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**State Bar Court of California
Hearing Department
San Francisco
ACTUAL SUSPENSION**

<p>Counsel for the State Bar</p> <p>Britta G. Pomrantz Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2292</p> <p>Bar # 310644</p>	<p>Case Number(s): 17-O-06942, 17-O-07315</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED</p> <p>AUG 23 2018 <i>MS</i></p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Michael Dietrick Law Offices of Michael Dietrick 765 Baywood Drive, Suite 227 Petaluma, CA 94954 (707) 763-5019</p> <p>Bar # 92150</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:</p> <p>MICHAEL CHARLES WEISBERG</p> <p>Bar # 78537</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 21, 1977**.
- (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 **15** 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: **87-O-10078. (See page 12, Exhibit 1.)**
 - (b) Date prior discipline effective: **January 13, 1989**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rule 7-103; Business and Professions Code, sections 6068(a) and 6103.**
 - (d) Degree of prior discipline: **Public reproof**
 - (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.
- (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 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 [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.

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- (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. **See page 13.**
- (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:

Prefiling Stipulation, see page 13.

D. Recommended Discipline:

- (1) **Actual Suspension:**

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

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

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

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

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

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

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

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

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

Respondent is suspended from the practice of law for _____, 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

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

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

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

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

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

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

E. Additional Conditions of Probation:

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

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

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

(Effective July 1, 2018)

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

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

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

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

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

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

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

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

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

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

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

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MICHAEL CHARLES WEISBERG

CASE NUMBERS: 17-O-06942; 17-O-07315

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-06942 (Complainant: David Sternfeld)

FACTS:

1. On September 1, 2017, respondent was placed on administrative suspension and enrolled on not eligible status by the State Bar of California following his failure to timely report compliance with his Minimum Continuing Legal Education (“MCLE”) requirements. At all relevant times herein, respondent knew he had been enrolled on not eligible status and was not permitted to practice law.

2. On September 20, 2017, respondent appeared on behalf of the plaintiffs in a deposition in *In the Matter of Dean Lamirato, Jared Hufferd v. Elizabeth Anne Schultz, and Jonathan A. Hughes*, Calaveras County Superior Court case number 16CV41853 (“the civil matter”).

3. On September 28, 2017, respondent filed Plaintiff’s Responses to Schultz’s Memorandum in Opposition to Motion for Summary Judgment in the civil matter and identified himself as “attorney for Plaintiffs/Cross-Defendants Dean Lamirato and Jared Hufferd.”

4. On September 28, 2017, respondent filed Plaintiff’s Objection to Schultz’s Declaration Opposing Summary Judgment in the civil matter and identified himself as “attorney for Plaintiffs/Cross-Defendants Dean Lamirato and Jared Hufferd.”

5. On October 6, 2017, respondent appeared as counsel for plaintiffs in the civil matter.

CONCLUSIONS OF LAW:

6. By holding himself out as entitled to practice law and practicing law when he was not an active member of the State Bar of California in violation of Business and Professions Code sections 6125 and 6126, respondent failed to abide by and support the laws of the State of California, in willful violation of Business and Professions Code, section 6068(a).

Case No. 17-O-07315 (Complainant: The Honorable Timothy S. Healy)

FACTS:

7. On September 1, 2017, respondent was placed on administrative suspension and enrolled on not eligible status by the State Bar of California following his failure to timely report compliance with his Minimum Continuing Legal Education ("MCLE") requirements. At all relevant times herein, respondent knew he had been enrolled on not eligible status and was not permitted to practice law.

8. On September 26, 2017, respondent appeared as counsel for defendant before the Honorable Timothy S. Healy in *In the Matter of People vs. Pederson*, Calaveras County Superior Court case no. 17T21384.

9. On September 29, 2017 respondent appeared as counsel for plaintiff before the Honorable Timothy S. Healy in *In the Matter of Abelseth vs. Ratkowski*, Calaveras County Superior Court case no. 16CV41725.

10. On September 29, 2017, respondent appeared as counsel for defendant before the Honorable Douglas C. Boyack in *In the Matter of People vs. Scales*, Calaveras County Superior Court case no. 16T21123.

11. On September 29, 2017 respondent filed a Substitution of Attorney in *In the Matter of Hess vs. Best*, Calaveras County Superior Court case no. 17PA42612, identifying himself as "attorney for [] Connie Hess."

