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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel for the State Bar</p> <p>Roy Kim Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1616</p> <p>Bar # 293815</p>	<p>Case Number(s): 17-O-03361-MC</p>	<p>For Court use only</p> <p style="font-size: 24pt; text-align: center;">PUBLIC MATTER</p> <p style="text-align: center;">FILED <i>MK</i> FEB 26 2019</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Edward Lear Century Law Group, LLP 5200 W. Centruy Blvd., #345 Los Angeles, CA 90045 (310) 642-6900</p> <p>Bar # 132699</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: PERFISITY MCGHEE</p> <p>Bar # 81234</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 **September 20, 1978**.
- (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 **19** 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."

(Effective July 1, 2018)

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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.
- (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. **See page 14.**
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. **See page 14.**
- (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 Discipline, see page 14.
Pretrial Stipulation, see page 15.

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 **two (2) years** with the following conditions.

- Respondent must be suspended from the practice of law for the first **30 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.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:

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

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

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

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

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

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

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

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

- Respondent must be suspended from the practice of law for a minimum for the first _____ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent makes restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and,

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

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

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

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

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

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

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

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

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

E. Additional Conditions of Probation:

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

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

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date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

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

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

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

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

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

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is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

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

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

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

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In the Matter of: PERFISITY MCGHEE	Case Number(s): 17-O-03361
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Financial Conditions

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

Within the first _____ of probation/Reproval Conditions Period, Respondent must make restitution in the amount of \$ 22,500, plus 10 percent interest per year from May18, 2017, to the Law Offices of A. George Glasco, P.C or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5) and must furnish satisfactory proof of restitution to the Office of Probation. [Such restitution may be made by partial payments or by a single lump sum payment during the period specified above.]

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

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

Respondent must make monthly payments in the amount of \$ 937.50 to the Law Offices of A. George Glasco, P.C. The obligation to make such payments will commence 30 days after the effective date of the Supreme Court order imposing discipline in this matter. Such payments will be due on the 1st day of each calendar month thereafter and be deemed delinquent if not submitted to such payee, or such other recipient as may be designated by the Office of Probation or the State Bar Court, within ten (10) days thereafter.

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

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

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

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

(4) Installment Restitution Payments (Multiple Payees)

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

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

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

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

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

Respondent must comply with the following reporting requirements:

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

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

Respondent must comply with the following reporting requirements:

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

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

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

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

(7) Other:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: PERFISITY MCGHEE

CASE NUMBER: 17-O-03361

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-03361 (Complainants: George Glasco and Honorable Mark A. Young)

FACTS:

1. On April 1, 2016, the Gwendolyn Moore Revocable Living Trust (“Trust”) filed an unlawful detainer action against Tyessa Bishop (“Bishop”) in a lawsuit entitled *Gwendolyn Moore Revocable Living Trust v. Tyessa Bishop*, Los Angeles County Superior Court case number 16R01639 (“Unlawful Detainer action”) concerning possession of real property located at 3305 Stocker Street, Los Angeles, CA 90008 (“Stocker Property”).

2. At all relevant times in the Unlawful Detainer action, the Trust was represented by attorney George Glasco (“Glasco”) and Bishop was represented by attorney Frank Bazadier (“Bazadier”).

3. On September 21, 2016, the Trust filed a Motion for Summary Judgment (“MSJ”).

4. On September 27, 2016, the Court granted the MSJ.

5. On October 3, 2016, Bishop filed an appeal of the Court’s ruling on the MSJ in Los Angeles County Superior Court case number 16R01639 (“MSJ appeal”).

6. On November 1, 2016, Bazadier filed a notice of *lis pendens* (“First *Lis Pendens*”) with the County Recorder of Los Angeles County, on behalf of Bishop, documenting that the pending MSJ appeal concerned title and interest in the Stocker Property.

7. On November 18, 2016, Glasco filed a motion to expunge the First *Lis Pendens* and on November 22, 2016, the Court granted Glasco’s expungement motion.

8. On November 23, 2016, respondent substituted into the MSJ appeal as the attorney of record for Bishop and filed a notice of *lis pendens* (“Second *Lis Pendens*”) for the Stocker Property on behalf of Bishop again based on the pendency of the MSJ appeal.

9. On December 19, 2016, Bishop filed an appeal of the expungement of the First *Lis Pendens* (“Expungement appeal”).

10. On December 27, 2016, respondent filed a quiet title action on behalf of Bishop against the Trust, *Tyesha Bishop vs. Gwendolyn Moore Revocable Trust*, Los Angeles County Superior Court case number BC645014 ("Quiet Title action"), and on December 28, 2016, respondent filed another notice of *lis pendens* ("Third *Lis Pendens*") due to the pendency of the Quiet Title action.

11. On January 13, 2017, Glasco filed i) an *ex parte* application for an order shortening time to hear a motion for an order expunging the Second *Lis Pendens*, ii) a motion to dismiss the Expungement appeal and iii) a motion for attorney's fees before the appellate court. In Glasco's motion to expunge the Second *Lis Pendens*, Glasco asserted that filing the Second *Lis Pendens* violated the California Code of Civil Procedure section 405.36, which prohibits claimants from recording a notice of *lis pendens* as to affected property without leave of the court after the expungement of a *lis pendens*.

