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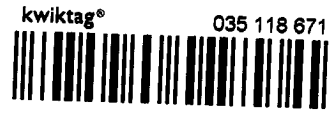
State Bar Court of California
Hearing Department
Los Angeles



Counsel For The State Bar	Case Number (s)	(for Court's use)
William F. Stralka **Deputy Trial Counsel** **1149 S. Hill Street** **Los Angeles, CA 90015-2299** **(213) 765 1091** Bar # **56147**	**05-O-03720;** **[05-O-04680;** **06-O-14945]**	**PUBLIC MATTER** FILED FEB 27 2008 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent **JoAnne E. Robbins** **9200 Sunset Blvd., PH 7** **Los Angeles, CA 90069** **(310) 887 3900** Bar # **82352**	Submitted to: **Settlement Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☒ PREVIOUS STIPULATION REJECTED	
In the Matter Of: **PAUL WESLEY TAMMEN** Bar # **153309** A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

(1) Respondent is a member of the State Bar of California, admitted **June 6, 1991**.

(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 **18** 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."

(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: **the following two years billing cycles following the effective date of the Supreme Court order of discipline.**

It is further recommended that if Paul Wesley Tammen fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code, section 6140.7 and as a money judgment.

(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. **Respondent failed to properly account for, and promptly pay out settlement funds in the Johnson matter, case no. 05-O-03720.**

(4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **In two matters Respondent's clients lost their causes of action because Respondent failed upon termination of employment to take reasonable steps to avoid reasonably forseeable prejudice to his clients.**

(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:

None.

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. **Respondent was admitted to practice June 6, 1991, and has had no prior State Bar discipline.**

(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. **See Stipulation Attachment.**

(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

D. Discipline:

(1) ☒ **Stayed Suspension:**

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

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and 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 **three 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 **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:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☒ 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.

(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:**

SBI #94576

In the Matter of **PAUL WESLEY TAMMEN, #153309** A Member of the State Bar	Case number(s): **05-O-03720; [05-O-04680; 06-O-14945]**

NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code § 6085.5 Disciplinary Charges, Pleas to Allegations

There are three kinds of pleas to the allegations of a Notice of Disciplinary Charges or other pleading which initiates a disciplinary proceeding against a member:

(a) Admission of culpability.

(b) Denial of culpability.

(c) **Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admission required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based.** (Added by Stats. 1996, ch. 1104.) (emphasis supplied)

Rule 133, Rules of Procedure of the State Bar of California **STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

(a) A proposed stipulation as to facts, conclusions of law, and disposition must set forth each of the following:

. . .

(5) a statement that Respondent either

(i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or

(ii) pleads nolo contendere to those facts and violations. If the Respondent pleads nolo contendere, the stipulation shall include each of the following:

(a) an acknowledgement that the Respondent completely understands that the plea of 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 in the stipulation; and

(b) if requested by the Court, a statement by the Deputy Trial Counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter (emphasis supplied)

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code § 6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea must be considered the same as an admission of culpability except as state in Business and Professions ~~Code Section~~ 6085.5(c).

Date 2/8, 2008 Signature ~~PAUL~~ WESLEY TAMMEN Print Name

(Nolo Contendere Plea form approved by SBC Executive Committee 10/22/1997. Revised 12/16/2004; 12/13/2005.)

In the Matter of **Paul Wesley Tammen** A Member of the State Bar	Case number(s): **05-O-03720; [05-O-04680; 06-O-14945]**

Financial Conditions

a. **Restitution**

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

Payee	Principal Amount	Interest Accrues From

☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than .

b. **Installment Restitution Payments**

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

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

c. **Client Funds Certificate**

☒ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:

a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

i. A written ledger for each client on whose behalf funds are held that sets forth:
   1. the name of such client;
   2. the date, amount and source of all funds received on behalf of such client;
   3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
   4. the current balance for such client.

ii. a written journal for each client trust fund account that sets forth:
   1. the name of such account;
   2. the date, amount and client affected by each debit and credit; and,
   3. the current balance in such account.

iii. all bank statements and cancelled checks for each client trust account; and,

iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

i. each item of security and property held;
ii. the person on whose behalf the security or property is held;
iii. the date of receipt of the security or property;
iv. the date of distribution of the security or property; and,
v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

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

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Paul Wesley Tammen

CASE NUMBER(S): 05-O-03720; [05-O-04680; 06-O-14945]

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was January 15, 2008.