12. On October 3, 2017 respondent appeared as counsel for plaintiff before the Honorable Susan C. Harlan in *In the Matter of Hess vs. Best*, Calaveras County Superior Court case no. 17PA42612.

CONCLUSIONS OF LAW:

13. By holding himself out as entitled to practice law and practicing law when he was not an active member of the State Bar of California in violation of Business and Professions Code sections 6125 and 6126, respondent failed to abide by and support the laws of the State of California, in willful violation of Business and Professions Code, section 6068(a).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): In case no. 87-O-10078, respondent stipulated to a public reproof based on violations of former rule 7-103 of the Rules of Professional Conduct and sections 6068(a) and 6103 of the Business and Professions Code for communicating directly with a represented party on four separate occasions spanning a period of six months. In mitigation, respondent had no prior record of discipline and cooperated in the State Bar investigation. There was no aggravation.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent held himself out as entitled to practice law and practiced law on numerous occasions during his month-long administrative suspension.

MITIGATING CIRCUMSTANCES.

Extraordinary Good Character (Std. 1.6(f)): Respondent submitted nine character letters from people aware of the full extent of the misconduct. The letters — from judges, attorneys, and clients — attest to respondent’s integrity, honesty, and professionalism.

Prefiling 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 Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

Pursuant to Standard 2.10(b), “[s]uspension or reproof is the presumed sanction when a member engages in the practice of law . . . when he or she is on inactive status or actual suspension for non-disciplinary reasons, such as non-payment of fees or MCLE non-compliance.” Further, “[t]he degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.”

Standard 1.8(a) also applies since respondent has a prior record of discipline. The Standard provides that “[i]f a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.” In this case, respondent’s prior discipline occurred 30 years ago, and respondent has remained discipline-free in the intervening years between that discipline and the instant matters. For those reasons, it would be appropriate in this matter to deviate from the requirement of progressive discipline under standard 1.8(a). (See *In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, 713 [prior discipline not deserving of “significant weight” where the former misconduct was not serious and occurred 17 years prior to the first acts of misconduct in the subsequent case].)

Here, respondent has admitted knowingly holding himself out as entitled to practice law, and practicing law, when he was not entitled to do so.. In aggravation, respondent committed multiple acts of misconduct and has a prior record of discipline. In mitigation, respondent has entered into a pre-filing stipulation and provided multiple letters from colleagues and judges attesting to his good character. Respondent’s misconduct is serious but limited in scope. Based on the aggravation and mitigation, a period of actual suspension is warranted.

Case law supports this recommendation. In *In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229, the Review Department imposed a 30-day actual suspension for a single count of unauthorized practice during suspension. In aggravation, the member had three prior disciplinary proceedings in his record. In mitigation, the member demonstrated candor and cooperation to the State Bar and his conduct caused no harm to his clients. Additionally, the member established that while he suffered from depression at the time of the misconduct, he had since brought his condition under control and no longer presented a danger to the public.

Here, respondent’s misconduct is more egregious than in *Trousil*, as respondent committed more acts of intentional unlicensed practice of law. At the same time, the instant case presents less aggravation and more mitigation. On balance, a 30-day actual suspension is appropriate and will serve the purposes of attorney discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of July 9, 2018, the discipline costs in this matter are \$4,353. 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



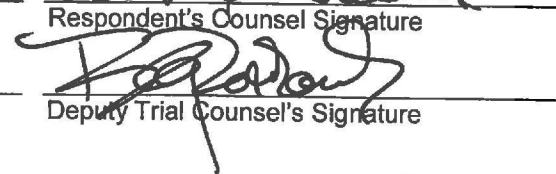
Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reapproval or suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: Michael Charles Weisberg	Case Number(s): 17-O-06942, 17-O-07315
---	---

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

7-28-18		Michael Charles Weisberg
Date	Respondent's Signature	Print Name
8/1/18		Michael Dietrick
Date	Respondent's Counsel Signature	Print Name
8/14/2018		Britta G. Pomrantz
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: Michael Charles Weisberg	Case Number(s): 17-O-06942, 17-O-07315
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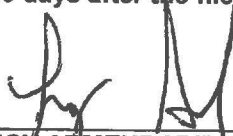
ACTUAL SUSPENSION ORDER

