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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel for the State Bar Charles T. Calix Senior Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1255 Bar # 146853	Case Number(s): 16-O-17157-CV	For Court use only <div style="font-size: 2em; font-weight: bold; margin-bottom: 5px;">FILED</div> <div style="font-size: 1.5em; margin-bottom: 5px;">AUG - 6 2018</div> STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Charles T. Schultz 2302 Daventry Road Riverside, CA 92506 (951) 248-2270 Bar # 112388	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: CHARLES TIMOTHY SCHULTZ Bar # 112388 A Member of the State Bar of California (Respondent)		

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 **January 3, 1984**.
- (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 **20** 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."

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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. It is recommended that (check one option only):
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
 - Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-half of the costs must be paid with Respondent's membership fees for each of the following years: 2019 and 2020.
- If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be due and payable immediately.
- Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs."
 - Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline:**
- (a) State Bar Court case # of prior case:
 - (b) Date prior discipline effective:
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline:
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.

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- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See page 15.**
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. **See page 15.**
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution. **See page 15.**
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [Standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of Respondent's misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of Respondent's misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced Respondent.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

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- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by Respondent, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond Respondent's control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of Respondent's misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No Prior Discipline, see page 16.

Emotional/Physical Difficulties, see page 16.

D. Recommended Discipline:

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

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- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent makes restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
 - b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(4) **Actual Suspension "And Until" Restitution (Multiple Payees) and Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(5) **Actual Suspension "And Until" Restitution (Single Payee) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for **one year**, the execution of that suspension is stayed, and Respondent is placed on probation for **one year** with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first **60 days** of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent makes restitution to **Merzi K. Amaria** in the amount of \$ **875** plus 10 percent interest per year from **September 10, 2014** (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code

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section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and,

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(6) **Actual Suspension "And Until" Restitution (Multiple Payees) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first _____ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(7) **Actual Suspension with Credit for Interim Suspension:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent is suspended from the practice of law for the first _____ of probation (with credit given for the period of interim suspension which commenced on _____).

E. Additional Conditions of Probation:

- (1) **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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In the Matter of: CHARLES TIMOTHY SCHULTZ	Case Number(s): 16-O-17157
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Financial Conditions

(1) **Restitution (Single Payee)**

Within the first 30 days of probation/Reproval Conditions Period, Respondent must make restitution in the amount of \$ 875, plus 10 percent interest per year from September 10, 2014, to Merzi K. Amaria or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5) and must furnish satisfactory proof of restitution to the Office of Probation. [Such restitution may be made by partial payments or by a single lump sum payment during the period specified above.]

(2) **Installment Restitution Payments (Single Payee)**

In addition to the above deadline for completing restitution and for as long as the full amount of restitution remains unsatisfied, Respondent must make installment payments according to the following payment schedule:

Respondent must make SELECT ONE payments in the amount of \$ to .
The obligation to make such payments will commence days after the effective date of the
SELECT ONE order imposing discipline in this matter. Such payments will be due on
the day of each calendar month thereafter and be deemed delinquent if not submitted to such payee,
or such other recipient as may be designated by the Office of Probation or the State Bar Court, within ten (10)
days thereafter.

With each quarterly and final report, or as otherwise directed by the Office of Probation, Respondent must provide satisfactory proof of such installment payments to the Office of Probation.

(3) **Restitution (Multiple Payees)**

SELECT ONE /Reproval Conditions Period, Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

Payee	Principal Amount	Interest Accrues From

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(4) **Installment Restitution Payments (Multiple Payees)**

In addition to the above deadline for completing restitution, Respondent must make installment payments of restitution according to the following schedule:

<i>Payee</i>	<i>Minimum Payment Amount</i>

Respondent must commence making such payments within _____ days after the effective date of the SELECT ONE _____ order imposing discipline in this matter. Such payments will be due on the _____ day of each calendar month thereafter and be deemed delinquent if not submitted to such payee, or such other recipient as may be designated by the Office of Probation or the State Bar Court, within ten (10) days thereafter. The obligation to make installment payments to a particular payee will terminate when the full amount of restitution owed to that payee, including accrued interest, has been paid.

With each quarterly and final report, or as otherwise directed by the Office of Probation, Respondent must provide satisfactory proof of such installment payments to the Office of Probation.

