 Rules of Professional Conduct.

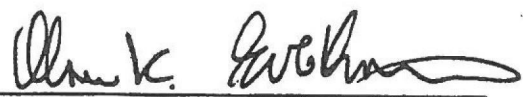
24 AWARD OF COSTS

25 Costs incurred by the State Bar in the investigation,  
26 hearing and review of this matter are awarded to the State Bar  
27 pursuant to Business and Professions Code section 6086.10. The  
28 Clerk of the State Bar Court is directed to prepare the appropriate

1 cost certificates under rules 460 and 461 of the State Bar's  
2 Transitional Rules of Procedure. Respondent is directed to Bus. &  
3 Prof. §6086.10 and rule 462 of the Transitional Rules of Procedure  
4 concerning requests for relief from or extensions of time to pay  
5 costs.

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Dated: April 1, 1991

  
ALAN K. GOLDHAMMER  
JUDGE OF THE STATE BAR COURT

**FILED**

MAR 29 1991



STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

1 OFFICE OF TRIAL COUNSEL  
2 STATE BAR OF CALIFORNIA  
3 Gregory B. Sloan, Member No. 103158  
4 Attorney at Law  
5 555 Franklin Street  
6 San Francisco, California 94102  
7  
8 (415) 561-8200

6 Examiner for  
7 The State Bar of California

8 THE STATE BAR COURT  
9 OF THE STATE BAR OF CALIFORNIA  
10 HEARING DEPARTMENT - SAN FRANCISCO  
11

12 In the Matter of ) Case Number 88-0-10116  
13 )  
14 DAVID CLINE JOHNSTON ) STIPULATION AS TO FACTS AND  
15 Member No. 71367 ) DISCIPLINE PURSUANT TO RULES  
16 ) 401-407 TRANSITIONAL RULES OF  
17 ) PROCEDURE OF THE STATE BAR OF  
18 ) CALIFORNIA  
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17 IT IS HEREBY STIPULATED by and between the State Bar of California,  
18 through its Examiner, GREGORY B. SLOAN, Attorney at Law and DAVID CLINE  
19 JOHNSTON, ESQ., in accordance with Rules 401-407 of the Transitional Rules of  
20 Procedure of the State Bar of California, as follows:

21 I.

22 Respondent was admitted to the practice of law in the State of California on  
23 December 22, 1976 and is, and at all times herein mentioned was, an attorney and  
24 a member of the State Bar of California.

25 / / /  
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Within document forwarded to  
Hearing Panel on 12/1/91  
STATE BAR COURT CLERK'S OFFICE  
By: [Signature]

1 II.

2 PROCEEDINGS INVOLVED

3 1. On November 16, 1990, a Notice to Show Cause was filed against  
4 Respondent. On December 19, 1990, Respondent filed his Answer to the Notice to  
5 Show Cause. A Status Conference was held on March 5, 1991. Before the Status  
6 Conference, the examiner and Respondent met and conferred regarding a possible  
7 disposition of this matter. A tentative agreement as to facts and discipline was  
8 reached during those discussions.

9 2. It is now the intention of the Office of Trial Counsel and Respondent  
10 to dispose of all of the issues raised in the aforementioned Notice to Show Cause  
11 pursuant to the terms of this Stipulation and in accordance with Rules 401-407 of  
12 the Transitional Rules of Procedure of the State Bar of California.

13 3. Respondent and the State Bar agree to waive a formal hearing.

14 4. It is understood by the parties to this Stipulation that:

15 (a) Stipulations as to Facts and Discipline are subject to approval  
16 by the assigned Judge of the State Bar Court and may be  
disapproved or rejected by said judge.

17 5. Respondent has been advised of all disciplinary matters, if any,  
18 pending at the State Bar concerning him.

19 6. This Stipulation disposes only of those matters addressed herein.

20 7. Pursuant to Rule 406 of the Transitional Rules of Procedure of the  
21 State Bar, the Chief Trial Counsel has delegated his authority to approve  
22 Stipulations as to Facts and Discipline to the undersigned State Bar examiner.

23 8. Pursuant to Rule 407(b) of the State Bar's Transitional Rules of  
24 Procedure, if the State Bar Court rejects this Stipulation, the parties shall be  
25 relieved of all effects of the Stipulation and proceedings shall resume.

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1 IV.

2 CONCLUSION OF LAW

3 By his actions or inactions as herein above set forth, Respondent willfully:  
4 Failed to render an accounting to his client in violation of former Rule of  
5 Professional Conduct 8-101(B)(3).

