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State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION

<p>Counsel for the State Bar</p> <p><b>Jaime M. Vogel</b> Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1373</p> <p>Bar # 289669</p>	<p>Case Number(s): <b>17-J-06982</b></p>          <p>kwiktag® 241 070 281</p> 	<p>For Court use only</p> <p><b>PUBLIC MATTER</b></p>          <p><b>FILED</b> <i>MZ</i> OCT 15 2018 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p><b>Steve Sumner Christensen</b> Christensen Law, PLLC 340 E 400 S Salt Lake City, UT 84111 (801) 303-5800</p> <p>Bar # 150517</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>STEVE SUMNER CHRISTENSEN</b></p> <p>Bar # 150517</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 04, 1990**.
- (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 **16** 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."

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

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

- (1)  **Prior record of discipline:**
- (a)  State Bar Court case # of prior case:
  - (b)  Date prior discipline effective:
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline:
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- (2)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith. **See page 13.**
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.

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- (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 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.
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

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

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

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

**Additional mitigating circumstances:**

**No Prior Record of Discipline, See page 13.**

**Good Character, See page 13.**

**Community Service, See page 13.**

**Pre-filing Stipulation, See page 13-14.**

**D. Recommended Discipline:**

- (1)  **Actual Suspension:**

Respondent is suspended from the practice of law for **one (1) year**, the execution of that suspension is stayed, and Respondent is placed on probation for **one (1) year** with the following conditions.

- Respondent must be suspended from the practice of law for the first **ninety (90) days** of the period of Respondent's probation.

- (2)  **Actual Suspension "And Until" Rehabilitation:**

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

- Respondent must be suspended from the practice of law for a minimum of the first \_\_\_\_\_ of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

- (3)  **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**

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





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

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

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

- (7)  **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8)  **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because
- (9)  **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10)  **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within **one (1) year** 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 **six (6) 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 **one (1) year** after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete **four (4) hour(s)** of California Minimum Continuing Legal Education-approved participatory activity in





Utah. On August 04, 2018 respondent requested that the National Conference of Bar Examiners ("NCBEX") report his score to the State Bar of California. On August 14, 2018, the Office of Admissions of the State Bar of California verified that respondent received a passing score in California for the MPRE. Subsequently, the Office of Probation of the State Bar of California verified that respondent received a passing score in California for the MPRE. Due to the fact that respondent has recently taken and passed the MPRE, it is not recommended that respondent be required to take and pass the MPRE in this disciplinary matter.

- (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. (*Atheam 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).)

- (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. (*Atheam 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:



9. On November 08, 2013, in order to demonstrate to Zions Bank that he would have adequate funds to make the required down payment on the home and in anticipation of extending the purchase of the home to a closing date when the necessary funds from the Firm's trust had been earned, respondent transferred \$19,620 from the Firm's Wells Fargo Bank trust account to his personal Wells Fargo account. Respondent's transfer left the Firm's trust account with a balance of approximately \$102.

10. On November 08, 2013, in a separate transaction, respondent transferred \$9000 from the Firm's operating account into his personal account. This transfer of funds was also in connection with the loan he was applying for in his name for the purchase of the client's home.

11. On November 08, 2013, a check for \$357 that the Firm had written on its trust account on November 01, 2013, to a different Firm Client was presented to Wells Fargo Bank for payment. At the time of the transaction, the trust account did not have sufficient funds to honor the check. The balance in the trust account was not sufficient because on November 08, 2013, respondent transferred \$19,620 into his personal account.

12. After the bank paid the money owed to the Firm client in the amount of \$357, the firm's trust account had a balance of -\$255.14.

13. On November 08, 2013, Utah's Office of Professional Conduct ("OPC"), received a Non-Sufficient Funds (NSF) notice from the bank for the Firm's trust account.

14. In the morning, on Saturday, November 09, 2013, approximately twelve hours after having transferred the funds and before he had received any notice of OPC's receipt of the NSF, respondent restored the \$19,620 to the Firm's trust account and the \$9000 to the Firm's operating account via electronic transfer. Due to Monday, November 11, 2013, being Veteran's Day, the transfers were not credited until Tuesday November 12, 2013.

15. By November 12, 2013, the Firm's trust account had sufficient funds to cover the \$357 check.

16. On November 12, 2013, respondent sent the lender, Zions Bank, respondent's personal bank account statement showing a balance in the amount of \$90,465.32, as of November 09, 2013, which included \$19,620 from the Firm's trust account and \$9000 from the Firm's operating account.