(5) **Reporting re Proper Handling of Entrusted Client Funds, Property, or Securities**

Respondent must comply with the following reporting requirements:

- a. If Respondent possessed client funds, property, or securities at any time during the period covered by a required quarterly or final report, Respondent must submit with the report for that period a statement made by Respondent under penalty of perjury that:
 - i. Respondent handled all such client funds, property, and/or securities in compliance with rule 4-100 of the Rules of Professional Conduct; and
 - ii. Respondent complied with the "Trust Account Record Keeping Standards" adopted by the State Bar Board of Trustees, pursuant to rule 4-100(C) of the Rules of Professional Conduct.
- b. If Respondent did not possess any client funds, property, or securities during the entire period covered by a quarterly or final report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period.

(6) **Reporting re Proper Handling of Entrusted Client Funds, Property, or Securities (Accountant certification – 1st Report)**

Respondent must comply with the following reporting requirements:

- a. If Respondent possessed client funds, property, or securities at any time during the period covered by a required quarterly or final report, Respondent must submit with the report for that period a statement that:

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- i. Respondent handled all such client funds, property, and/or securities in compliance with rule 4-100 of the Rules of Professional Conduct; and
- ii. Respondent complied with the "Trust Account Record Keeping Standards" adopted by the State Bar Board of Trustees, pursuant to rule 4-100(C) of the Rules of Professional Conduct.

For the first period for which such statement is required, the statement must be from a certified public accountant or other financial professional approved by the Office of Probation. For all subsequent periods for which such statement is required, the statement may be made by Respondent under penalty of perjury.

- b. If Respondent did not possess any client funds, property, or securities during the entire period covered by a quarterly or final report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period.

(7) Other:

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ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: CHARLES TIMOTHY SCHULTZ

CASE NUMBER: 16-O-17157

FACTS AND CONCLUSIONS OF LAW.

Charles Timothy Schultz (“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-17157 - CV (Complainant: Merzi K. Amaria)

FACTS:

1. On August 1, 2014, Merzi K. Amaria (“Amaria”) contacted respondent to discuss hiring respondent to represent Amaria regarding a property boundary line dispute Amaria had with one of his neighbors.
2. On August 6, 2014, respondent sent a letter to Amaria which included an estimate of the expected costs and requested that Amaria send respondent a check for \$5,000 for advance attorney’s fees if Amaria wished to proceed. Amaria received the letter and sent a check for \$5,000 to respondent, which respondent negotiated.
3. On September 10, 2014, respondent suffered a medical condition that required hospitalization and emergency surgery. However, the surgery did not correct the medical condition, and respondent has been unable to work since that date.
4. Respondent did not communicate with Amaria regarding Amaria’s matter or respondent’s condition. Respondent did not take any further action on behalf of Amaria after September 10, 2014.
5. On November 12, 2014, Amaria sent an email to respondent requesting respondent contact him because he tried to call respondent, but respondent’s telephone number was not in service. Respondent received the email, but did not respond.
6. On December 3, 2014 and April 29, 2016, Amaria sent letters to respondent’s official membership address terminating respondent’s services and requesting both an accounting and a refund of any unearned fees. Respondent received the letters, but did not respond to them.
7. On January 15 and 22, 2015, Amaria sent email to respondent terminating respondent’s services, and requesting both an accounting and a refund of any unearned fees. Respondent received the email, but did not respond.
8. On January 6, 2017, an Office of Chief Trial Counsel (“OCTC”) investigator sent a letter to respondent, via U.S. First Class Mail and email, requesting that he respond to Amaria’s allegations,

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including the failure to refund the \$5,000 after Amaria terminated respondent's services in January 2015. Respondent received the letter, but did not respond to it.

9. On January 23, 2017, respondent sent a handwritten letter to the OCTC investigator stating, in part, that he was ill, unable to retrieve his computer files, and requested additional time to respond. However, respondent failed to deliver any further response prior to OCTC filing charges against him.

10. On March 1, 2017, respondent enrolled himself on voluntary inactive status, and he has remained in that status since that date.

11. After OCTC filed disciplinary charges against him, respondent provided OCTC an accounting that described \$4,125 in legal services respondent allegedly provided to Amaria between August 6, 2014 and September 10, 2014. However, respondent never refunded the remaining \$875 in unearned fees that respondent admits he owes to Amaria.

