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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION			PUBLIC MATTER	
Counsel For The State Bar Kim Kasreliovich Senior Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1378 Bar # 261766	Case Number(s): 17-O-00479-CV, 17-O-02544	For Court use only <div style="font-size: 2em; font-weight: bold;">FILED</div> <div style="font-size: 1.5em; font-weight: bold;">JAN 11 2018</div> <div style="font-size: 1.2em;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>		
In Pro Per Respondent Byron Grant Cornelius P.O. Box 932 Palm Springs, CA 92263-0932 (760) 413-8099 Bar # 108248	kwiktag® 226 164 848 		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: BYRON GRANT CORNELIUS Bar # 108248 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 **June 3, 1983**.
- (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 **17** 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. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **two billing cycles following the effective date of of the Supreme Court order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

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

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

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- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. See page 13.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See page 13.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

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- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No Prior Discipline, see page 13
Emotional Difficulties, see page 13.
Pretrial Stipulation, see page 14.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) **Actual Suspension:**
- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **60 days**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

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iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.

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

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason: .
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: .
- (5) **Other Conditions:**

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In the Matter of: BYRON GRANT CORNELIUS	Case Number(s): 17-O-00479 – CV, 17-O-02544
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Financial Conditions

a. Restitution

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

Payee	Principal Amount	Interest Accrues From
George Springer	\$1,500	June 23, 2015
Clerk of Court, Riverside County Superior Court	\$1,500	N/A

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **three months prior to the completion of State Bar probation.**

b. Installment Restitution Payments

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

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

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- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";
 - b. Respondent has kept and maintained the following:
 - i. A written ledger for each client on whose behalf funds are held that sets forth:
 - 1. the name of such client;
 - 2. the date, amount and source of all funds received on behalf of such client;
 - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 - 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 - 1. the name of such account;
 - 2. the date, amount and client affected by each debit and credit; and,
 - 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
 - c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
 - i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

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d. Client Trust Accounting School

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

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: BYRON GRANT CORNELIUS

CASE NUMBERS: 17-O-00479 – CV, 17-O-02544

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 17-O-00479 (Complainant: Victor and Erica Cabrera)

FACTS:

1. In late 2013, Respondent was retained by Victor and Erica Cabrera (“Cabreras”) to represent them in a civil matter.

2. On August 26, 2015, Respondent filed a complaint in *Cabrera v. Platinum Properties, et al.*, Riverside County Superior Court, case number RIC 1510227. Thereafter, Respondent failed to file a Case Management Statement, and on August 15, 2016, the court issued an Order to Show Cause (“OSC”) re why sanctions should not be imposed.

3. In October 2016, Respondent failed to notify the Cabreras of two settlement offers presented by opposing counsel in *Cabrera v. Platinum Properties*, and failed to respond to the offers.

4. In November 2016, the Cabreras made multiple attempts to contact Respondent for a status update but Respondent’s office voicemail was full, his cellphone was not receiving calls and he failed to respond to text or email messages. Additionally, Respondent’s office had been closed without a forwarding address.

5. On December 27, 2016, Respondent failed to appear at the trial setting conference and the court issued an OSC re sanctions and ordered Respondent to appear on February 6, 2017. Respondent failed to appear at the OSC hearing on February 6, 2017, and was sanctioned \$1,500 by the court.

6. On December 29, 2016, the Cabreras retained attorney Alexander Pham to take over their case. Pham made numerous attempts to contact Respondent including sending Respondent a letter requesting return of the Cabreras’ file and noticing his intent to file an ex parte application if Respondent did not respond by January 6, 2017. Respondent received the letter but failed to respond.

7. On February 24, 2017, the Cabreras entered into a settlement agreement in the case. Respondent returned the Cabreras’ file to Pham just prior to settlement. To date, Respondent has not paid the \$1,500 sanction nor has he reported it to the State Bar.

8. On February 16, 2017, an investigator for the State Bar sent a letter to Respondent at his membership records address requesting a response to the allegations in this matter. On March 27, 2017,

the investigator sent Respondent a second letter requesting a response to the allegations in this matter. Respondent received both letters but failed to respond.

CONCLUSIONS OF LAW:

