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State Bar Court of California  
Hearing Department  
San Francisco

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<p>Counsel For The State Bar</p> <p><b>Tammy M. Albertsen-Murray</b> 180 Howard Street San Francisco, CA 94105 (415) 538-2527</p> <p>Bar # 154248</p>	<p>Case Number (s) 01-O-04908; 04-O-15149- RAP</p>	<p>(for Court's use)</p> <p><b>FILED</b> <b>FEB 26 2007</b> <i>AC</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p><b>Mark A. Campbell</b> 3640 American River Drive, #150 Sacramento, CA 95864</p> <p>Bar # 93595</p>	<p>Submitted to: <b>Assigned Judge</b></p>	
<p>In the Matter Of: <b>CRAIG D. FOSTER</b></p> <p>Bar # 179488</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

**PUBLIC MATTER**

**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, 1995**.
- (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 **11** 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".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

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- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years:  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - costs entirely waived

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
- (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)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **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.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension

**C. Mitigating Circumstances [see standard 1.2(e)]. 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 deemed serious.
- (2)  **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

**(14) Respondent displayed candor and cooperation to the State Bar during the disciplinary investigation and proceedings, other than as described in (3) above.**

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **one (1) year**.

- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **ninety (90) days**.

- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:

**E. Additional Conditions of Probation:**

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

#### F. Other Conditions Negotiated by the Parties:

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2)  **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

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- (3)  **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4)  **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5)  **Other Conditions:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        CRAIG D. FOSTER

CASE NUMBER(S):        01-O-04908 and 04-O-15149

**FACTS AND CONCLUSIONS OF LAW.**

**Case Number 01-O-04908**

**Facts.**

Prior to June 22, 2000, Jenny Chacon-Salceda employed respondent on a contingent fee basis to obtain compensation for personal injuries she had suffered.

On May 18, 2001, respondent filed a lawsuit on behalf of Chacon-Salceda entitled *Jenny Chacon-Salceda v. Payless Cashways, Inc., Lumberjack Bldg. Materials*, case no. 01AS03021, Sacramento County Superior Court.

On June 14, 2001, the Payless Cashways advised respondent that it had filed a Chapter 11 bankruptcy petition and further advised respondent that the personal injury lawsuit was automatically stayed pursuant to the provisions of 11 United States Code section 362(a) the lawsuit.

On June 26, 2001, respondent sent Chacon-Salceda a letter advising her that the defendant had filed for bankruptcy. The letter contained the following statement:

...the filing of bankruptcy precludes the commencement or continuation of any judicial action; therefore, no action can be taken with regard to your case. This matter must now be removed from the civil active list by filing a dismissal without prejudice. We have taken the liberty of preparing a Request for Dismissal which is enclosed herewith ....”

On July 25, 2001, respondent (acting through a paralegal) sent Chacon-Salceda a letter demanding that she sign a substitution of attorneys, placing herself in propria persona.

On August 8, 2001, the court in *Chacon-Salceda v. Payless Cashways* issued an order requiring the parties to file a supplemental diligence statement on or before September 28, 2001.

The order was served the same day on Respondent, who received it shortly thereafter. Respondent did not file the supplemental diligence statement, nor did he inform Chacon-Salceda of the necessity for filing the statement.

Chacon-Salceda signed the substitution of attorneys on August 14, 2001 and returned it respondent's office. Respondent signed the substitution and his office filed the substitution on August 21, 2001.

On October 11, 2001, the court in *Chacon-Salceda v. Payless Cashways* issued an order to show cause directing the parties to appear on November 1, 2001 to show cause as to why the case should not be dismissed for failure to comply with local rule 11.04 (filing of the Supplemental Diligence Statement). Despite respondent's filing of the substitution of attorneys with the court, the October 11, 2001 order was nevertheless served on respondent, who received it shortly thereafter. The proof of service with the October 11 order received by respondent showed that the order was served on respondent, but not Chacon-Salceda. The order was not served on Chacon-Salceda, and respondent did not inform her of the show-cause hearing.

No one appeared on behalf of Chacon-Salceda at the November 1, 2001, show-cause hearing. The court thereupon ordered that matter dismissed.

#### **Conclusion of Law.**

Respondent wilfully failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, by: (1) failing to inform Chacon-Salceda of the necessity of filing a supplemental diligence statement, (2) failing to inform Chacon-Salceda of the October 11, 2001 order to show cause, (3) failing to inform Chacon-Salceda of the necessity of appearing at the November 1, 2001 hearing, (4) failing to take other steps to avoid the dismissal of the lawsuit, and (5) failing to correctly advise Chacon-Salceda of her potential remedies in bankruptcy court, in violation of Rules of Professional Conduct, rule 3-700(A)(2).

