



ORIGINAL

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**State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION**

<p>Counsel for the State Bar</p> <p>Jaymin Vaghshia Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1209</p> <p>Bar # 269369</p>	<p>Case Number(s): 17-O-05683-YDR 18-O-11056 18-O-15282 (inv)</p>	<p>For Court use only</p> <p>FILED EA OCT 17 2018 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Thomas Lee Watkins 12 S. San Geronio Ave, Banning, CA 92220 (951) 849-0326</p> <p>Bar # 162577</p>	<p>PUBLIC MATTER</p>	
<p>In the Matter of: THOMAS LEE WATKINS</p> <p>Bar # 162577</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 14, 1992**.
- (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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. It is recommended that (check one option only):
 - Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
 - Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. **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.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.

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- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See page 15.**
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct. **See page 16.**
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. **See page 15.**
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable. **See page 16.**
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

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

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

Additional mitigating circumstances:

No Prior Record of Discipline, see page 16.

Good Character, see page 16.

Pretrial Stipulation, see page 16.

D. Recommended Discipline:

- (1) **Actual Suspension:**

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

- Respondent must be suspended from the practice of law for the first **eighteen months** 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:

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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:

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: THOMAS LEE WATKINS

CASE NUMBERS: 17-O-05683; 18-O-11056; 18-O-15282 (inv)

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-05683 (Complainant: Christopher Catalano)

FACTS:

1. On June 23, 2016, Christopher Catalano (“Catalano”) hired respondent to file a Chapter 7 Bankruptcy Petition, to negotiate with creditors, and resolve two liens. Catalano paid respondent \$2,000, which included advanced costs of \$335 earmarked for filing fees.

2. Thereafter, respondent failed to deposit the advanced fees into a client trust account nor used the advanced filings fees to file the petition or for any other purpose on Catalano’s behalf. Instead, respondent intentionally and dishonestly used the filing fees for his own personal purposes.

3. On May 23, 2017, respondent entered into a business transaction with Catalano, wherein respondent and Catalano agreed for respondent to borrow an additional \$335 from Catalano to file Catalano’s bankruptcy petition as he used the funds originally received from Catalano for the filing fee. The terms of the business transaction were not fair and reasonable to Catalano in that respondent did not advise Catalano in writing that he may seek the advice of an independent lawyer of the client’s choice and did not give Catalano a reasonable opportunity to seek that advice.

4. Between August 24, 2017 and September 5, 2017, Catalano called respondent five times and texted him three times to ask for a status update regarding his bankruptcy. Respondent received the messages but did not respond.

5. On September 5, 2017, the Court granted Catalano’s Chapter 7 bankruptcy petition, but thereafter respondent failed to resolve any of the liens on Catalano’s behalf and constructively withdrew from employment on that date. By failing to resolve the liens on Catalano’s behalf, Respondent failed to earn all of the advanced fees he received from Catalano.

6. On December 4, 2017, respondent was mailed a letter requesting a response to the allegations in case 17-O-05683. Respondent received the letter but did not provide a response.

7. On February 14, 2018, respondent was mailed a follow-up letter requesting a response to the allegations in case 17-O-05683. Respondent received the letter but did not provide a response.

8. In August 2018, during the State Bar disciplinary proceedings, respondent refunded a total sum of \$869.77 to Catalano, which included the initial filing fees he used for personal purposes (\$335) and the agreed-upon value of the unearned fees (\$400) plus interest.

CONCLUSIONS OF LAW:

9. By failing to resolve any of Catalano's liens, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

10. By failing to promptly respond to Catalano's eight reasonable status inquiries that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code section 6068(m).

11. By failing to deposit the \$335 filing fee respondent received from Catalano into a client trust account, respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account", "Client's Funds Account" or words of similar import, in willful violation of the Rules of Professional Conduct, rule 4-100(A).

12. By unilaterally using the initial \$335 filing fee received from Catalano for his own personal purposes, respondent intentionally and dishonestly misappropriated Catalano's funds, and committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

13. By entering into a loan agreement with Catalano to borrow an additional \$335 for the filing fee, respondent entered into a business transaction with a client without fair and reasonable terms, and without advising a client to seek independent advice, and without allowing him a reasonable opportunity to seek that advice, in willful violation of Rules of Professional Conduct, rule 3-300.

14. By failing to refund any of the \$2,000 in legal fees until August 2018, approximately 11 months after he stopped performing legal services for Catalano, respondent failed to return promptly the unearned portion of the \$2,000 in willful violation of the Rules of Professional Conduct, rule 3-700(D)(2).