9. By failing to file a case management statement and failing to appear at the trial setting conference on behalf of the Cabrerias, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).
10. By failing to respond to numerous telephonic status inquiries made by the Cabrerias, Respondent failed to respond to reasonable client inquires in willful violation of Business and Professions Code section 6068(m).
11. By failing to release the Cabrerias' file for nearly two months after inquiries by attorney Pham, Respondent failed to timely release the client file, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).
12. By failing to inform the Cabrerias of two settlement offers from opposing counsel in October 2016, Respondent did not communicate promptly to the client all terms and conditions of the offer, in willful violation of the Rules of Professional Conduct, rule 3-510.
13. By failing to inform the State Bar that he was sanctioned \$1,500 on February 6, 2017, for his failure to appear in *Cabrera v. Platinum Properties, et al.*, Respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of judicial sanctions against Respondent, in willful violation of Business and Professions Code section 6068(o)(3).
14. By failing to pay \$1,500 in sanctions as ordered by the court in *Cabrera v. Platinum Properties, et al.*, Respondent disobeyed or violated an order of the court requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession, in willful violation of Business and Professions Code section 6103.
15. By failing to appear at the OSC hearing on February 6, 2017, as ordered by the court in *Cabrera v. Platinum Properties, et al.*, Respondent disobeyed or violated an order of the court requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession, in willful violation of Business and Professions Code section 6103.
16. By failing to take any action on behalf of the Cabrerias after November 2016 and effectively abandoning the Cabrerias, requiring the Cabrerias to hire a new attorney, Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to Respondent's client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
17. By failing to provide a response to the State Bar's letters of February 16, 2017 and March 27, 2017, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in the Cabrera matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a response, in willful violation of Business and Professions Code section 6068(i).

FACTS:

18. On October 24, 2014, George Springer, probate officer of the estate of his late mother, hired Respondent to assist in transferring ownership of his mother's condominium in Palm Desert, California to his sister. Springer paid Respondent \$1,500 for his services.

19. Over the next two months, Springer sent Respondent three email reminders regarding the importance of effectuating the transfer prior to the end of 2014, so the final federal tax return could be filed. On December 29, 2014, Respondent assured Springer the transfer would take place before the end of the year.

20. Between January 2015 and December 2015, Springer sent eight emails to Respondent requesting status updates on the transfer of his late mother's property. Respondent received the emails but failed to respond to any of Springer's emails.

21. In March 2016, Springer spoke with Respondent, who admitted responsibility for the delay in effectuating the transfer and assured him it would be completed within five months. Between June 2016 and August 2016, Springer sent three emails to Respondent requesting a status update. Respondent received the emails but failed to respond.

22. In November 2016, Springer spoke with Respondent, at which time Respondent acknowledged he could not complete the case and stated that he had transferred Springer's file and the \$1,500 to an attorney in Palm Springs who could complete the matter. During that same month, Respondent vacated the office space he had been renting.

23. Between November 2016 and March 2017, Springer sent five emails to Respondent requesting a status update, since he had not heard from the new attorney. Respondent received the emails but failed to respond.

24. Respondent contacted another attorney to assist with Springer's case and provided the new attorney with Springer's file. However, Springer's contact information was not contained in the file and the new attorney was unable to reach Respondent to ascertain Springer's contact information. Without contact information to reach Springer or authorization from Springer to act as his attorney, the new attorney was unable to work on the matter. Respondent did not provide the new attorney the \$1,500 paid to him by Springer.

25. On May 30, 2017, an investigator for the State Bar sent a letter to Respondent at his membership records address requesting a response to the allegations in this matter. On June 21, 2017, the investigator sent a second letter to Respondent requesting a response to the allegations in this matter. Respondent received both letters but failed to respond.

26. Respondent never completed the transfer of Springer's mother's condominium and never refunded to Springer the \$1,500 Springer paid Respondent to complete the work.

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CONCLUSIONS OF LAW:

27. By failing to complete the transfer of ownership of Springer's mother's condominium, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

28. By failing to respond to 16 written status inquiries sent via email from Springer, Respondent failed to respond to reasonable client inquiries in willful violation of Business and Professions Code section 6068(m).

29. By failing to take any action on Springer's behalf, failing to provide the new attorney with sufficient information to complete the case and effectively abandoning Springer after November 2016, Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to Respondent's client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

30. By failing to refund to Springer the advanced fees of \$1,500 which Springer paid to Respondent, Respondent failed to refund promptly upon termination of employment, fees that were not earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

31. By failing to provide a response to the State Bar's letters of May 30, 2017 and June 21, 2017, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in the Springer matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of Business and Professions Code section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent has engaged in 14 acts of misconduct. Further, the misconduct has occurred over multiple client matters. These represent separate, multiple acts and are an aggravating factor. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 168.)

Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)): Respondent's misconduct harmed his client. In particular, his failure to transfer ownership of Springer's mother's condominium resulted in a lengthy delay in closing the probate matter, due to the inability to file the final federal tax return.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent has been admitted to practice law since June 1983 and has been active at all times since. Respondent has 31 years of practice without discipline and is therefore entitled to significant mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596.)

Emotional Difficulties: In 2015, Respondent accepted representation of client who became verbally and physically abusive. Over the nearly three years in which Respondent represented this client, the client assaulted Respondent and began appearing at Respondent's home unannounced while Respondent's wife and daughter were present. Respondent completely overwhelmed by the abusive and aggressive actions of his client and fearful for his safety and the safety of his family if he extracted

himself from the client's case. Finally, in March 2017, Respondent sought and obtained a restraining order against the (then former) client. Respondent's period of representation of his abusive client significantly overlaps with the period of misconduct in this case. Respondent's emotional trauma from this experience left him unable to properly attend to his law practice and directly contributed to the misconduct. (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 519 [Emotional problems which are extreme and directly responsible for the misconduct are entitled to mitigation].)