6 V.

7 STATEMENT OF AGGRAVATING CIRCUMSTANCES

8 None.

9 VI.

10 FACTS IN MITIGATION OF DISCIPLINE

11 It is hereby stipulated that the following facts are true and should be  
12 considered in mitigation of discipline:

13 1. Respondent has no prior record of discipline in approximately fourteen  
14 (14) years of the practice of law.

15 2. Respondent showed remorse for his wrongful conduct.

16 3. Respondent cooperated with the State Bar during the disciplinary  
17 phase of these proceedings.

18 4. Respondent on or about March 5, 1990 provided the required  
19 accounting to Laetitia Presaut, Ball's attorney.

20 5. At the time the accounting was requested, Respondent was involved  
21 in proceedings to dissolve a 16 year marriage. This led to Respondent being  
22 treated by a doctor for depression. At the same time, Respondent and his law  
23 partner, Carl W. Collins, were dissolving their partnership.

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1 VII.

2 OTHER CONSIDERATIONS

3 Ball suffered no monetary loss in that all funds, together with interest, (at  
4 total of Seven Thousand Seven Hundred Fifteen Dollars and Sixty-Six Cents  
5 (\$7,715.66) paid to him by Respondent on March 5, 1990, when the accounting was  
6 rendered.

7 VIII.

8 RECOMMENDED DISCIPLINE

9 It being found that the protection of the public and the interest of  
10 Respondent, DAVID CLINE JOHNSTON, will be served; it is recommended that  
11 Respondent be publicly reprovved. Both parties agree that it is in the best interest  
12 of the public and Respondent that he be placed on probation and assigned a  
13 probation monitor. Pursuant to Rule 956 of the California Rules of Court, it is  
14 recommended that Respondent shall comply with the following conditions:

- 15 1. That Respondent shall be placed on probation for a period of one (1)  
16 year;
- 17 2. That during the period of probation, he shall comply with the  
18 provisions of the State Bar Act and Rules of Professional Conduct of  
the State Bar of California;
- 19 3. That during the period of probation, he shall report not later than  
20 January 10, April 10, July 10 and October 10 of each year or part  
21 thereof during which the probation is in effect, in writing, to the  
22 Probation Department, State Bar Court, Los Angeles, which report  
shall state that it covers the preceding calendar quarter or applicable  
23 portion thereof, certifying by affidavit or under penalty of perjury  
(provided, however, that if the effective date of probation is less than  
thirty (30) days preceding any of said dates, he shall file said report  
on the due date next following the due date after said effective date):
- 24 (a) In his first report, that he has complied with all provisions of  
25 the State Bar Act and Rules of Professional Conduct since the  
effective date of said probation; and
- 26 (b) In each subsequent report, that he has complied with all  
27 provisions of the State Bar Act and Rules of Professional  
28 Conduct during said period; and

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(c) Provided, however, that a final report shall be filed covering the remaining portion of the period of probation following the last report required by the foregoing provisions of this paragraph certifying to the matters set forth in subparagraph (b) above.

4. That Respondent shall be referred to the Department of Probation, State Bar Court, for assignment of a Probation Monitor Referee. Respondent shall promptly review the terms and conditions of his probation with the probation monitor referee to establish a manner and schedule of compliance consistent with these terms of probation. During the period of probation, Respondent shall furnish such reports concerning his compliance as may be requested by the probation monitor referee. Respondent shall cooperate fully with the probation monitor to enable him/her to discharge his/her duties pursuant to Rule 611, Rules of Procedure of the State Bar;

5. That subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Department of the State Bar Court and any probation monitor referee assigned under these conditions of probation which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with these terms of probation;

6. That Respondent shall promptly report, and in no event in more than ten (10) days, to the membership records office of the State Bar and to the Probation Department all changes of information including current office or other address for State Bar purposes as prescribed by Section 6002.1 of the Business and Professions Code;

7. It is further stipulated that within six (6) months of the date of the order approving this Stipulation, Respondent shall attend the Ethics School held periodically in Saturday sessions at the State Bar of California at 555 Franklin Street, San Francisco, California and shall take and pass the test given at the end of such session.

THE PARTIES FURTHER STIPULATE that Respondent may be ordered to take and pass the California Professional Responsibility Examination given by the Office of Admissions, State Bar of California, within one (1) year of the date that the order of the Supreme Court herein becomes effective and furnish satisfactory proof of such to the State Bar Court probation department within said year.

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Respondent is hereby notified that failure to comply with any of the above conditions may constitute cause for a separate proceeding for wilful breach of Rule 1-110 of the Rules of Professional Conduct of the State Bar of California.