CONCLUSIONS OF LAW:

12. By failing to give Amaria notice of respondent's cessation of legal services effective September 10, 2014 on that date or at anytime thereafter, respondent improperly withdrew and constructively terminated his employment without taking steps to avoid reasonably foreseeable prejudice to his client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

13. By failing to refund to Amaria the \$875 in advanced fees that respondent had not earned following Amaria's request for both a refund and an accounting, respondent willfully failed to refund unearned fees to his client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

14. By failing to render an accounting of Amaria's \$5,000 fee following respondent's constructive termination of employment effective September 10, 2014 and Amaria's two January 2015 requests for an accounting, respondent failed to render an appropriate accounting to a client regarding the client's funds, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

15. By failing to provide a substantive response to the State Bar's letter of January 6, 2017 regarding the complaint made against respondent by Amaria, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of Business and Professions Code, section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's abandonment of his client, failure to refund unearned fees, failure to account and failure to cooperate in a State Bar investigation constitute multiple acts of misconduct.

Harm (Std. 1.5(j)): Respondent's failure to account for Amaria's fees and to refund the unearned fees of \$875 caused harm to Amaria, who is on a fixed income and needed those funds to pay for another attorney to complete the task for which Amaria originally hired respondent.

Failure to Make Restitution (Std. 1.5(m)): Respondent has failed to make restitution of \$875 to Amaria since September 10, 2014.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent has been a member of the State Bar since January 3, 1984, and had no prior record of discipline before the misconduct began. Respondent is entitled to significant mitigation for his 30 years of practice without discipline prior to commencing the misconduct. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49 [attorney's practice of law for more than 17 years considered to be a significant mitigating circumstance even though the misconduct at issue was serious].)

Emotional/Physical Difficulties: On September 10, 2014, respondent suffered a medical condition that required hospitalization and emergency surgery. The surgery failed to correct the medical condition, and respondent has been unable to work since that date. (See *Ainsworth v. State Bar* (1988) 46 Cal.3d 1218, 1234 [illness and hospitalization for five days between 1979 and 1984 entitled to some mitigating weight, even absent expert testimony].) However, respondent's failure to disclose to the client the barriers to his performance limits the weight available in mitigation, as does the fact that the condition remains ongoing, with no indication that it will not contribute to additional misconduct in the future.

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

In this matter, respondent committed four 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.” Pursuant to Standards 2.2(b), 2.7(c) and 2.19, the presumed sanction for respondent’s abandonment of a single client, failure to refund unearned fees, failure to account for fees and failure to cooperate with a State Bar investigation is the same in each case: reproof to suspension.

Here, respondent abandoned a single client, failed to refund \$875 in unearned advanced attorney’s fees despite repeated requests, failed to account to the client, and failed to cooperate with a State Bar investigation. In aggravation, respondent committed multiple acts of misconduct, harmed his client, and failed to make restitution for the August 2014 payments he received. In mitigation, respondent’s 30 years of practice without discipline prior to commencing the misconduct is entitled to significant weight, though respondent’s medical condition is entitled to limited weight. After balancing the misconduct with the aggravation and mitigation, the appropriate level of discipline is a one-year suspension, stayed, with a two-year probation, with conditions including, but not limited to, a 60-day actual suspension, and until respondent pays Amaria \$875 in restitution, as well as compulsory fee arbitration.

Prior case law is consistent with this level of discipline. In *Harris v. State Bar* (1990) 51 Cal.3d 1082, Harris abandoned the matters for which her client retained her, misconduct which extended over a period of four years. In aggravation, Harris demonstrated a lack of candor to her client and indifference toward the consequences of her misconduct, and her actions caused monetary loss and prejudice to her client. In mitigation, Harris had no prior record of discipline during the ten years that preceded the misconduct, suffered a mitigating medical illness, and there was a long delay between the misconduct and disciplinary complaint. The Supreme Court ordered a three-year suspension, stayed, with a three-year probation that included a 90-day actual suspension.

When compared to the instant misconduct, Harris’s misconduct and aggravation was comparable, but respondent’s mitigation for 30 years of practice without discipline is entitled to greater weight than all of Harris’s mitigation, and respondent is entitled to additional limited mitigation for his medical condition. Therefore, the facts and circumstances here warrant less severe discipline than in *Harris*, and a 60-day actual suspension, and until respondent refunds \$875 in unearned fees to Amaria, with interest at 10% per annum since September 10, 2014, is appropriate in the instant case as it serves the purposes of discipline, which include protection of the public, the courts, and the legal profession. This discipline also promotes high professional standards and preserves public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of June 29, 2018, 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.

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FEE ARBITRATION CONDITIONS OF PROBATION.