15. By failing to cooperate and participate in a disciplinary investigation pending against respondent by failing to provide a substantive response to the State Bar Investigator's letters of December 4, 2017 and February 14, 2018, which requested respondent's response to the allegations of misconduct being investigated in State Bar case number 17-O-05683, respondent willfully violated Business and Professions Case section 6068(i).

Case No. 18-O-11056 (Complainant: Mary Ellen Rodriguez)

FACTS:

16. On March 13, 2014, Mary Ellen Rodriguez ("Rodriguez") hired respondent to complete a bankruptcy petition. Rodriguez paid respondent \$1,500, which included advanced costs of \$335 earmarked for filing fees. Thereafter, respondent failed to deposit the advanced fees into a client trust account nor used the advanced filings fees to file the petition or for any other purpose on Rodriguez's

behalf. Instead, respondent intentionally and dishonestly used the filing fees for his own personal purposes.

17. Between February 2017 and April 2017, Rodriguez called respondent 20 to 30 times leaving messages requesting a status update. Respondent received the messages but did not respond.

18. In July of 2017, respondent informed Rodriguez that respondent spent Rodriguez' advanced filing fees, but would get more money soon and then file the bankruptcy petition.

19. From October 2017 to January 2018, Rodriguez called respondent over 50 times and sent him at least three text messages requesting a status update regarding her petition. Respondent received the messages but failed to respond to Rodriguez' status inquiries. Thereafter, respondent failed to file Rodriguez' bankruptcy petition and therefore failed to earn any portion of the \$1,145 advanced fees received from Rodriguez. By failing to perform any legal services on Rodriguez's behalf after October 1, 2017, respondent constructively terminated his employment and failed to inform Rodriguez that respondent had withdrawn from employment.

20. On March 1, 2018, respondent was mailed a letter requesting a response to the allegations in case number 18-O-11056. Respondent received the letter but did not provide a response.

21. On March 22, 2018, Respondent was mailed a follow-up letter requesting a response to the allegations in case number 17-O-05683. Respondent received the letter but did not provide a response.

22. In August 2018, during the State Bar disciplinary proceedings, respondent made a full refund of \$1,787.50 to Rodriguez, which included the \$1,500 advanced fees and costs plus interest

CONCLUSIONS OF LAW:

23. By failing to file a bankruptcy petition on behalf of Rodriguez, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

24. By failing to promptly respond to Rodriguez' reasonable status inquiries that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code section 6068(m).

25. By failing to deposit the \$335 filing fee respondent received from Rodriguez into a client trust account, respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account", "Client's Funds Account" or words of similar import, in willful violation of the Rules of Professional Conduct, rule 4-100(A).

26. By unilaterally using the initial \$335 filing fee received from Rodriguez for his own personal purposes, respondent intentionally and dishonestly misappropriated Rodriguez's funds, and committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

27. By constructively terminating respondent's own employment after October 1, 2017 and failing to inform Rodriguez that respondent was withdrawing from employment, respondent improperly withdrew from employment in willful violation of the Rules of Professional Conduct, rule 3-700(A)(2).

28. By failing to promptly refund any of the \$1,145 in legal fees to file a bankruptcy petition on behalf of Rodriguez until August 2018, nearly 10 months after his employment was terminated respondent failed to return promptly the unearned fees in willful violation of the Rules of Professional Conduct, rule 3-700(D)(2).

29. By failing to cooperate and participate in a disciplinary investigation pending against respondent by failing to provide a substantive response to the State Bar Investigator's letters of March 1, 2018, and March 22, 2018, which requested respondent's response to the allegations of misconduct being investigated in State Bar case number 18-O-11056, respondent willfully violated Business and Professions Case section 6068(i).

Case No. 18-O-15282 (Complainant: Diane Blevins) (inv)

FACTS:

30. On April 25, 2017, Diane Blevins ("Blevins") hired respondent to file a bankruptcy petition. She paid respondent advanced costs of \$335 earmarked for the filing fee.

31. On May 4, 2017, respondent deposited the \$335 into his client trust account at Citibank, (hereinafter "Citibank CTA") bringing the balance in his Citibank CTA to \$502.64. Respondent was required to maintain a minimum balance in the Citibank CTA of \$335 on behalf of Blevins until and unless those funds were used to file a bankruptcy petition on her behalf. Instead, respondent intentionally and dishonestly used nearly all of the filing fees for his own personal purposes.