Pretrial Stipulation: By entering into this stipulation, Respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re 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 admits to committing 14 acts of professional misconduct. Standard 1.7(a) requires that where a respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to Respondent's misconduct is found in Standard 2.7(c), which applies to Respondent's violation of Business and Professions Code section 6068(m) for failing to

Conduct for failing to perform legal services competently and improperly withdrawing from employment. Standard 2.7(c) provides that suspension or reproof is the presumed sanction for performance, communication, or withdrawal violations which are limited in scope or time, depending on the extent of misconduct and degree of harm to the client.

Respondent's misconduct is limited in scope to two client matters after an otherwise discipline-free career. Respondent's misconduct resulted in the greatest harm to Springer, who waited over two years to be told by Respondent that the task of transferring his deceased mother's real property had been referred to another attorney. Additionally, Respondent failed to provide the new attorney enough substantive information to complete the task. Respondent's failure to perform coupled with his failure to communicate and withdrawal from employment makes actual suspension the only appropriate level of discipline to protect the public and the integrity of the profession.

The Supreme Court has generally considered actual suspension an appropriate discipline where multiple instances of misconduct involving client inattention have occurred. (*Lester v. State Bar* (1976) 17 Cal.3d 547.) Client abandonment is "serious misconduct that constitutes a breach of the fiduciary duty owed by an attorney to the client and, accordingly, warrants substantial discipline." (*Stanley v. State Bar* (1990) 50 Cal.3d 555, 566.) The range of discipline imposed in cases focusing on client abandonment and failure to properly communicate with clients is extremely broad, ranging from six months' actual suspension to disbarment. (*In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944.) In the present matter, balancing the aggravation against the substantial mitigation afforded to Respondent based on his lengthy discipline-free career and the emotional difficulties he experienced, 60 days actual suspension is appropriate.

The level of discipline is supported by case law. In *Gadda v. State Bar* (1990) 50 Cal.3d 344, the attorney had been found culpable of unreasonable client neglect in three immigration matters aggravated by deceit in two of the matters and the publication of a misleading advertisement. The Court considered as aggravation the attorney's failure to recognize the seriousness of his misconduct but noted in mitigation his very active and generous pro bono immigration legal work. The Supreme Court ordered a two year suspension, stayed, on conditions including a six month actual suspension and until restitution was made.

Calvert v. State Bar (1990) 50 Cal.3d 344, is a matter involving similar misconduct. In *Calvert* the attorney was found culpable of unreasonable client neglect in a single client matter, including failure to perform, continued representation of her client though she knew she could not perform competently, and withdrew from employment without taking reasonable steps to avoid prejudice to the client. The Supreme Court found the attorney's breach of her duty to her client was significant, but did not agree with the review departments order of a six month actual; suspension, lowering the actual suspension to 60 days.

The present case involves two client matters and there was no deceit or moral turpitude as in *Gadda*. There are more client matters than in *Calvert* where the court saw fit to impose an actual suspension of 60 days. However, Respondent's mitigation, makes his misconduct more similar to *Calvert* on balance. Accordingly discipline of a one year stayed suspension, with one year of probation, and a 60 day actual suspension is appropriate and will serve the purpose of protecting the public the courts and the legal profession.

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COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of December 20, 2017, the discipline costs in this matter are \$4,784. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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

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

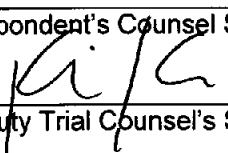
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In the Matter of: BYRON GRANT CORNELIUS	Case number(s): 17-O-00479 – CV, 17-O-02544
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SIGNATURE OF THE PARTIES

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.

1/2/18  Byron Grant Cornelius
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name
1/2/18  Kim Kasreliovich
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: BYRON GRANT CORNELIUS	Case Number(s): 17-O-00479-CV, 17-O-02544
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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.

1. On page 1 of the Stipulation, in the lower right box, "Submitted to: Settlement Judge" is deleted and in its place is inserted "Submitted to: Assigned Judge"
2. On page 15 of the Stipulation, in the fourth full paragraph, "*Calvert v. State Bar* (1990) 50 Cal.3d 344" is deleted and in its place is inserted "*Calvert v. State Bar* (1991) 54 Cal.3d 765"

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

January 11, 2018
Date


CYNTHIA VALENZUELA
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 11, 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:

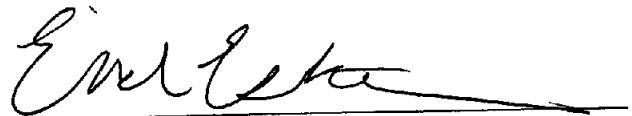
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**BYRON GRANT CORNELIUS
BYRON G. CORNELIUS
PO BOX 932
PALM SPRINGS, CA 92263 - 0932**

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

KIMBERLY G. KASRELIOVICH, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 11, 2018.



Erick Estrada
Case Administrator
State Bar Court