17. The funds shown on respondent's November 09, 2013, personal bank statement belonged to individuals or entities other than respondent. Respondent's law partners did not authorize and were unaware of respondent's transfer of \$19,620 from the Firm's trust account to respondent's personal account.

18. Respondent's law partners did not authorize respondent to transfer \$9000 from the Firm's operating account to respondent's personal account.

#### CONCLUSIONS OF LAW:

19. As a matter of law, respondent's culpability of professional misconduct determined in the proceeding in Utah warrants the imposition of discipline under the laws and rules binding upon respondent in the State of California at the time respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

## AGGRAVATING CIRCUMSTANCES.

**Intentional Misconduct, Bad Faith or Dishonesty (Std. 1.5(d)):** Respondent's misconduct was surrounded by an intentional misrepresentation and dishonesty. Respondent transferred funds in the amount of \$19,620 from the client trust account and \$9000 from the Firm's operating account to his personal account without authorization from his partners. Respondent also provided Zions Bank with a bank statement showing a balance of \$90,465.32 in order to qualify for a mortgage loan. This was an intentional misrepresentation to the bank because respondent knew that some of the funds belonged to the client trust account and the Firm's operating account. Respondent's misconduct also caused the Firm's client trust account to have insufficient funds to honor a \$357 check for a different client. (*In the Matter of Blum* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170, 177 [misrepresentations by the attorney to his client and opposing counsel was an aggravated factor that was viewed as the most grievous misconduct]).

## MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent was admitted to practice law in California on December 04, 1990. Respondent was later admitted to practice law in Utah on August 21, 1992. Respondent was on inactive status in California for approximately eight years. At the time of the misconduct, respondent had practiced law in California for approximately 14 years and 21 years in Utah, without a prior record of discipline. While respondent's conduct is serious, he is entitled to significant mitigation for his 14 years of discipline-free practice in California and 21 years of discipline-free practice in Utah. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [gave attorney significant weight in mitigation for practicing law for over ten years without misconduct]; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 [discipline-free practice considered to be a significant mitigating factor even when misconduct is serious].)

**Good Character:** Respondent provided nine good character letters. The character letters were provided by his brother (an attorney), two church members (one retired judge and one attorney), one college friend (a fellow missionary), one family member (a college professor), two former associates who worked for respondent's law firm, one family friend (an attorney), and one neighbor (an attorney). All of the letters express knowledge of respondent's misconduct and attest to his good character. Respondent is entitled to mitigation. (*Porter v. State Bar* (1990) 52 Cal 3d 518, 529.)

**Community Service:** From 1983 to the present, respondent has volunteered with the Boy Scouts of America in various positions, such as scoutmaster, assistant scoutmaster, and committee chairman. Respondent also volunteers as a youth group leader with his church. These activities require respondent's weekly involvement. Most recently in the summer of 2018, respondent volunteered with the Boy Scouts of America week long summer camp. Also in the summer of 2018, respondent volunteered with a youth camp that involved 150 teenagers. In 2011, respondent's law firm hosted a fundraiser for Prader Willi Syndrome. Each of the letters provided also acknowledge his community service. (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 329 [civic service and charitable work can be mitigation as evidence of good character].)

**Pre-filing Stipulation:** By entering into this stipulation prior to the filing of a Notice of Disciplinary Charges, respondent has acknowledged his misconduct and is entitled to mitigation for saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigation was given for entering into a stipulation as to facts and culpability]; *In the*

*Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

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

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertan* (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).)

Respondent was found culpable of professional misconduct in the other jurisdiction. To determine the appropriate level of discipline for this matter, it is necessary to consider the equivalent rule or statutory violation under California law. Respondent violated rule 1.15(a) (Safekeeping Property) of the Utah Rules of Professional Conduct by failing to properly preserve client funds in the Firm's trust account. This was evidenced by the unauthorized bank transactions that took place from November 08, 2013 to November 12, 2013 with the firm's trust account. The finding of misconduct in Utah that respondent failed to safe-keep his client's property constitutes misconduct in California as it would be equivalent to a violation of rule 4-100(A) of the Rules of Professional Conduct for failure to maintain client funds in respondent's client trust account.