Dated: March 27, 1991



DAVID CLINE JOHNSTON  
Respondent

Dated: March 18, 1991



GREGORY B. SLOAN  
Examiner for the State Bar

**DECLARATION OF SERVICE**

**CASE NUMBER: 88-0-10116**

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 555 Franklin Street, San Francisco, CA 94102; declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that in the City and County of San Francisco, on the date shown below, I deposited or placed for collection and mailing a true copy of the within

**STIPULATION AS TO FACTS AND DISCIPLINE PURSUANT TO RULES  
401-407 TRANSITIONAL RULES OF PROCEDURE OF THE STATE BAR  
OF CALIFORNIA**

in a sealed envelope placed for collection and mailing at  
555 Franklin Street, San Francisco, CA 94102, on the date shown below, addressed  
to:

**DAVID C. JOHNSTON  
P. O. BOX 4516  
MODESTO, CA. 95352**

in an inter-office mail facility regularly maintained by the State Bar of  
California addressed to:

**STATE BAR COURT  
SAN FRANCISCO, CA**

I declare under penalty of perjury that the foregoing is true and correct.  
Executed at San Francisco, California, on the date shown below.

DATED: March 29, 1991

SIGNED:

  
**LOUISE MIFSUD**

**FILED**

DEC 19 1990

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

1 DAVID CLINE JOHNSTON  
2 State Bar No. 71367  
3 P. O. Box 4516  
4 Modesto, California 95352  
5 Telephone: (209) 578-4205

6 RESPONDENT IN PRO PER

7  
8 THE STATE BAR COURT  
9 OF THE STATE BAR OF CALIFORNIA  
10 HEARING DEPARTMENT - SAN FRANCISCO  
11

12 In the Matter of )  
13 DAVID CLINE JOHNSTON, ) Case Number 88-0-10116  
14 Member No. 71367, ) ANSWER TO NOTICE TO  
15 A Member of the State Bar ) SHOW CAUSE

16 DAVID CLINE JOHNSTON, Respondent herein, answers the  
17 Notice to Show Cause as follows:

18 1. Respondent admits the allegations set forth in  
19 Paragraphs 1 and 2.

20 2. Answering Paragraph 3, Respondent admits that he did  
21 not timely provide an accounting to the Debtor or his attorney,  
22 but alleges that he did ultimately provide such an accounting.

23 FIRST AFFIRMATIVE DEFENSE:

24 3. Respondent alleges that there are substantial factors  
25 in mitigation, including:

26 (a) The requested accounting was difficult because of the  
27 pending dissolution of marriage of the Respondent at the time.

28 (b) The requested accounting was difficult because of the

Within document forwarded to  
Hearing Panel on 12/19/90  
By: [Signature]  
STATE BAR COURT CLERK'S OFFICE

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pending dissolution of the Respondent's law practice at the time.

(c) The requested accounting was difficult because of family pressures at the time.

(d) Respondent has had no prior disciplinary proceedings.

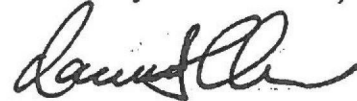
(e) Respondent has performed numerous services for many persons on a pro bono basis.

(f) Respondent's failure to provide an accounting was not willful.

WHEREFORE, Respondent DAVID CLINE JOHNSTON prays that no discipline be imposed and that the Court enter such other orders as are appropriate.

Dated: December 13, 1990

Respectfully Submitted,



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DAVID CLINE JOHNSTON  
Respondent in pro per



PUBLIC MATTER

FILED

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STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

1 OFFICE OF TRIALS  
2 STATE BAR OF CALIFORNIA  
3 Gregory B. Sloan, Member No. 103158  
4 Attorney at Law  
5 555 Franklin Street  
6 San Francisco, California 94102  
7  
8 (415) 561-8200  
9  
10 Examiner for  
11 The State Bar of California  
12

13 THE STATE BAR COURT  
14 OF THE STATE BAR OF CALIFORNIA  
15 HEARING DEPARTMENT - SAN FRANCISCO  
16

17 In the Matter of ) Case Number 88-0-10116  
18 DAVID CLINE JOHNSTON )  
19 Member No. 71367 ) NOTICE TO SHOW CAUSE  
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28 A Member of the State Bar )

TO: DAVID CLINE JOHNSTON, Respondent herein:

IF YOU FAIL TO FILE AN ANSWER TO THIS NOTICE WITHIN THE TIME ALLOWED BY STATE BAR RULES, INCLUDING EXTENSIONS, YOU MAY BE ENROLLED AS AN INVOLUNTARY INACTIVE MEMBER OF THE STATE BAR AND WILL NOT BE PERMITTED TO PRACTICE LAW UNTIL AN ANSWER IS FILED.