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

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

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

Date Aug 23, 2018



LUCY ARMENDARIZ
Judge of the State Bar Court

FILED

NOV 17 1988

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT
THE STATE BAR OF CALIFORNIA
REVIEW DEPARTMENT

PUBLIC MATTER

87-0-10078 - In the Matter of Michael C. Weisberg


I, Judy Duffield, hereby certify that I am Clerk of the State Bar Court, and that as such, I am the custodian of all records and files of the State Bar Court, and that the following is a full, true and correct copy of a resolution or resolutions adopted as the decision or recommendation of the Review Department of the State Bar Court on November 3, 1988, insofar as it relates to the following proceeding:

After discussion and consideration by the Review Department of the record in the above-entitled proceeding and upon motion made, seconded and adopted it was

RESOLVED that, pursuant to rules 405-408, Rules of Procedure of the State Bar, the stipulation as to facts and disposition entered into between the Office of Trial Counsel and the Respondent filed March 29, 1988, as modified by the Addendum filed September 19, 1988, in the above-entitled matter is hereby adopted.

Voting Yes: Referees Boyle, Carlin, Dean, Katsky, Kirkham, Lawson, Mitchell, McElhinny, Schafer, Tilles, Vogt, Walenta, Whelan, Wilczynski and Craig.

Dated: NOV 17 1988


Judy Duffield, Clerk
of the State Bar Court

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DECLARATION OF SERVICE

I, the undersigned, over the age of 18 years, whose business address and place of employment is 818 West Seventh Street, Los Angeles, California, declare that I am not a party to the within action; that in the City and County of Los Angeles, on the date shown below, I deposited a true copy of the within

MINUTES OF THE REVIEW DEPARTMENT MEETING

in a sealed envelope as follows:

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

Michael C. Weisberg, Esq.
1610 Harrison Street
Oakland, CA 94612

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

Donald R. Steedman, Esq.

Dated: January 13, 1989

I declare under penalty of perjury at Los Angeles, California, on the date shown above, that the foregoing is true and correct.



Angela R. Owens
Deputy Court Clerk
Effectuations Unit
Office of the State Bar Court

FILED

SEP 19 1988 PK

STATE BAR COURT.
CLERK'S OFFICE
LOS ANGELES

1 OFFICE OF TRIAL COUNSEL
THE STATE BAR OF CALIFORNIA
2 DONALD R. STEEDMAN, #104927
Attorney at Law
3 555 Franklin St.
San Francisco, CA 94102
4
415/561-8200

RECEIVED

7 SEP 19 1988

THE STATE BAR COURT
OF THE STATE BAR OF CALIFORNIA
REVIEW DEPARTMENT - SAN FRANCISCO

STATE BAR COURT.
CLERK'S OFFICE
LOS ANGELES

10	In the Matter of)	87-0-10078
11)	
12	MICHAEL CHARLES WEISBERG)	ADDENDUM TO
13	<u>A Member of the State Bar</u>)	<u>STIPULATION AS TO</u> <u>FACTS AND DISCIPLINE</u>


14 The parties have received notification from the Review
15 Department of the State Bar Court, stating that (1) it intends
16 to reject the parties' Stipulation as to Facts and Discipline,
17 filed herein on March 29, 1988, and (2) that the Review
18 Department would entertain a supplemental stipulation for a
19 public reproof with an added duty requiring Respondent to take
20 and pass the Professional Responsibility Examination.

21 In the March 29, 1988, stipulation, Respondent agreed to
22 take and pass the Professional Responsibility Examination.

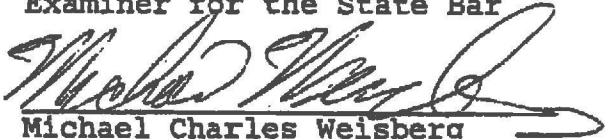
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1 The parties now stipulate that a public reproof be
2 imposed.