PARTIES ARE BOUND BY THE STIPULATION FACTS:

The Parties intend to be and are hereby bound by the stipulation to facts contained in this stipulation. This stipulation as to facts, and the facts so stipulated shall independently survive, even if the conclusions of law and/or stipulated disposition set forth herein are rejected, or changed in any manner whatsoever, by the Hearing Department or the Review Department of the State Bar Court, or by the California Supreme Court.

FACTS AND CONCLUSIONS OF LAW:

Respondent hereby pleads nolo contendere to the following facts and conclusions of law.

Case No. 05-O-03720

1. On February 25, 2002, Kathleen Johnson ("Johnson") employed Respondent to represent her against her insurance carrier in a personal injury claim arising out of an automobile accident involving an uninsured motorist that occurred January 8, 2002, ("the Johnson matter").

2. On February 25, 2002, Johnson executed a Personal Injury Contingency Fee Agreement ("Agreement"), drafted and presented to her by Respondent. It provided for legal fees of 40% of her recovery.

3. On March 18, 2002, Respondent faxed a letter to Wawanesa Automobile Insurance Company ("Wawanesa"), Johnson's insurance carrier, notifying them of his representation of Johnson.

4. On January 2, 2003, Respondent wrote a letter to Wawanesa demanding arbitration under the uninsured motorist provision of Johnson's insurance policy.

5. In December of 2003, Respondent spoke with Johnson on the telephone and discussed

with her the scheduling of an arbitration hearing of her personal injury claim.

6. In August 2004, Johnson was unsatisfied with the medical care she was receiving and asked Respondent for the name of a doctor who would accept the case on a lien basis. Respondent referred Johnson for treatment to Dr. Haronian. Johnson went to Dr. Haronian who, in turn, referred her to Spectrum MRI Imaging Center ("Spectrum"), for an MRI as part of her treatment in the Johnson matter. Spectrum billed Johnson $2,475.52 for their services. Respondent did not receive any bill from Spectrum, did not receive any medical lien for Spectrum and was not personally aware of any bill from Spectrum. Therefore, he did not list Spectrum as a medical provider on Johnson's Disbursement Authorization for the Johnson matter dated March 26, 2005.

7. On February 16, 2005, Wawanesa agreed by letter addressed to Respondent that it would tender its policy limit of $30,000 to resolve Johnson's claim, which had always been Johnson's demand.

8. In March 2005, Respondent's office telephoned Johnson and informed Johnson that Wawanesa had offered the policy limit of $30,000, which she accepted. She was informed that a settlement disbursement breakdown would be provided to her. On March 22, 2005, Respondent's office sent by fax a settlement release and power of attorney to Johnson for her signature. She signed and returned it.

9. On April 5, 2005, Respondent received a check from Wawanesa in the amount of $29,084.56 on Johnson's behalf. A separate medical check payable to Respondent, Johnson, and Primecare from Wawanesa for $915.44, was sent to Respondent on April 12, 2005. Respondent deposited the $29,084.56 check into his client trust account no. #095-9030909 at Wells Fargo Bank ("CTA") on April 7, 2005, and he deposited the $915.44 check into his CTA on June 24, 2005, after obtaining Primecare's endorsement.

10. On May 26, 2005, Respondent's paralegal sent Johnson a facsimile with a "Disbursement Authorization" form (erroneously dated March 26, 2005,) for her signature authorizing the disbursement of her settlement funds. Respondent was out of the country from approximately May 26 to June 7, 2005. He did not see the Disbursement Authorization form, which was intended to be a preliminary estimate, before it was sent to Johnson. The form contained several errors made by the paralegal, including calculating the legal fees as 33 1/3% instead of 40%. The medical lien amounts were estimates only and subject to negotiation to reduce the liens, which might result in more money to Johnson.