You were admitted to the practice of law in the State of California on December 22, 1976. Pursuant to Rule 510, Rules of Procedure of the State Bar of California, reasonable cause has been found to conduct a formal disciplinary hearing, commencing at a time and place to be fixed by the State Bar Court (NOTICE OF THE TIME AND PLACE OF HEARING WILL BE MAILED TO YOU BY THE STATE BAR COURT CLERK'S OFFICE), by reason of the following:

///



COUNT ONE

1  
2 1. On or after July, 1981, you were employed to represent  
3 GARY BALL and his business, B AND K SPORTING GOODS AND HARDWARE  
4 (the "Debtor") in a bankruptcy action. On or about August 12,  
5 1981, you were ordered by the United States Bankruptcy Court for  
6 the Eastern District of California (the "Bankruptcy Court") to  
7 deposit Forty-One Thousand Five Hundred Dollars (\$41,500.00) of  
8 the Debtor's money in a bank block account. You deposited the  
9 money in said account.

10 2. On or about April 5, 1984, you filed an Application for  
11 Interim Compensation with the Bankruptcy Court. On July 18, 1984,  
12 the Bankruptcy Court granted your motion.

13 3. On September 5, 1987, November 5, 1987 and December 27,  
14 1987, the Debtor, through his attorney, requested an accounting of  
15 the money which was placed in the bank block account. You did not  
16 give the Debtor or his attorney an accounting of the funds which  
17 were released from the bank block account.

18 You committed the above-referenced acts in wilful violation  
19 of your oath and duties as an attorney under disciplinary case law  
20 and in particular California Business and Professions Code  
21 Sections 6068(a) and 6103; and of former Rule of Professional  
22 Conduct 8-101(B)(3).

23 WITHIN TWENTY (20) DAYS after service of this Notice, you  
24 shall file a written answer as provided by Rule 552, Rules of  
25 Procedure of the State Bar of California.

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NOTICE - DEFAULT PROCEDURE!

YOUR DEFAULT MAY BE ENTERED FOR FAILURE TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN TWENTY (20) DAYS AFTER SERVICE AS PRESCRIBED BY RULE 552, RULES OF PROCEDURE OF THE STATE BAR. SHOULD YOU TIMELY FILE AN ANSWER YOUR DEFAULT MAY ALSO BE ENTERED FOR FAILURE TO APPEAR AT THE FORMAL HEARING. THE ENTRY OF YOUR DEFAULT MAY RESULT IN THE CHARGES SET FORTH IN THIS NOTICE TO SHOW CAUSE BEING ADMITTED AND DISCIPLINE RECOMMENDED OR IMPOSED BASED ON THOSE ADMITTED CHARGES. IF YOUR DEFAULT IS ENTERED, YOU WILL LOSE THE OPPORTUNITY TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS AND UNTIL YOUR DEFAULT IS SET ASIDE ON MOTION TIMELY MADE UNDER THE PRESCRIBED GROUNDS. SEE RULES 552.1 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR.

NOTICE - INACTIVE ENROLLMENT

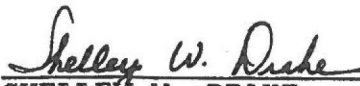
YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(C), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT. SEE RULES 550 AND 560, RULES OF PROCEDURE OF THE STATE BAR.

NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEEDINGS RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE §6068.10. SEE RULES 460 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR.

OFFICE OF TRIALS  
THE STATE BAR OF CALIFORNIA

DATED: November 15, 1990

  
\_\_\_\_\_  
SHELLEY W. DRAKE  
Assistant Chief Trial Counsel

**FILED**

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THE STATE BAR COURT  
OF THE STATE BAR OF CALIFORNIA STATE BAR COURT CLERK'S OFFICE  
HEARING DEPARTMENT - SAN FRANCISCO SAN FRANCISCO

In the Matter of ) CASE NO. 88-0-10116  
)  
DAVID CLINE JOHNSTON )  
MEMBER NO. 71367 )  
) DECLARATION OF SERVICE BY  
A Member of the State Bar ) MAIL OF NOTICE TO SHOW CAUSE

I, the undersigned, declare that I am over the age of 18 years and not a party to the within action; that my business address and place of employment is:

- 333 South Beaudry Street, Los Angeles, CA;
- 818 West Seventh Street, Los Angeles, CA;
- 555 Franklin Street, San Francisco, CA;

that on November 27, 1990 I served a true copy of the Notice To Show Cause herein by certified mail, return receipt requested, in a sealed envelope, postage fully prepaid, depositing same in a facility regularly maintained by the United States Postal Service, addressed to the member at the latest address shown on the official membership records of the State Bar of California,

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as follows:  
PERSONAL AND CONFIDENTIAL  
DAVID CLINE JOHNSTON  
P.O. BOX 4516  
MODESTO, CA 95352

and addressed to:  
PERSONAL AND CONFIDENTIAL

I declare under penalty of perjury that the foregoing is true  
and correct and that this declaration was executed at

[ ] Los Angeles, California  
[X] San Francisco, California

on the date shown below.