Since respondent's misconduct involved a trust account violation, Standard 2.2(b) is applicable. Standard 2.2(b) provides that suspension or reproof is the presumed sanction for any other violation of rule 4-100(A). Respondent violated rule 4-100(A) by intentionally transferring \$19,620 from the client trust account to his personal bank account for the purpose of qualifying for a mortgage loan. Although respondent returned all funds to the appropriate accounts in less than 24 hours after the initial bank transfer, his actions still warrant discipline. Respondent's misconduct is further aggravated by his dishonesty and intentional misrepresentation when he knowingly presented a false bank statement to Zions Bank in order to qualify for the mortgage loan, when his transfer caused a \$357 check written on

the Firm's trust account to be reported as an insufficient funds check by Wells Fargo Bank, and when he knowingly transferred the funds from the client trust account and the Firm's operating account without his law partners' authorization. However, respondent's misconduct is significantly mitigated by his practice of law for approximately 14 years in California and 21 years in Utah without a prior record of discipline. The additional mitigating factors considered are the nine good character letters provided by respondent, his community service, and his agreement to a pre-filing stipulation which will save the State Bar time and resources.

Given the facts and circumstances of respondent's misconduct and the fact that the aggravation outweighs the mitigation, discipline consisting of a one year stayed suspension, one year probation with conditions, including a 90 days' actual suspension, is the appropriate level of discipline to ensure protection of the public, courts, and the legal profession; maintenance of the highest professional standards by attorneys; and preservation of public confidence in the legal profession.

Case law supports this level of discipline. The Review Department considered a failure to maintain client funds in trust violation involving entrustment of a law partner to manage client funds in *In the Matter of Blum* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403. There, the attorney relied on her then-husband and law partner to manage the firm while she engaged in landmark fertility litigation that required her to work 18 hour days. During that time, her husband grossly mismanaged the office's finances and bookkeeping. He also failed to pay a portion of a settlement owed to one of the attorney's clients. Because management of client funds is a non-delegable duty, Blum stipulated to misconduct consisting of a failure to maintain client funds in trust, an illegal fee, and moral turpitude due to the attorney's gross negligence in the misappropriation of approximately \$42,000 from one client and \$5,500 from another client. The Hearing Department recommended a nine months' actual suspension. However, the Review Department recommended discipline consisting of a three years' stayed suspension, two years' probation with conditions, including a 30 days' actual suspension. In aggravation, the court found the attorney engaged in multiple acts of misconduct and caused significant harm to her clients. In mitigation, the court found the attorney suffered serious medical problems and other psychiatric issues caused by her abusive marriage which occurred during the time of the misconduct.

Like the attorney in *Blum*, respondent failed to maintain client funds in trust. Unlike *Blum*, significant harm did not occur with respondent's client or firm because all funds were returned to the proper accounts within less than 24 hours. Although respondent has the mitigation of practicing law for approximately 14 years in California and 21 years in Utah without prior discipline, good character, community service, and the pre-filing stipulation, the mitigation is outweighed by the aggravation consisting of dishonesty and intentional misrepresentation. Therefore, discipline consisting of a one year stayed suspension, one year probation with conditions, including a 90 days' actual suspension is appropriate.

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


Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of September 07, 2018, the discipline costs in this matter are \$3300. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.


(Do not write above this line.)

In the Matter of: STEVE SUMNER CHRISTENSEN	Case Number(s): 17-J-06982
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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.

9/18/18                                            Steve S. Christensen  
Date                              Respondent's Signature                      Print Name

9/24/18                                            Jaime Vogel  
Date                              Deputy Trial Counsel's Signature                      Print Name



(Do not write above this line.)

In the Matter of: STEVE SUMNER CHRISTENSEN	Case Number(s): 17-J-06982
---	-------------------------------

### 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.

Page 12, ¶ 19: The following sentence is added to that paragraph: "The finding of misconduct in Utah that Respondent failed to safe-keep his client's property in violation of rule 1.15(a) of the Utah Rules of Professional Conduct would be equivalent to a violation of rule 4-100(A) of the California Rules of Professional Conduct for failure to maintain client funds in Respondent's client trust account."

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).)