#### **Case number 04-O-15149**

#### **Facts.**

Respondent maintained a client trust account ("CTA") at U.S. Bank, account number 1-534-9263-3869.

During the period August 2004 through April 7, 2005, on at least fifteen different occasions, respondent issued checks drawn upon his client trust account to pay his personal expenses.



The personal expenses for which respondent inappropriately used his client trust account included payment of salary to four of respondent's employees; withdrawals of money that respondent kept; and payment of miscellaneous expenses, such as postage and telephone charges. All of the money used to pay these personal expenses belonged to respondent; there was no misappropriation of client funds.

During the same period, respondent issued a check on October 1, 2004 for \$845.26 was presented against insufficient funds, but paid by the bank.

In addition, between August 2004 and October 2004, on five different occasions, respondent deposited funds totaling \$4,200.00 into the CTA that were not client funds.

### **Conclusions of Law.**

By repeatedly issuing checks for personal expenses, allowing funds belonging to respondent to remain in the CTA, and depositing non client funds into his CTA, respondent commingled funds belonging to respondent in a CTA, in violation of Rules of Professional Conduct, rule 4-100(A).

By repeatedly commingling personal funds in a CTA, respondent committed an act involving moral turpitude, dishonesty or corruption, in violation of Business and Professions Code, section 6106.

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was February 6, 2007.

### **DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
01-O-04908	Eight	Bus. and Prof. Code, section 6106 [moral turpitude]
01-O-04908	Ten	Rules of Professional Conduct, rule 3-110(A) [Failure to Perform with Competence]

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 7, 2007, the estimated prosecution costs in this matter are approximately \$6,142.05. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

## **AUTHORITIES SUPPORTING DISCIPLINE.**

- Standard 2.2(b) of the Rules of Procedure of the State Bar of California, Title IV., Standards for Attorney Sanctions for Professional Misconduct [Offenses Involving Entrusted Funds or Property] Standard;
- *In the Matter of Doran* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871;
- *In the Matter of Riley* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91.

Respondent pleads nolo contendere to the following facts and violations. Respondent completely understands that the plea for nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified herein.

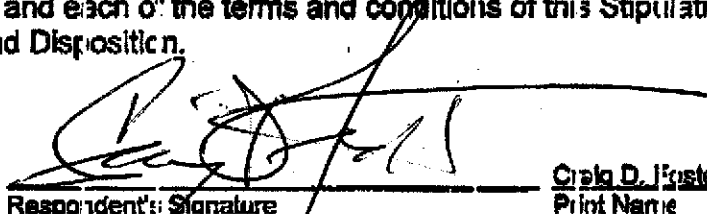
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<p>In the Matter of <b>CRAIG D. FOSTER</b></p>	<p>Case number(s): <b>01-O-04908; 04-O-16149-R/1P</b></p>
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**SIGNATURE OF THE PARTIES**

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 Fact, Conclusions of Law and Disposition.

February 7, 2007  
Date



Respondent's Signature

Craig D. Foster  
Print Name

February 7, 2007  
Date

Respondent's Counsel Signature

Mark A. Campbell  
Print Name

February 7, 2007  
Date

Deputy Trial Counsel's Signature

Tammy L. Albertsen-Murray  
Print Name

(Do not write above this line.)

<b>In the Matter of CRAIG D. FOSTER</b>	<b>Case number(s): 01-O-04908; 04-O-15149-RAP</b>
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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 Fact, Conclusions of Law and Disposition.

February 7, 2007  
Date

  
Respondent's Signature

Craig D. Foster  
Print Name

February 7, 2007  
Date

  
Respondent's Counsel Signature

Mark A. Campbell  
Print Name

February 14, 2007  
Date

  
Deputy Trial Counsel's Signature

Tammy M. Albertsen-Murray  
Print Name

(Do not write above this line.)

In the Matter Of

**CRAIG D. FOSTER**

Case Number(s):

**01-0-04908; 04-0-15149-RAP**

**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 rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

02-20-07  
Date

  
Judge of the State Bar Court

**RICHARD A. PLATEL**

**CERTIFICATE OF SERVICE**  
**[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]**

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 26, 2007, 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:

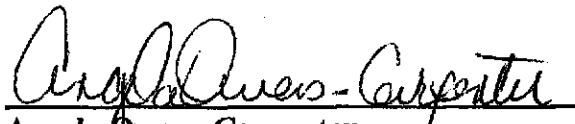
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**MARK ALAN CAMPBELL  
MURPHY, CAMPBELL ET AL  
3640 AMERICAN RIVER DR #150  
SACRAMENTO CA 95864**

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

**TAMMY ALBERTSEN-MURRAY, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 26, 2007**.



**Angela Owens-Carpenter**  
Case Administrator  
State Bar Court