November 27, 1990  
DATE

  
SIGNATURE

Kathleen Johnstone  
PRINT OR TYPE NAME



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST April 25, 2017  
\_\_\_\_\_  
State Bar Court, State Bar of California,  
Los Angeles

By \_\_\_\_\_  
Clerk



THE STATE BAR  
OF CALIFORNIA

OFFICE OF STATE BAR COURT

Director, STUART A. FORSYTH

COURT CLERK'S OFFICE, 1230 WEST THIRD STREET, LOS ANGELES, CALIFORNIA 90017-1488

(213) 482-8220

PERSONAL AND CONFIDENTIAL

NOTICE ACCOMPANYING SERVICE OF  
STIPULATION AS TO FACTS AND DISPOSITION

AND ORDER APPROVING SAME IN

CASE NUMBER 83-I-835 SF through 842 SF & 83-I-849 SF

IN THE MATTER OF Jeff L. Strobel

Enclosed is a copy of the Stipulation As To Facts and Disposition entered into in the above-numbered matter pursuant to Rules 405 and 406 of the Rules of Procedure of the State Bar and a copy of the Order Approving Stipulation filed pursuant to Rules 407 and 408 of said Rules. Also enclosed is a copy of Rules 405-408, Rules of Procedure of the State Bar.

The Order Approving Stipulation is subject to review by the Review Department of the State Bar Court in accordance with Rules 407(b) and 450(b). Upon adoption by the Review Department of the Order Approving Stipulation, the Stipulation As To Facts and Disposition shall be binding on the parties to this proceeding as provided by Rule 408(a). Rule 408(b) is applicable if the stipulation is rejected by the Review Department.

The matter will come before the Review Department on its ex parte calendar and no appearances are contemplated. You will be advised by the Court Clerk's Office of the action taken.

The Court Clerk's Office of the State Bar Court can provide the dates upon which the Review Department is likely to act on this matter. After the Review Department has acted on this matter, informal notice of the Review Department action may be obtained by telephoning the office of the State Bar Court Counsel at (415) 561-8386. Final notification of the action in this matter will be forthcoming from the Effectuation of Decision Section of the Court Clerk's Office. Time limits required by the applicable rules will commence from the date of the final notification.

DECLARATION OF SERVICE

I, the undersigned, over the age of 18 years, whose business and place of employment is 1230 West Third Street, Los Angeles, California, declare that I am not a party to the within action; that in the City and County of Los Angeles, on the date shown below, I deposited a true copy of the above Notice, Stipulation As To Facts and Disposition, Order Approving Stipulation As To Facts and Disposition, and Rules of Procedure 405-408 and 450; in a sealed envelope as follows:

In a facility regularly maintained by the United States Postal Service with postage thereon fully prepaid addressed to:

Mark A. Shustoff, Esq.  
69 W. Portal Avenue  
San Francisco, CA 94127

Jeff L. Strobel, Esq.  
P.O. Box 27053  
San Francisco, CA 94127

In an inter-office facility regularly maintained by the State Bar of California addressed to:  
Alan Cohen, Esq.

I declare under penalty of perjury at Los Angeles, California, that the foregoing is true and correct. Dated, this 26<sup>th</sup> day of November, 1984.

Deborah Harrison, Deputy Court Clerk



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST April 25, 2017

State Bar Court, State Bar of California,  
Los Angeles

By *Gentian Dethle*  
Clerk

**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 San Francisco, on November 6, 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:

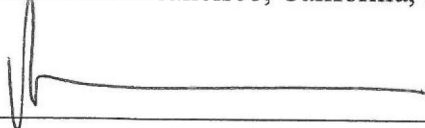
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

GLEN ROBERT OLSON  
LONG & LEVIT LLP  
MERCHANTS EXCHANGE BLDG  
465 CALIFORNIA ST 5TH FL  
SAN FRANCISCO, CA 94104

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

Britta G. Pomrantz, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 6, 2017.

  
\_\_\_\_\_  
Vincent Au  
Case Administrator  
State Bar Court