October 15, 2018

Date



Judge of the State Bar Court

**DONALD F. MILES**




The Order of the Court stated below:  
Dated: June 13, 2017  
10:45:25 AM

/s/ MATTHEW BATES  
District Court Judge



**Billy L. Walker, #3358**  
Senior Counsel  
Utah State Bar  
Office of Professional Conduct  
645 South 200 East  
Salt Lake City, Utah 84111  
(801) 531-9110  
opc filing@utahbar.org

STATE OF UTAH  
COUNTY OF SALT LAKE  
I, THE UNDERSIGNED, CLERK OF THE DISTRICT  
COURT OF SALT LAKE COUNTY, UTAH, DO HEREBY  
CERTIFY THAT THE ENCLOSED AND FOREGOING IS A  
TRUE AND FULL COPY OF AN ORIGINAL DOCUMENT  
ON FILE IN MY OFFICE AS SUCH CLERK.  
WITNESS MY HAND AND SEAL OF SAID COURT  
THIS 13th DAY OF June, 2017  
CLERK OF THE DISTRICT COURT  
BY:  DEPUTY

**IN THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

<p><b>In the Matter of the Discipline of</b></p> <p><b>Steve S. Christensen, #06156</b></p> <p><b>Respondent.</b></p>	<p><b>FINAL JUDGMENT</b></p> <p><b>Civil No. 150902323</b> <b>Judge Matthew D. Bates</b></p>
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This matter came before the Court upon the Utah State Bar's Office of Professional Conduct's ("OPC") Complaint filed with this Court on April 8, 2015. Pursuant to Rule 58A of the Utah Rules of Civil Procedure, Judgment is hereby entered in favor of the OPC as set forth in the Findings of Fact and Conclusions of Law and Order of Probation entered in this matter on June 6, 2017.

Approved as to form:

/s/ Gary G. Sackett  
Gary G. Sackett  
Counsel for Respondent

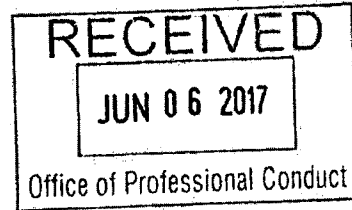
\*\*\*END OF ORDER\*\*\*

Upon approval of the Court, this document becomes an Order when the Court's signature and seal appear on the top right corner of the first page

The Order of the Court  
Dated: June 06, 2017  
02:48:47 PM

tated below:

/s/ MATTHEW BATES  
District Court Judge



**Billy L. Walker, #3358**  
Senior Counsel  
Utah State Bar  
Office of Professional Conduct  
645 South 200 East  
Salt Lake City, Utah 84111  
(801) 531-9110  
opcfilling@utahbar.org

**IN THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

<b>In the Matter of the Discipline of</b>	<b>ORDER OF DISCIPLINE: PROBATION</b>
<b>Steve S. Christensen, #06156</b>	<b>Civil No. 150902323</b>
<b>Respondent.</b>	<b>Judge Matthew D. Bates</b>

The above-captioned matter having come before the Court upon the pleadings, and the Court having reviewed all pleadings and papers on file herein, including the Complaint and the Discipline by Consent and Settlement Agreement entered into between the Respondent, Steve S. Christensen, and the Utah State Bar's Office of Professional Conduct, and the Court having been fully advised in the premises, does now, ORDER, ADJUDGE and DECREE, that for the disciplinary violations set forth in the Discipline By Consent and Settlement Agreement:

1. Steve S. Christensen is hereby placed on probation for one year from the

date of this Order with the following conditions:

a. Mr. Christensen shall represent and warrant that he does not presently know of, or have reason to anticipate, any complaint from any former or present clients other than client around whom this action is based.

b. If the OPC receives a complaint during the period of this probation involving legal services rendered by him during the period of this probation, the OPC has the discretion to petition the Court for consideration of the complaint as a possible violation of the probation under ¶ 1.e. below. Should OPC file such a petition, the parties agree that the complaint will be heard in connection with this proceeding and will not be the subject of screening panel proceedings under Rule 14-510 of the Rules of Lawyer Discipline and Disability ("RLDD").

c. Mr. Christensen shall attend and complete OPC Ethics School, which occurs twice a year in March and in September.

d. Mr. Christensen shall take and pass the Multistate Professional Responsibility Exam pursuant to Rule 14-525(e)(6) of the RLDD.

e. Mr. Christensen shall stipulate that, if the Court finds he has materially breached the parties' agreement, the Court shall, pursuant to Rule 14-511, upon proper notice to the parties in due course, authorize an Order to Show Cause directly to the District Court for the Court to determine any material breach and if so determined, have a sanctions hearing to determine the appropriate sanction. Mr. Christensen will either be determined to have completed his probation and the discipline case is finished with probation as the sanction, or, if

appropriate, Mr. Christensen will finish the probation in accordance with its terms. Further, if the Court finds that Mr. Christensen has materially breached the parties' agreement, the Court shall enter such conclusion(s) of law in the pending District Court action as necessary and appropriate to support the imposition of any and all sanctions it deems appropriate.