32. On May 26, 2017, as a result of several payments for personal expenses from Citibank CTA, the balance in respondent's Citibank CTA decreased to \$6.05.

33. Between June 14, 2017 and September 29, 2017, Blevins paid respondent \$800 for advanced legal fees. Thereafter, Blevins called respondent approximately 20 times leaving messages requesting a status update. Respondent received the messages but did not respond.

34. Due to a lack of communication by respondent, between October 2017 and July 17, 2018, Blevins visited respondent's office to contact respondent. Respondent was out of the office at the time, so Blevins left a note for respondent to contact her. Respondent received the note but failed to respond.

35. At no time did Respondent file Blevins' bankruptcy petition on perform any legal services on her behalf, and therefore failed to earn any portion of the advanced fees.

36. In August 2018, during the State Bar disciplinary proceedings, respondent made a full refund of \$1,135 to Blevins, which included advanced fees and costs.

CONCLUSIONS OF LAW:

37. By failing to file a bankruptcy petition on behalf of Blevins, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

38. By failing to promptly respond to Blevins' reasonable status inquires that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code section 6068(m).

39. By failing to maintain a balance of \$335 in his Citibank CTA entitled to Blevins, respondent failed to maintain funds on behalf of a client in respondent's client trust account, in willful violation of the Rules of Professional Conduct, rule 4-100(A).

40. By unilaterally using \$328.95 of the initial \$335 filing fee received from Blevins for his own personal purposes, respondent intentionally and dishonestly misappropriated Blevins' funds, and committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

41. By failing to promptly refund any of the \$800 in legal fees to file a bankruptcy petition on behalf of Blevins until August 2018, nearly 14 months after his employment was terminated respondent failed to return promptly the unearned fees in willful violation of the Rules of Professional Conduct, rule 3-700(D)(2).

Case Nos. 17-O-05683, 18-O-11056 and 18-O-15282

FACTS:

42. At all times pertinent to the stipulated facts herein, respondent maintained a client trust account at Citibank, the Citibank CTA.

43. Between August 20, 2016 and May 26, 2017, respondent made 67 withdrawals totaling \$7,040.38 from his Citibank CTA to pay for personal expenses, while client funds were also deposited in the account.

CONCLUSION OF LAW:

44. By making 67 payments from his CTA for personal expenses between August 20, 2016 and May 26, 2017, while client funds were held in his client account, respondent commingled funds belonging to respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent engaged in multiple acts of misconduct in three client matters, including failing to competently perform legal services, failing to respond to client inquiries, improperly entering into a business transaction with a client, misappropriating client funds, and failing to cooperate in two State Bar investigations.

Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)): Respondent's failure to perform competently caused Catalano's liens to remain outstanding after his bankruptcy. Respondent's failure to file two bankruptcy petitions for two clients prevented their debts from being discharged causing client harm.

Indifference (Std. 1.5(k)): Respondent was given the opportunity to rectify his misconduct when Catalano allowed him to borrow the filing fees and the clients provided respondent ample time to perform legal services on their behalf. Yet, respondent took advantage of their faith by continuing to ignore his clients and did not refund the fees until disciplinary charges were filed.

Highly Vulnerable Victim (Std. 1.5(n)): At the time respondent committed the misconduct against his clients, respondent was aware that his clients were financially strained and could barely afford his legal fees, including Rodriguez who took over two years before she was able to afford respondent's fees. Therefore, respondent's misconduct was committed against vulnerable victims.

MITIGATING CIRCUMSTANCES.

No Prior Record of Discipline: Respondent was admitted to practice in 1992 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.)

Good Character: Respondent provided ten character letters from individuals—family, four long-term friends, and one attorney—who are fully aware of respondent's misconduct and attest to his overall good character and integrity. Because the character references are not from a wide range of references in the legal and general communities, he is afforded limited weight in mitigation for his good character. (See *In the Matter of Kreitenberg* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469, 476-477 [character evidence entitled to limited weight where it was not from wide range of references].)

Pretrial Stipulation: While some of the instant facts are easily provable and respondent failed to cooperate in two State Bar investigations, by entering into this stipulation, respondent has acknowledged misconduct and is entitled to some mitigation for recognition of wrongdoing and saving the State Bar 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 Spaitth* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

“Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

In this matter, respondent admits to committing 20 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 2.1(a), which applies to respondent’s violations of Business and Professions Code section 6106 [Misappropriation]. It states:

Disbarment is the presumed sanction for intentional or dishonest misappropriation of entrusted funds of property, unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate.