3
4 Date: 9/16/88



Donald R. Steedman
Examiner for the State Bar

5
6 Date: 9-15-88


Michael Charles Weisberg
Respondent

7
8
9 Approved:

10
11 Date: September 12, 1988


Trev Davis
Assistant Chief Trial Counsel

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DECLARATION OF SERVICE

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

Addendum to Stipulation as to Facts and Discipline (87-0-10078)

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

Michael Charles Weisberg
1610 Harrison St.
Oakland, CA 94612

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

State Bar Court Review Department, Los Angeles
Attn: Rosalie

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

Dated: September 16, 1988

Susan Padgett
Susan Padgett

DECLARATION OF SERVICE

I, the undersigned, over the age of 18 years, whose business address and place of employment is 818 West Seventh Street, Los Angeles, California, declare that I am not a party to the within action; that in the City and County of Los Angeles, on the date shown below, I deposited a true copy of the within

ADDENDUM TO STIPULATION AS TO FACTS AND DISCIPLINE

in a sealed envelope as follows:

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

Michael Charles Weisberg, Esq.
1610 Harrison Street
Oakland, CA 94612

Donald R. Steedman, Esq.
555 Franklin Street
San Francisco, CA 94102

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

Dated: September 22, 1988

I declare under penalty of perjury at Los Angeles, California, on the date shown above, that the foregoing is true and correct.



Rosalie Ruiz
Deputy Court Clerk



**THE STATE BAR
OF CALIFORNIA**

OFFICE OF STATE BAR COURT

Director, STUART A. FORSYTH

COURT CLERK'S OFFICE, 818 WEST SEVENTH STREET, SUITE 201, LOS ANGELES, CALIFORNIA 90017-3432

(213) 689-6200

PERSONAL AND CONFIDENTIAL
NOTICE ACCOMPANYING SERVICE OF
STIPULATION AS TO FACTS AND DISPOSITION
PRIOR TO ISSUANCE OF NOTICE TO SHOW CAUSE IN
CASE NUMBER 87-0-10078

In the Matter of: Michael Charles Weisberg

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

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

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

The Court Clerk's Office of the State Bar Court can provide the dates upon which the Review Department is likely to act on this matter. Formal notification of the action in this matter will be forecoming from the Effectuation of Decision Section of the Court Clerk's Office. Time limits required by the applicable rules will commence from the date of the final notification.

DECLARATION OF SERVICE

I, the undersigned, over the age of 18 years, whose business and place of employment is 818 West Seventh Street, Los Angeles, California, declare that I am not a party to the within action; that in the City and County of Los Angeles, on the date shown below, I deposited a true copy of the above Notice, Stipulation As To Facts and Disposition, and Rules of Procedure 405-408 and 450; in a sealed envelope as follows:

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

Michael Charles Weisberg, Esq.
1610 Harrison St.
Oakland, CA 94612

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

Donald R. Steedman, Esq.

I declare under penalty of perjury at Los Angeles, California, that the foregoing is true and correct. Dated, this 29th day of March, 1988.


Patricia Flores, Deputy Court Clerk

Copy of this Notice to: Fran Bassios
STPPRIOR.HNG

1 OFFICE OF TRIAL COUNSEL
2 THE STATE BAR OF CALIFORNIA
3 Donald R. Steedman, No. 104927
4 Attorney at Law
5 555 Franklin St.
6 San Francisco, CA 94102
7
8 415/561-8200

FILED

MAR 29 1988 *OK*

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

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

12 In the Matter of) 87-0-10078
13 MICHAEL CHARLES WEISBERG)
14 No. 78537) STIPULATION AS TO
15 A Member of the State Bar) FACTS AND DISCIPLINE

16
17 It is hereby stipulated by and between the State Bar of
18 California, through its Examiner, Donald R. Steedman, Esq., and
19 Michael Charles Weisberg, Respondent, in accordance with Rules
20 405 through 408 of the Rules of Procedure of the State Bar of
21 California, as follows:

22 I

23 Respondent was admitted to the practice of law in the State
24 of California on December 21, 1977, and is and at all times
25 herein mentioned was an attorney and member of the State Bar of
26 California.

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II

PROCEEDINGS INVOLVED

The within matter is presently pending before the State Bar as an investigation.

III

Both parties waive their right to the issuance of a Notice to Show Cause and a formal hearing before a Hearing Panel and agree that this Stipulation may be presented directly to the Review Department of the State Bar Court for its review and approval pursuant to State Bar Rule of Procedure 407(a).

IV

It is understood by the parties to this Stipulation that:

1. Stipulations as to proposed discipline are not binding upon the Supreme Court; and
2. Stipulations as to Facts and Discipline are not effective until approved by the Review Department of the State Bar Court, and may be disapproved or rejected by the Review Department.