2. At the expiration of the probationary period, Mr. Christensen shall file with the District Court and serve upon OPC counsel an affidavit stating that he has fully complied with the requirements of the probation order and has fully reimbursed the Bar's Lawyers' Fund for Client Protection for any amounts paid on account of the respondent's conduct in this case. Within ten days, OPC counsel may file an objection, and thereafter the District Court shall conduct a hearing.

Approved as to form:

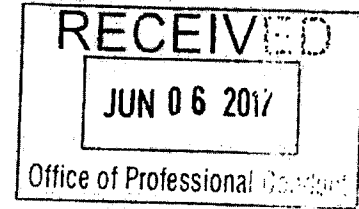
/s/ Gary G. Sackett  
Gary G. Sackett  
Counsel for Respondent

\*\*\*END OF ORDER\*\*\*

Upon approval of the Court, this becomes an Order when the Court's signature and seal appear on the top right corner of the first page



**Billy L. Walker, #3358**  
Senior Counsel  
Utah State Bar  
Office of Professional Conduct  
645 South 200 East  
Salt Lake City, Utah 84111  
(801) 531-9110  
opcfileing@utahbar.org



**IN THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

<p><b>In the Matter of the Discipline of</b></p> <p><b>Steve S. Christensen, #06156</b></p> <p><b>Respondent.</b></p>	<p><b>FINDINGS OF FACT AND CONCLUSIONS OF LAW</b></p> <p><b>Civil No. 150902323</b> <b>Judge Matthew D. Bates</b></p>
---	---

The Utah State Bar's Office of Professional Conduct ("OPC"), by and through Billy L. Walker, Senior Counsel, and Respondent, Steve S. Christensen, by and through his his counsel of record, Gary G. Sackett, hereby stipulate and submit to the Court the following Findings of Fact and Conclusions of Law in connection with Mr. Christensen's violation of Rule 1.15(a) (Safekeeping Property) of the Rules of Professional Conduct.

**FINDINGS OF FACT**

1. The attorney charged with unprofessional conduct in this complaint is Steve S. Christensen, who is an attorney in the State of Utah and a member of the Utah State Bar.
2. According to the records of the Executive Director of the Utah State Bar, Mr. Christensen's business address is 340 East 400 South, Salt Lake City, Utah 84111.

3. According to the records of the Executive Director of the Utah State Bar, Mr. Christensen has been a member of the Utah State Bar since 1992.

4. The OPC sent Mr. Christensen a Notice of Informal Complaint ("NOIC"), dated March 5, 2014.

5. On June 5, 2014, a Screening Panel of the Ethics and Discipline Committee of the Utah Supreme Court heard the matter.

6. Jurisdiction is proper in this Court pursuant to Rule 14-511, Rules of Lawyer Discipline and Disability ("RLDD").

7. Venue is proper in this Court pursuant to Rule 14-511(b) of the RLDD, in that Respondent practices law in Salt Lake County.

8. At all times relevant to this action, Steve S. Christensen was a 98% equity owner of the law firm of Christensen, Corbett & Pankratz ("Firm").

9. Mr. Christensen represented Lisa Chatelain in a divorce proceeding over a 5½-year period ending about October 1, 2014.

10. In connection with Ms. Chatelain's divorce proceeding, Mr. Christensen also represented Ms. Chatelain in a legal malpractice claim against her former lawyer.

11. In the summer of 2013, Mr. Christensen initiated a loan application with Zions Bank to purchase a home formerly owned by Ms. Chatelain ("Home").

12. The purchase transaction for the Home was originally proposed to close September 30, 2013; the seller then extended the closing date to October 31, 2013, and later agreed to extend the closing to November 12, 2013, after a final price had been agreed on.



13. Zions Bank required a down payment of \$98,145 to finance the purchase of the Home.

14. Mr. Christensen had approximately \$70,000 in his personal Wells Fargo bank account on November 8, 2013.

15. Discussions were ongoing to settle Ms. Chatelain's malpractice claim at the time of Mr. Christensen's loan application.