12. By no later than January 13, 2017, respondent was aware of the expungement of the First *Lis Pendens* and the pendency of the Expungement appeal, but continued to maintain the Second and Third *Lis Pendens*, including filing a reply to Glasco's January 13, 2017 motion.

13. On February 22, 2017, the appellate court granted Glasco's motion in part, dismissing the Expungement appeal. Glasco's motion to expunge the Second *Lis Pendens* was denied without prejudice giving Glasco the right to seek relief with the trial court.

14. On March 3, 2017, Glasco filed a motion to expunge the Third *Lis Pendens* in the Quiet Title action. The motion was heard on March 9, 2017 and on March 22, 2017, the Court granted the expungement motion for the Third *Lis Pendens* and order respondent and Bishop to pay \$20,000 in reasonable attorney's fees to Glasco within 30 days, i.e. by April 8, 2017 ("Costs Order"). At all relevant times, respondent had notice of the Costs Order.

15. The Third *Lis Pendens* filed and maintained by respondent was frivolous and unjust, because the Court previously expunged the First *Lis Pendens* maintained on Bishop's behalf for the same property and the appellate court also dismissed the Expungement appeal maintained by respondent on Bishop's behalf.

16. On March 15, 2017, respondent received notice from Glasco that Glasco was going to file a motion for sanctions and expungement of the Second *Lis Pendens*. On March 16, 2017, Glasco filed the motion for sanctions and expungement of the Second *Lis Pendens*, which was heard the same day. On April 18, 2017, the Court expunged the Second *Lis Pendens* and set a hearing for the sanctions motion.

17. On April 18, 2017, the Court sanctioned respondent in the amount of \$2,500 and ruled the Second *Lis Pendens* to be frivolous and done so solely to delay the legal proceedings. The Court also ruled that respondent's filing of the Second *Lis Pendens* violated California Code of Civil Procedure section 405.36 concerning the filing of *lis pendens* because it was filed without leave of the court. Respondent and his client were ordered to pay the \$2,500 sanctions to Glasco within 30 days, i.e., by May 18, 2017 ("Sanctions Order"). At all relevant times, respondent had notice of the Sanctions Order.

18. Thereafter, respondent failed to report the \$2,500 sanctions to the State Bar.

19. To date, respondent has not paid any portion of the \$2,500 sanctions ordered by the Court in the Unlawful Detainer action or the \$20,000 in costs ordered by the Court in the Quiet Title action.

CONCLUSIONS OF LAW:

20. By filing and maintaining the Second *Lis Pendens*, which was frivolous and without leave of the Court pursuant to Code of Civil Procedure section 405.36, respondent failed to counsel or maintain such action, proceedings, or defenses only as they appear to respondent to be legal or just, in willful violation of Business and Professions Code section 6068(c).

21. By filing and maintaining the Third *Lis Pendens*, which was frivolous and unjust, respondent failed to counsel or maintain such action, proceedings, or defenses only as they appear to respondent to be legal or just in willful violation of Business and Professions Code section 6068(c).

22. By failing to report the April 18, 2017 Sanctions Order against respondent in connection with the Unlawful Detainer action, 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).

23. By failing to comply with the March 22, 2017 Costs Order in connection with the Quiet Title action, 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 which respondent ought in good faith to do or forbear, in willful violation of Business and Professions Code section 6103.

24. By failing to comply with the April 18, 2017 Sanctions Order in connection with the Unlawful Detainer action, 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 which respondent ought in good faith to do or forbear, in willful violation of Business and Professions Code section 6103.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent engaged in multiple acts of misconduct by twice failing to maintain respect for the court by filing *lis pendens*, failing to pay court ordered sanctions and costs, and failing to report the sanctions to the State Bar. (See *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555 [multiple acts of misconduct are considered serious aggravation].)

Significant Harm to the Client and the Administration of Justice (Std. 1.5(j)): Respondent's filing and/or maintaining two frivolous *lis pendens* required unnecessary and additional resources to be expended by both Glasco and the Court to expunge the *lis pendens*, and subjected his client to \$22,500 in sanctions and costs. (See *In the Matter of Scott* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446, 458 [attorney's filing of essentially identical motions after they were denied constituted significant harm to the administration of justice].)

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to practice in 1978 and has no record of prior discipline. The Review Department has found an attorney with twenty-four years of practice without discipline to be entitled to "significant" mitigation. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 167; see also *In the Matter of Riordan* (Review Dept. 2007) 5 Cal State Bar Ct. Rptr. 41 [attorney's many years in practice with no prior discipline considered mitigating even when misconduct at issue was serious]; see also *Friedman v. State Bar* (1990) 50 Cal.3d 235, 242 [20 years or

more in the practice of law without discipline is afforded significant weight in mitigation].) However, because respondent's misconduct is ongoing, the mitigating weight generally warranted for his lack of prior discipline is tempered.