11. On May 26, 2005, Johnson signed and delivered to Respondent, the Disbursement Authorization form. She did not add in the medical bill from Spectrum, nor did she advise Respondent of that bill.

12. Between April 8, 2005 and July 22, 2005, Respondent made the following disbursements of Johnson's funds from his CTA:

DATE	PAYEE	AMOUNT
4/08/05	Transfer of funds to Respondent's account	$10,000.00
6/13/05	Check to Johnson	9,888.85
6/29/05	Check to Cal. Oaks Chiropractic	3,476.00
6/30/05	Check to Walker Physical Therapy	2,250.00
7/01/05	Check to Benjamin Cox, M.D.	1,256.00
7/22/05	Check to Edwin Haronian, M.D.	504.00
TOTAL		$27,374.85

13. Respondent also has paid two of Johnson's medical providers from his general account as follows:

6/09/05	PRIME CARE (sic) (Reduced from $915.44)	$305.15
9/21/05	Dr. Golovchinski (Provectus Med. Grp.)	780.00
		$1,085.15

This resulted in the payments to Johnson and on her behalf totaling $28,460.00, of the $30,000 total settlement. Respondent did not pay Dr. Golovchinski until September 21, 2005, because Dr. Golovchinski worked out of several different medical offices and Respondent could not locate him until then. In, fact, Respondent was entitled to $12,000 (40%) as his legal fee. He did not realize this oversight until it became an issue in the State Bar's investigation of this matter.

14. Altogether, Respondent disbursed $28,460.00 of the $30,000.00 he received on Johnson's behalf through September 21, 2005. The total amount of settlement funds that remained undisbursed totaled $ 1,540.00. (Later, in March 2006, Respondent paid Spectrum $1,000, from his general account, for total disbursed funds of $29,460.00.)

15. On May 26, 2005, Respondent provided an estimated settlement distribution "Disbursement Authorization" to Johnson, erroneously dated March 26, 2005, that showed that he would withhold $1,103.44 to satisfy Primecare's medical bill. At this time, Primecare's bill had already been reduced to $915.44.

16. On June 9, 2005, Respondent negotiated a further reduction of Primecare's bill from $915.44 to $305.15. Respondent did not account to Johnson in writing or otherwise for this $610.29 reduction in Primecare's fees.

17. On March 8, 2006, Johnson notified Respondent by letter that the Spectrum bill, remained unpaid. Respondent immediately contacted Spectrum, obtained the documentation, and paid

Spectrum $1,000, which they accepted in full satisfaction of their bill for $2,475.52 on Johnson's account. This last payment resulted in an undisbursed amount remaining from the settlement of $540.

Legal Conclusions:

By failing to accurately document and account for the undisbursed settlement funds totaling $1,540, including the $610.29 reduction in Primecare's medical bill, Respondent failed to render to his client appropriate accounts regarding all funds of the client coming into his possession, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).

Case No. 05-O-04680

18. On October 4, 2000, Judith Burns ("Burns") employed Respondent to represent her minor son Jeremy Newbrough ("Newbrough"), D.O.B. 12/08/85, in a personal injury case arising out of an automobile accident that occurred on September 10, 2000. On October 4, 2000, Burns executed a Personal Injury Contingency Fee Agreement on behalf of Newbrough as provided to her by Respondent.

19. On October 4, 2000, Respondent referred Newbrough to a chiropractor, Dr.Kimble, with whom Respondent and Burns executed a medical lien.

20. On October 11, 2000, Respondent notified State Farm Mutual Automobile Insurance Company ("State Farm Insurance"), the opposing party's insurance carrier, of his representation of Newbrough.

21. Newbrough continued treating during 2000, 2001 and 2002, and Burns had numerous telephonic conversations with Respondent regarding the possibilities for settlement. During 2003, Respondent's office moved and Newbrough's file was lost.

22. On August 27, 2005, Burns wrote a letter to Respondent terminating his services on behalf of Newbrough, and she demanded the return of Newbrough's case file. Respondent never received the letter.