16. In addition to the accumulated legal fees owed to the Firm by Ms. Chatelain in connection with the divorce proceedings, she had agreed that half of any funds she would obtain from settling her malpractice claim would also be used to pay the legal fees charged to her by the Firm.

17. In order to demonstrate to Zions Bank that he would have adequate funds to make the required down payment on the home, and in anticipation of extending the Home closing to a date when the necessary funds from the Firm's trust account had been earned, Mr. Christensen transferred \$19,620 from the Firm's Wells Fargo Bank trust account to his personal Wells Fargo account on Friday, November 8, 2013.

18. The transfer left a balance in the Firms' trust account of approximately \$102.

19. On November 8, 2013, a check for \$357 that the Firm had written on its trust account on or about November 1, 2013, to a Firm client was presented to Wells Fargo Bank for payment. At that time, the trust account did not have sufficient funds to honor the check.

20. On November 8, 2013, OPC received a Non-Sufficient Funds ("NSF") notice from the bank for the Firm's trust account.

21. The balance in the firm's trust account was insufficient to allow for normal payment of the client's check because on November 8, 2013, Mr. Christensen transferred \$19,620.00, almost the complete balance of the firm's trust account, into his personal bank account.

22. After the bank paid the money owed to the client of \$357.00 based on the check, the firm's trust account had a balance of -\$255.14.

23. On the morning of Saturday, November 9, 2013, about 12 hours after having transferred the \$19,620, and before he had received any notice of OPC's receipt of the NSF notice, Mr. Christensen restored the \$19,620 to the Firm's trust account by electronic transfer. Due to Veteran's Day, the electronic transfer was credited ON Tuesday, November 12, 2013.

24. The \$357 check to a Firm client was received by Wells Fargo for payment on November 8 and was not processed until the first business day following November 8—Tuesday, November 12, 2013, the day after Veterans' Day.

25. By November 12, 2013, the Firm's trust account had sufficient funds to cover the \$357 check, and the client received payment of \$357 on the check. The check was not "bounced."

26. On November 8, 2013, Mr. Christensen also transferred \$9,000.00 from the firm's operating account into his personal bank account.

27. The transfer of the funds from the firm's operating account into his personal account was also in connection with a loan he was applying for in his name for the purchase of a client's house by the firm as part of a resolution of fees with the client.

28. In connection with the loan, on or about November 12, 2013, Mr. Christensen sent to the lender his personal account bank statement showing a balance in the account of \$90,465.32 as of November 9, 2013. The November 9, 2013 \$90,465.32 balance reflected on the personal bank statement that Mr. Christensen sent to the lender on or about November 12, 2013, includes the \$19,620.00 transfer from the firm's trust account.

29. The November 9, 2013 \$90,465.32 balance reflected on the personal bank statement that Mr. Christensen sent to the lender on or about November 12, 2013, includes the \$9,000.00 transfer from the firm's operating account.

30. About 12 hours later, on Saturday, November 9, 2013, by electronic transfer, Mr. Christensen also returned the \$9,000.00 that he had transferred to his personal account from the firm's operating account.

31. The \$9,000.00 that Mr. Christensen returned electronically to the firm's operating account was also not credited back to the firm's operating account until the next business day of Tuesday, November 12, 2013.

32. The funds shown on the November 9, 2013 bank statement included funds belonging to individuals or entities other than Mr. Christensen.

33. The additional funds from the trust account beyond the \$357 check were a combination of earned and unearned funds.

34. The earned funds in the trust account as of November 8, 2013 equaled \$4,019.94.

35. Mr. Christensen's law partners did not authorize Mr. Christensen's transfer of

the \$19,620.00 from the firm's trust account to Mr. Christensen's personal account.

36. Mr. Christensen's law partners were unaware of the transfer of the \$19,620.00 from the firm's trust account to Mr. Christensen's personal account at the time Mr. Christensen made the transfer.

37. Mr. Christensen's law partners did not authorize Mr. Christensen's transfer of the \$9,000.00 from the firm's operating account to Mr. Christensen's personal account.

38. The partners were aware that Mr. Christensen had loaned personal funds to the firm to cover payroll and other expenses in an amount exceeding \$9,000.00.

39. Mr. Christensen's law partners were unaware of the transfer of the \$9,000.00 from the firm's operating account to Mr. Christensen's personal account at the time Mr. Christensen made the transfer.