Pretrial Stipulation (Std. 1.6(e)): While some of the instant misconduct is easily provable, respondent has cooperated in resolving this matter through a stipulation as to facts, conclusions of law and disposition prior to trial. (*Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071, 1079 [where mitigation credit was given for entering into a stipulation as to facts and culpability].)

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 five 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 2.12(a), which applies to respondent's violations of Business and Professions Code section 6103. Standard 2.12(a) provides that "[d]isbarment or actual suspension is the presumed sanction for disobedience or violation of a court order related to the member's practice of law[.]" Standard 2.9(a), which calls for actual suspension, also applies to respondent's frivolous *lis pendens*, in violation of Business and Professions Code section 6068(c), which caused significant harm to the administration of justice.

In this matter, respondent maintain two *lis pendens* when he knew or should have known the *lis pendens* were frivolous and unjust. His misconduct was further compounded by his failures to comply with the Costs and Sanctions Orders, both of which he has yet to comply with. In aggravation, respondent engaged in multiple acts of wrongdoing and caused significant harm to the administration of justice. However, in mitigation, respondent has practiced for 40 years without prior discipline and has cooperated with the State Bar in resolving the matter prior to trial. Notwithstanding the gravity of respondent's misconduct, discipline at the lower end of the presumed sanction under standard 2.12(a) is appropriate due to the factors in mitigation. Accordingly, a thirty (30) day actual suspension, one year of stayed suspension, and two years or probation with conditions is appropriate discipline to fulfill the primary purposes of discipline.

The recommended discipline is supported by case law. In *Sorensen v. State Bar* (1991) 52 Cal. 3d 1036, the Court imposed discipline consisting of a 30-day actual suspension, where the attorney filed a frivolous fraud-suit against a court reporter in retaliation over a disputed \$94.01 deposition bill. In aggravation, the Court noted the attorney's lack of remorse and the particularly egregiousness of the attorney's actions because he knew "how to use and abuse the process" and "use[d] [his] skill and learning to harass, menace and oppress [the victim], totally out of proportion to what was at issue." (*Id.* at p. 1040.) Respondent's misconduct is more egregious than that in *Sorensen*, but is surrounded by more mitigating circumstances, and therefore warrants similar discipline.

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of January 31, 2019, the discipline costs in this matter are approximately \$7,998. 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.

FURTHER RESTITUTION.


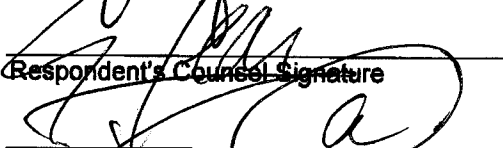
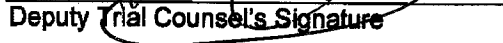
In addition to the restitution amounts set forth on the Financial Conditions page of this stipulation, respondent must pay the following additional restitution on the same terms as set forth on the Financial Conditions page and provide satisfactory proof of payment to the Office of Probation. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) identified below, respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

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In the Matter of: PERFISITY MCGHEE	Case Number(s): 17-O-03361
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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.

February 1, 2019 Date	 Respondent's Signature	Perfisity McGhee Print Name
2/1/19 Date	 Respondent's Counsel Signature	Edward O. Lear Print Name
2/1/19 Date	 Deputy Trial Counsel's Signature	Roy Kin Print Name

(Do not write above this line.)

In the Matter of: PERFISITY McGHEE	Case Number(s): 17-O-03361
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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 3 of the Stipulation, at paragraphs B.(8) and (11), "page 14" is deleted, and in its place is inserted "page 16".
2. On page 4 of the Stipulation, under "Additional mitigating circumstances," "page 14" is deleted, and in its place is inserted "pages 16-17." In addition, "page 15" is deleted, and in its place is inserted "page 17".
3. On page 11 of the Stipulation, paragraph (1), line 1, "first" is deleted, and in its place is inserted "period".
4. Pursuant to paragraph A.(3) on page 1 of the Stipulation, the parties intend this stipulation to be a final resolution of the above-captioned matter. However, in the Stipulation, the parties did not resolve the charges set forth in counts 2 and 7 of the Notice of Disciplinary Charges (NDC) filed on October 15, 2018. As these charges therefore do not form the basis for the stipulated culpability determinations and the level of discipline recommended in the Stipulation, the court will dismiss these charges. Accordingly, the Business and Professions Code section 6068, subdivision (c), charge in count 2 and the Business and Professions Code section 6106 charge in count 7 of the NDC are dismissed with prejudice.

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).)

February 26, 2019
Date

Rebecca Meyer Rosenberg
REBECCA MEYER ROSENBERG
Judge Pro Tem of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 26, 2019, 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:

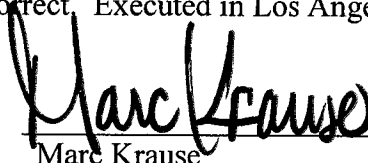
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

EDWARD LEAR
CENTURY LAW GROUP LLP
5200 W CENTURY BLVD #345
LOS ANGELES, CA 90045

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

ROY KIM, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 26, 2019.



Marc Krause
Court Specialist
State Bar Court