23. On September 14, 2005, the State Bar opened an investigation case no. 05-O-04680, pursuant to Burns' complaint (the "Newbrough matter").

24. On November 15, 2005, a State Bar Investigator, ("investigator") sent Respondent a letter requesting that Respondent provide a written explanation regarding the allegations set forth in case no. 05-O-04680. Respondent received the letter.

25. Respondent failed to respond to the investigator's letter dated November 15, 2005.

26. On November 30, 2005, the investigator sent Respondent a second letter requesting that Respondent provide a written explanation regarding the allegations set forth in case no. 05-O-04680. Respondent received the letter.

27. On December 15, 2005, Respondent responded by facsimile to the investigator's letter dated November 30, 2005. In his facsimile, Respondent requested a two-week extension of time in which to respond to the allegations set forth in case no. 05-O-04680.

28. On December 15, 2005, the investigator wrote a letter to Respondent informing him that his request for an extension of time in which to respond to the allegations set forth in this Notice of Disciplinary Charges had been granted. In this letter, the investigator requested that Respondent respond by December 30, 2005. Thereafter, Respondent failed to communicate or cooperate with the State Bar and did not participate in the investigation of case no. 05-O-04680.

Legal Conclusions:

By failing to continue negotiations with State Farm and by losing Newbrough's file, Respondent failed to competently perform the legal services for which he was retained, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

By failing to respond to the investigator's November 15, 2005, and December 15, 2005, letters, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code, section 6068(i).

Case No. 06-O-14945

29. On July 20, 2002, Jean Howard ("Howard") employed Respondent to represent her minor son Sean Howard (then 17 years old - D.O.B. 02/01/85) in a personal injury claim arising out of an automobile accident that occurred July 15, 2002. Howard signed a contingency fee agreement with Respondent on behalf of her son.

30. On October 17, 2002, Respondent faxed a letter to AAA Auto Insurance Exchange ("AAA") notifying them of his representation of Sean Howard. Respondent listed his address as 2105 Garnet Ave., Suite A. San Diego, California 92109, telephone number (858) 483-1440.

31. On June 25, 2003, Respondent faxed a letter to Woodland Memorial Hospital/Medical Group and requested a copy of Sean Howard's hospital records for July 15, 2002.

32. On September 2, 2003, Respondent faxed Sean Howard a request to sign and return by fax a copy of an "authorization /disclosure." The fax form listed Respondent's office location as 6480 Weathers Pl., Ste. 106, San Diego, California, 92121, telephone number (858) 455-6070 - Respondent's State Bar membership records address from January 22, 2004 to February 14, 2007.

33. On December 22, 2003, Respondent faxed 26 pages of Sean Howard's medical bills/records to Terry Benett (sic), ("Bennett") a AAA Claims Representative.

34. On October 13, 2004, Bennett sent a letter to Respondent addressed to 2105 Garnet Ave., Suite A, San Diego, CA 92109. Bennett offered to settle Sean Howard's claim for $7,000. Respondent received the written offer to settle. Respondent communicated the offer to settle to Jean Howard. Jean would not agree to settle because the offer was not enough to cover Sean's medical bills.

35. On October 21, 2004, Bennett sent a letter to Respondent addressed to 6480 Weathers Place, Suite 106, San Diego, Ca. 92121-3911. Bennett offered to settle Sean Howard's claim for $7,000. Respondent received the written offer to settle.

36. Respondent filed a lawsuit on behalf of Sean Howard on February 1, 2005, but Howard instructed Respondent, before he filed the lawsuit, not to serve the summons because Jean Howard did not want to sue the parents of the driver of the automobile that caused Sean's injuries. Respondent abandoned the lawsuit and it was dismissed by the court for lack of prosecution on or about January 11, 2006.

37. On or before January 29, 2007, Sean Howard's AAA claim was closed "nil without payment."

Legal Conclusions:

By failing to clearly advise Howard that Sean's lawsuit could be dismissed for lack of prosecution, Respondent failed to keep his clients reasonably informed of significant developments in their case, in wilful violation of Rules of Professional Conduct, rule 3-500.