40. The malpractice claim was settled in favor of Ms. Chatelain on November 14, 2013, for about \$225,000, of which approximately \$115,000 was paid to the Firm for accumulated fees and costs.

41. A portion of this amount of fees earned was paid to Mr. Christensen's personal account to form the basis for Mr. Christensen's down payment on the Home.

## **CONCLUSIONS OF LAW**

### **Violation of Rule 1.15(a) Safekeeping Property**

42. Rule 1.15(a) (Safekeeping Property) of the Rules of Professional Conduct states:

A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated or elsewhere with the consent of

the client or third person. The account may only be maintained in a financial institution which agrees to report to the Office of Professional Conduct in the event any instrument in properly payable form is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

43. Mr. Christensen violated this rule by temporarily taking money that belonged to clients when he transferred funds belonging to clients from his firm's trust account into his personal account.

**Approved as to form:**

/s/ Gary G. Sackett  
Gary G. Sackett  
Counsel for Respondent  
*(Electronic Signature Affixed by  
Permission of Mr. Sackett)*

\*\*\*END OF ORDER\*\*\*

Upon approval of the Court, this becomes an Order when the Court's signature and seal appear on the top right corner of the first page



West's Utah Code Annotated

State Court Rules

Utah Code of Judicial Administration

Part II. Supreme Court Rules of Professional Practice

Chapter 13. Rules of Professional Conduct (Refs & Annos)

Client-Lawyer Relationship

Rules of Prof.Conduct, Rule 1.15

RULE 1.15. SAFEKEEPING PROPERTY

Currentness

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person. The account may only be maintained in a financial institution that agrees to report to the Office of Professional Conduct in the event any instrument in properly payable form is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

**Credits**

[Former Rule 1.13 renumbered as Rule 1.15, effective September 1, 1995; amended effective April 30, 1997; November 1, 2005.]

Editors' Notes

**COMMENT**

[1] A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property which is the property of clients or third persons, including prospective clients, must be kept separate from the lawyer's business and personal property and, if monies, in one or more trust accounts. Separate trust accounts may be warranted when administering estate monies or acting in similar fiduciary capacities. In addition to normal monthly maintenance fees on each account, the lawyers can anticipate that financial institutions may charge additional fees for reporting overdrafts in accordance with this Rule. A lawyer should maintain on a current basis books and records in accordance with generally accepted accounting practice and comply with any recordkeeping rules established by law or court order. See, e.g., ABA Model Financial Recordkeeping Rule.

[2] While normally it is impermissible to commingle the lawyer's own funds with client funds, paragraph (b) provides that it is permissible when necessary to pay bank service charges on that account. Accurate records must be kept regarding which part of the funds are the lawyer's.

[3] Lawyers often receive funds from third parties from which the lawyer's fee will be paid. The lawyer is not required to remit to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds must be kept in a trust account, and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

[4] Paragraph (e) also recognizes that third parties may have lawful claims against specific funds or other property in a lawyer's custody, such as a client's creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client. In such cases, when the third-party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the client until the claims are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party, but, when there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

[5] The obligations of a lawyer under this Rule are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction and is not governed by this Rule.

[6] A lawyers' fund for client protection provides a means through the collective efforts of the Bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer. Where such a fund has been established, a lawyer must participate where it is mandatory, and, even when it is voluntary, the lawyer should participate.

[6a] This Rule is identical to ABA Model Rule 1.15 except it incorporates two sentences that were added to the prior version of this Rule in 1997. These two sentences are the third sentence of paragraph (a) of the Rule and the corresponding fifth sentence of Comment [1].

Notes of Decisions (35)

Rules of Prof. Conduct, Rule 1.15, UT R RPC Rule 1.15  
Current with amendments received through May 15, 2018



## CERTIFICATE OF SERVICE

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 15, 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:

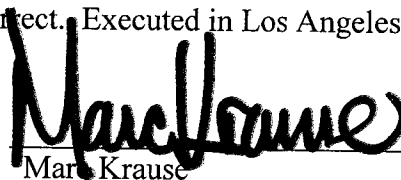
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

STEVE S. CHRISTENSEN  
CHRISTENSEN LAW, PLLC  
340 E 400 S  
SALT LAKE CITY, UT 84111

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

JAIME M. VOGEL, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 15, 2018.



Marc Krause  
Court Specialist  
State Bar Court