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).)

Here, in three separate client matters, respondent intentionally and dishonestly misappropriated client funds by spending filing fees earmarked to obtain bankruptcy relief on behalf of his clients for his own personal use. Additionally, he failed to perform legal services competently, failed to respond to status inquiries, failed to deposit client funds in his trust account, entered into an improper business transaction with a client, improperly withdrew from employment, commingled funds, and failed to cooperate in State Bar investigations. Respondent’s misconduct is surrounded by significant aggravation in that his misconduct involved multiple acts of wrongdoing in three client matters, caused significant client harm to highly vulnerable clients and involved indifference. Despite his significant aggravating circumstances, on balance disbarment is unwarranted under Standard 2.1(a) as the total amount misappropriated (\$1,039) falls within the first exception. (See e.g., *In the Matter of Lawrence* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239, 247 [\$800 sum misappropriated considered to fall within exception of Standard 2.2(a)--predecessor to Standard 2.1(a)—and considered to be insignificantly small.].) Additionally, respondent is entitled to significant mitigating weight for his 24-years of discipline-free practice, evidence of good character, and entering into a pretrial stipulation. Based on the underlying facts and balancing of all factors, a significant period of actual suspension is appropriate. Accordingly, a two-year stayed suspension with an 18-month actual suspension, and two years’ probation is appropriate discipline to protect the public, the courts and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession.

Case law also supports the recommended discipline. In *Edwards v. State Bar* (1990) 52 Cal.3d 28, the attorney willfully misappropriated \$3,000 of his client funds, commingled trust funds, and failed to promptly pay funds that his client was entitled to receive. The attorney received settlement monies, deposited them into his client trust account, and then withdrew funds from the account that he spent for his own benefit. The court also cited that disbarment was not warranted as the attorney had not been disciplined before and made a full repayment within three months after he misappropriated and before he knew a complaint was filed, and voluntarily took steps to improve his management of entrusted funds. The court imposed a three-year stayed suspension, with three years of probation including a one-year actual suspension.

Here, Respondent's misconduct is more egregious than the attorney in *Edwards* because Respondent committed more misconduct against multiple clients including more instances of commingling, more harm to his clients, and while the amount respondent misappropriated was substantially less than was misappropriated by the attorney in *Edwards*, respondent's misconduct involved more instances of misappropriation (three instances versus one instance). Therefore, an eighteen-month actual suspension, with two years of stayed suspension, and two years of probation is consistent with the Standards, supported by case law, and serves the purposes of attorney discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.


Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of October 1, 2018, the discipline costs in this matter are \$3,857. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: THOMAS LEE WATKINS	Case Number(s): 17-O-05683; 18-O-11056; 18-O-15282 (inv)
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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.

_____	_____	<u>Thomas Lee Watkins</u>
Date	Respondent's Signature	Print Name
_____	_____	_____
Date	Respondent's Counsel Signature	Print Name
<u>10/4/2018</u>		<u>Jaymin Vaghashia</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: THOMAS LEE WATKINS	Case Number(s): 17-O-05683; 18-O-15282
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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.

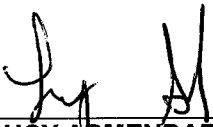
On page 1 of the Stipulation, at paragraph A.(3), line 3, "19" is deleted, and in its place is inserted "20".

On page 12 of the Stipulation, at numbered paragraph 15, line 5, "Case" is deleted, and in its place is inserted "Code".

On page 14 of the Stipulation, at numbered paragraph 29, line 5, "Case" is deleted, and in its place is inserted "Code".

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).)**

Oct 17, 2018
Date



LUCY ARMENDARIZ
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 17, 2018, I deposited a true copy of the following document(s):

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

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

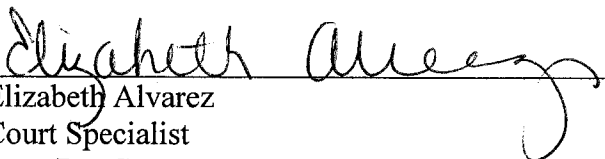
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

THOMAS L. WATKINS
12 S SAN GORGONIO AVE
BANNING, CA 92220

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

Jaymin M. Vaghashia, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 17, 2018.


Elizabeth Alvarez
Court Specialist
State Bar Court