AUTHORITIES SUPPORTING DISCIPLINE:

To determine the appropriate level of discipline, the standards provide guidance. *Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Sampson*, (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 134. A disciplinary recommendation must be consistent with the discipline in similar proceedings. See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311. Also, the recommended discipline must rest upon a balanced consideration of relevant factors. *In the Matter of Sampson*, (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 135.

STANDARDS FOR ATTORNEY SANCTIONS:

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct:

> The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the protection of public confidence in the legal profession.

Applicable Standards:

Standard 2.2(b), the commission of another violation of rule 4-100, none of which offense(s) result in wilful misappropriation "... shall result in at least a three month actual suspension ...."

Standard 2.4(b), calls for reproval or suspension for wilfully failing to perform services not demonstrating a pattern of misconduct...depending on the extent of the misconduct and the degree of harm to the client.

Standard 2.10 calls for a reproval or suspension according to the gravity of the offense for any wilful violation of the Rules of Professional Conduct or Business and Professions Code not specified in the standards.

Cases:

In *Gold v. State Bar* (1989) 49 Cal.3d 908, the respondent was found culpable in two matters of failing to perform services and failing to communicate properly with his clients - with deceit in one of the matters. Respondent had no prior record in 25 years of practice. The Supreme Court issued a discipline of a three year suspension stayed, including **thirty days actual** suspension.

In the matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rpt. 509.
Respondent neglected clients in eight separate cases, which resulted in failures to perform services, failures to communicate, failures to return files, failures to promptly execute substitutions of attorney, and failure to promptly pay out client funds, all of which continued for an extended period of time. Because of the lack of any deceit or dishonesty, the review department recommended **three months actual** suspension, two years stayed suspension and tow years probation.

In the Matter of Sullivan (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608.
Respondent failed to perform services in four cases, failed to communicate in one case, and failed to return a file in one case. Although there was aggravation of significant harm, there was mitigation of discipline-free practice for 21 years and candor and cooperation. The review department recommended **two months actual** suspension, one year stayed suspension and three years probation.

ADDITIONAL MITIGATING STATEMENT BY RESPONDENT REGARDING FAMILY PROBLEMS:

From about 1998, Respondent was required to spend an increasing amount of time assisting his elderly parents, because of their health problems. His mother began having strokes in 1998, and then developed dementia and other medical problems, requiring increasing care. In 2000, Respondent's father suffered a heart attack and underwent quadruple bypass surgery. He had a long and difficult recovery, during which time Respondent shouldered the majority of the responsibility for his mother's care. She was hospitalized several times, including for bowel blockage, dehydration, and more severe strokes. She was diagnosed with terminal cancer in October 2004 and was hospitalized several more times before her death in November 2005.

COSTS OF DISCIPLINARY PROCEEDINGS:

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of January 17, 2008, the estimated prosecution costs in this matter are approximately $3,270.70. 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.

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(Do not write above this line.)

In the Matter of **PAUL WESLEY TAMMEN, #153309**	Case number(s): **05-O-03720; [05-O-04680; 06-O-14945]**

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.

2/8/08 Date	Respondent's Signature	PAIL WESLEY TAMMEN Print Name
2/12/08 Date	Respondent's Counsel Signature	JOANNE E. ROBBINS Print Name
2/13/08 Date	Deputy Trial Counsel's Signature	WILLIAM F. STRALKA Print Name

(Do not write above this line.)

In the Matter Of	Case Number(s):
PAUL WESLEY TAMMEN	**05-O-03720; [05-O-04680; 06-O-14945]**

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.

At page 13, Paragraph 21, insert after the word "settlement" and before the word "During": "However, Respondent failed to continue negotiations with State Farm."

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.)**

2/26/08
Date

Judge of the State Bar Court
DONALD F. MILES

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

Actual Suspension Order

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 27, 2008, 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:

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

JOANNE EARLS ROBBINS, ESQ.
KARPMAN & ASSOCIATES
9200 SUNSET BLVD PH #7
LOS ANGELES, CA 90069

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

WILLIAM STRALKA, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 27, 2008**.

Rose M. Luthi

Rose M. Luthi
Case Administrator
State Bar Court