V

There are no other investigations pending against Respondent.

VI

Pursuant to Rule 406 of the Rules of Procedure of the State Bar of California, the Chief Trial Counsel has delegated his authority to approve Stipulations as to Facts and Discipline to Assistant Chief Trial Counsel Trev Davis, who has been advised of the contents of this Stipulation as to Facts and Discipline and has approved this disposition.

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VII

It is now the intention of the State Bar and of Respondent to dispose of the within matter pursuant to the terms of this Stipulation in accordance with Rules 405-408 of the Rules of Procedure of the State Bar of California.

VIII

STATEMENT OF ACTS OR OMISSIONS OF
RESPONDENT WHICH ARE ADMITTED BY RESPONDENT
AND WHICH ARE ACKNOWLEDGED AS CAUSES FOR DISCIPLINE

1. On November 5, 1986, a landlord in Berkeley, California, filed a pro per unlawful detainer action against a tenant (Case Number 59151, Berkeley-Albany Municipal Court).

2. On November 10, 1986, the tenant, represented by attorney Michael Grunwald (hereinafter "GRUNWALD") filed a motion to quash the summons, alleging that the unlawful detainer complaint failed to state a cause of action under the applicable rent control ordinance. On November 14, 1986, the landlord filed a voluntary dismissal.

3. Thereafter, the landlord employed Respondent who filed a second unlawful detainer complaint on November 17, 1986 (Case Number 59203).

4. On November 25, 1986, GRUNWALD filed a demurrer to the complaint. The demurrer was placed in the mail to Respondent the next day.

5. On December 1, 1986, Respondent sent directly to the tenant a notice of default in the unlawful detainer case. The default notice was not filed with the court, however. No copy was sent to GRUNWALD.

6. Thereafter, GRUNWALD and Respondent had a discussion

1 in which GRUNWALD expressed dismay that Respondent had sent a
2 default notice directly to GRUNWALD's client and told Respondent
3 that he was required to give the opposing party advance notice
4 before entering a default.

5 7. Thereafter, Respondent filed a first amended complaint
6 (December 15, 1986); GRUNWALD demurred (December 22, 1986) and
7 the demurrer was sustained (January 13, 1987).

8 8. On January 16, 1987, Respondent filed his second
9 amended complaint. He mailed the complaint to GRUNWALD on the
10 same day. Attached to the complaint was a 30-day summons,
11 rather than the five-day summons normally used in unlawful
12 detainer cases.

13 9. On January 27, 1987 (prior to the expiration of the 30-
14 day period), Respondent sent a Notice of Default directly to the
15 tenant. Respondent did not send a copy to GRUNWALD. The
16 default request was filed, but the default was set aside at a
17 February 2, 1987, hearing in the matter.

18 10. On February 11, 1987, GRUNWALD filed and served (by
19 mail) a demurrer to the second amended complaint.

20 11. On February 13, 1987, Respondent sent a Notice of
21 Default to GRUNWALD (and not directly to the client). This
22 default notice does not appear in the court file, however.

23 12. Thereafter, GRUNWALD's demurrer was sustained without
24 leave to amend and case number 59203 was dismissed.

25 13. On April 21, 1987, a State Bar investigator sent
26 Respondent a letter asking him to respond to allegations made by
27 GRUNWALD, i.e., that, by sending the premature default notices
28 directly to GRUNWALD'S client, Respondent had violated Rule of

1 Professional Conduct 7-103, had intimidated GRUNWALD's client,
2 and had engaged in frivolous tactics. Respondent sent a written
3 response on April 27, 1987.

4 14. On April 22, 1987, Respondent filed a new unlawful
5 detainer complaint against the tenant (case number 60101).

6 15. On April 26, 1987, the tenant returned home from a
7 weekend trip and found that the new complaint had been left
8 there. He contacted GRUNWALD.

9 16. On April 27, 1987, GRUNWALD contacted Respondent by
10 telephone and explained that personal service had not been made.
11 GRUNWALD asked whether Respondent was claiming that personal
12 service had been effected or, if not, the date that substituted
13 service had been made. GRUNWALD and Respondent became angry
14 with one another, and the information was not communicated.