A. Respondent's Duty to Initiate and Participate in Fee Arbitration

Respondent must initiate fee arbitration within thirty (30) days from the effective date of this matter, including making any payment(s) and filing fees required by the organization conducting the fee arbitration to start the process. The fee arbitration will be for the \$4,125 in fees that Amaria paid respondent on August 12, 2014, but which are now in dispute, and will not include the \$875 which respondent already admits are unearned fees. Respondent must not request more fees than the \$4,125 in dispute.

Respondent must provide the Office of Probation with a copy of the conformed arbitration filing within forty-five (45) days of the effective date of this matter. Respondent must immediately provide the Office of Probation with any information requested regarding the fee arbitration to verify respondent's compliance.

Respondent must fully and promptly participate in the fee arbitration as directed by the organization conducting the fee arbitration. Respondent must not raise the statute of limitations as a defense to the fee arbitration. Respondent understands and agrees that the Office of Probation may contact the entity conducting the fee arbitration for information.

Respondent must accept binding arbitration on the arbitration request form. If the arbitration proceeds as non-binding, however, respondent must abide by the arbitration award and forego the right to file an action seeking a trial de novo in court to vacate the award.

B. Disputed Funds Must be Held in Trust by Respondent

Respondent must keep the disputed funds in a separate interest-bearing trust account. If respondent has removed the disputed funds from trust, respondent must open a separate interest-bearing trust account and deposit the disputed funds into such account within fifteen (15) days from the effective date of discipline. Respondent must provide evidence, e.g. a copy of respondent's bank statement, showing that the disputed funds have been placed in trust within thirty (30) days from the effective date of this matter, and a statement under penalty of perjury that the funds have remained in trust with each of respondent's quarterly and final reports.

C. Respondent's Duty to Comply with the Arbitration Award

Within fifteen (15) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter, respondent must provide a copy of said award, judgment or stipulated award to the Office of Probation.

Respondent must abide by any award, judgment or stipulated award of any such fee arbitrator and agrees to provide proof thereof to the Office of Probation within thirty (30) days after compliance with any such award, judgment or stipulated award. If the award, judgment or stipulated award does not set forth a deadline for any payment, respondent is to make full payment within thirty (30) days of the issuance of any such award, judgment or stipulated award. Respondent must provide proof thereof to the Office of Probation within thirty (30) days after payment.

To the extent that respondent has paid any fee arbitration award, judgment or stipulated award prior to the effective date of this matter, respondent will be given credit for such payment(s) provided satisfactory proof of such payment(s) is or has been provided to the Office of Probation.

D. Fee Arbitration Conditions can be Satisfied by Respondent's Full Payment to Amaria

If respondent so elects, respondent's full payment of \$4,125 in fees that Amaria paid respondent on August 12, 2014, plus interest of 10% per annum from December 3, 2014, paid within thirty (30) days from the effective date of the discipline in this matter, will satisfy the Fee Arbitration Conditions. If respondent elects to satisfy the fee arbitration condition by making full payment of \$4,125 plus interest to Amaria, the Office of Probation must receive satisfactory proof of payment to Amaria within forty-five (45) days of the effective date of the discipline in this matter.

If the Client Security Fund ("CSF") reimburses Amaria for all or any portion of the principal amount(s), respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs. To the extent the CSF pays only principal amounts, respondent will still be liable for interest payments to Amaria. Any restitution to the CSF is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d). Respondent must pay all restitution to Amaria before making payment to CSF. The Office of Probation must receive satisfactory proof of respondent's payment(s) to CSF within thirty (30) days of each payment.

E. Effect of Respondent's Failure to Comply with Fee Arbitration Conditions

Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in this Court imposing additional discipline upon respondent, with attendant costs, and conditions, including ordering respondent to pay back the full amount of \$4,125 paid to respondent by Amaria, plus 10% interest per annum from September 10, 2014.

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

Respondent may not receive MCLE credit for completion of the six hours of Minimum Continuing Legal Education in California legal ethics required by this Stipulation. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: CHARLES TIMOTHY SCHULTZ	Case Number(s): 16-O-17157 - CV
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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.

7-2-18 Charles T. Schultz Charles T. Schultz
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name
7-2-18 Charles T. Calix
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: CHARLES TIMOTHY SCHULTZ	Case Number(s): 16-O-17157-CV
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ACTUAL SUSPENSION ORDER

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

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

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

Date

8/6/18


DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 6, 2018, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

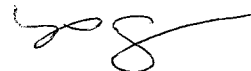
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

CHARLES TIMOTHY SCHULTZ
2302 DAVENTRY RD
RIVERSIDE, CA 92506

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

CHARLES T. CALIX, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 6, 2018.



Paul Songco
Court Specialist
State Bar Court