15 17. On April 28, 1987, Respondent sent a Notice of Default
16 directly to GRUNWALD's client. Respondent did not send a copy
17 to GRUNWALD. The default notice does not appear in the court
18 file.

19 18. On April 30, 1987, GRUNWALD filed a demurrer. The
20 demurrer was heard on May 26, 1987, and the matter was taken
21 under submission. Subsequently, the court overruled the
22 demurrer and ordered GRUNWALD to file an answer by June 12,
23 1987.

24 19. However, Respondent did not serve notice of the ruling
25 on GRUNWALD. Instead, on June 17, 1987, Respondent mailed a
26 Notice of Default directly to the tenant (with a copy to
27 GRUNWALD). The court clerk entered the default.

28 20. Thereafter, the landlord's case was handled by an

1 associate of Respondent, who stipulated to the default being
2 vacated. Eventually, the case was dismissed pursuant to a
3 summary judgment and the tenant is still in possession of the
4 property.

5 IX

6 FACTS IN MITIGATION OF DISCIPLINE

7 It is hereby stipulated the following facts are true and
8 should be considered in mitigation of discipline:

- 9 1. Respondent has been candid and cooperative with the
10 State Bar in its investigation of this matter.
11 2. Respondent has no prior record of discipline.

12 X

13 RESPONDENT'S STATEMENT

14 If called to testify, Respondent would state that he and
15 GRUNWALD were mutually antagonistic toward one another. He
16 would further indicate that his errors with regard to the
17 Notices of Default were not made intentionally and were not made
18 for purposes of harassing GRUNWALD's client.

19 XI

20 CONCLUSIONS OF LAW

21 The parties stipulate that, by the foregoing conduct,
22 Respondent wilfully violated Rule 7-103, Rules of Professional
23 Conduct, and Business and Professions Code Sections 6068(a) and
24 6103.

25 XII

26 STIPULATED RECOMMENDED DISCIPLINE


27 It being found that the protection of the public and the
28 interests of the attorney will be served, it is hereby

1 stipulated that the recommended discipline in this matter be
2 that the Respondent be privately reprovod; and further, pursuant
3 to Rule 956, California Rules of Court, it is recommended that
4 Respondent shall comply with the following condition:

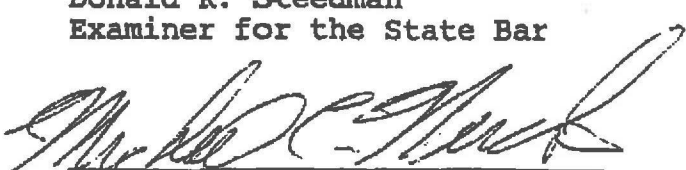
5 That Respondent shall take and pass the Professional
6 Responsibility Examination given by the National Conference of
7 Bar Examiner within one (1) year from the date of the entry of
8 his private reprovod, Segretti v. State Bar (1976) 15 Cal.3d
9 890-891, and furnish satisfactory proof of such to the probation
10 department of the State Bar Court of the State Bar of
11 California.

12 Respondent is hereby notified that failure to comply with
13 the above condition may constitute cause for a separate
14 proceeding for wilful breach of Rule 9-101, Rules of
15 Professional Conduct of the State Bar of California.

16
17 Date: 3/21/88



Donald R. Steedman
Examiner for the State Bar

18
19
20 Date: 3-18 - 88


Michael Charles Weisberg
Respondent

21
22
23 APPROVED:

24
25 Date: March 15, 1988


Trev Davis
Assistant Chief Trial Counsel

26
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28

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



ATTEST July 10, 2018
State Bar Court, State Bar of California,
Los Angeles

By *Cristina Datta*
Clerk

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 San Francisco, on August 23, 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:

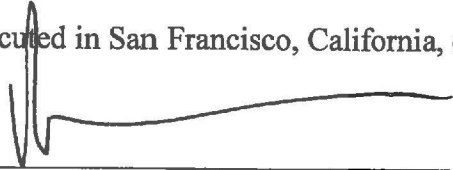
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

MICHAEL EMERY DIETRICK
LAW OFFICES OF MICHAEL DIETRICK
765 BAYWOOD DR STE 227
PETALUMA, CA 94954

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

Britta G. Pomrantz, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 23, 2018.



Vincent Au
Court Specialist
State Bar Court