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State Bar Court of California Hearing Department Los Angeles PUBLIC MATTER		
Counsel For The State Bar Jean Cha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1000 Bar # 228137	Case Number (s) 05-O-04734-RAH	(for Court's use) <div style="text-align: center;"> FILED MAR 26 2009 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Alfred O. Anyia 880 W. First Street, Ste 108 Los Angeles, CA 90012 (213) 625-1679 Bar # 183571	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: Alfred Oshiemele Anyia Bar # 183571 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 **September 17, 1996**.
- (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 **17** 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: **Costs to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court order.**
(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. **Respondent over several years, with gross negligence, did not maintain a proper client trust account management system.**

- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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. **Respondent offered to represent Ms. Ruiz in an action for indemnification once Respondent learned that the medical lien had been assigned and that the treating chiropractor wrongfully accepted and refused to refund the payment for the medical lien. (In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179.)**
- (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. **Throughout the misconduct, each time Respondent was notified of any problem related to his CTA and his representation of Ms. Ruiz, Respondent promptly made efforts to remedy the situation based on his belief and understanding of what action was appropriate.**
- (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. **Respondent did not have notice that the lien had been assigned to EDS. Respondent honestly, though unreasonably, believed EDS was a debt collection agency for ICM. (Call v. State Bar (1955) 45 Cal.2d 104, 111.)**
- (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. **In August 2002, Respondent's father passed away. Dealing with Respondent's father's death and associated responsibilities related to his burial overseas impacted his ability to adequately maintain adequate CTA bookkeeping.**
- (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

See Page 12 of the Attachment.

D. Discipline:

- (1) **Stayed Suspension:**
 - (a) Respondent must be suspended from the practice of law for a period of **Two Years**.
 - 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 **Six Months**.
 - 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

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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 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

- (2) **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, 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 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, 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 language begins here (if any):

FACTS.

1. At all times mentioned herein, Respondent maintained a client trust account at Wells Fargo Bank, Account Number XXX-XXX9036 ("Respondent's CTA").
2. In May, 2001, Teresita Ruiz ("Ms. Ruiz") employed Respondent to represent her in a property damage and personal injury claim related to an auto accident which occurred on May 25, 2001.
3. On May 30, 2001, Respondent and Ms. Ruiz signed and executed a medical lien with Injury Care Management ("ICM") for Ms. Ruiz's medical treatment related to injuries which were caused in the May 25, 2001 auto accident.
4. On May 31, 2001, Ms. Ruiz signed a Contingency Fee Agreement, agreeing to pay Respondent 33 1/3% of any settlement received if the case settled before suit was filed, and 40% of any settlement or judgment received if the case was resolved after suit was filed.
5. Between May through August, 2001, Ms. Ruiz treated with Dr. John Tyler ("Dr. Tyler") of ICM for her personal injuries. The medical lien for Ms. Ruiz's treatment was \$5,077.71 at the conclusion of her treatment.
6. On June 1, 2001, Caliber Collision, a local body shop, provided Ms. Ruiz with a detailed estimate totaling \$8,553.53, for repairs to her vehicle which resulted from the May 25, 2001 auto accident.
7. In July 2001, Respondent received a settlement draft from Allstate Insurance Company for the property damage portion of Ms. Ruiz's case, with her consent, in the amount of \$8,553.53. Respondent also obtained reimbursements for loss of vehicle use on July 16, 2001 and July 23, 2001 in the amounts of \$215.16 and \$160.31, respectively. The total \$8,929.00 funds were deposited into Respondent's CTA that same month.
8. Pursuant to the Contingency Fee Agreement signed by Ms. Ruiz, Respondent was entitled to 33 1/3 percent of the \$8,929.00 settlement amount, \$2,976.33, in legal fees from the property damage portion of Ms. Ruiz's auto accident case.
9. Respondent voluntarily waived his entire fee of the property damage settlement funds so Ms. Ruiz would not have to pay out-of-pocket for the cost of repairs to her vehicle.
10. In July or August 2001, Respondent disbursed the full \$8,553.53 in settlement funds to Caliber Collision to cover the costs of repairs to Ms. Ruiz's vehicle. The reimbursements for loss of vehicle were also disbursed to Ms. Ruiz at that time.
11. In November 2001, Respondent settled the bodily injury portion of Ms. Ruiz's case, with her

consent for \$7,917.00.

12. On November 7, 2001, Respondent received a settlement draft from Allstate Insurance Company in the amount of \$7,917.00 payable to Ms. Ruiz and Respondent. With Ms. Ruiz's authorization, Respondent endorsed the settlement draft and deposited it into Respondent's CTA on November 8, 2001.

13. Pursuant to the Contingency Fee Agreement signed by Ms. Ruiz, Respondent was entitled to 33 1/3 percent of the \$7,917.00 settlement amount, \$2,639.00, in legal fees related to the personal injury portion of Ms. Ruiz's auto accident case.

14. By November 8, 2001, Respondent had incurred \$559 in costs related to the representation of Ms. Ruiz in property damage and personal injury portions of her auto accident case.

15. On November 8, 2001, Respondent's staff disbursed CTA check # 1726 in the amount of \$1,733.33 in fees related to the property damage portion of Ms. Ruiz's case by mistake. Respondent's employee did not adhere to Respondent's full reduction of his attorney's fees as related to payment to Caliber Collision and only calculated an \$1,117.85 reduction.

16. On November 15, 2001, Respondent withdrew a portion of his attorney's fees from his CTA in the amount of \$2,040.00 of the \$2,639.00 in attorney's fees from the settlement related to the personal injury portion of Ms. Ruiz's auto accident case.

17. On November 20, 2001, the balance in Respondent's CTA fell to \$240.84.

18. As of November 20, 2001, Respondent should have held \$2,301.67 in his CTA on Ms. Ruiz's behalf.

19. Thereafter, Respondent replenished his CTA in the amount of \$5,749.66, which was composed of the \$2,976.33 of his waived fee in the property damage settlement in addition to \$2,301.67 for the insufficient balance related to Ms. Ruiz's personal injury settlement of the auto accident case.

20. On November 30, 2001, Respondent withdrew \$1,000.00 from his CTA to pay himself the remaining \$599 in attorney's fees and \$401 in costs related to Ms. Ruiz's auto accident case.

21. In November or early December 2001, Respondent negotiated the medical lien with ICM from \$5,077.71 to \$2,000.00.

22. On December 14, 2001, Respondent drafted CTA check # 1771 in the amount of \$2,000.00 payable to ICM. Check # 1771 was never cashed.

23. On December 14, 2001, Respondent disbursed CTA check # 1773 in the amount of \$2,719.00 to Ms. Ruiz as her portion of the personal injury settlement funds.

24. On January 7, 2002, Ms. Ruiz negotiated CTA check # 1773, in the amount of \$2,719.00.

25. On September 13, 2002, 10-months after the settlement, ICM assigned the unpaid medical lien to E.D.S. Financial Services, Inc. ("EDS").

26. On March 11, 2005, almost 3 1/2 years after the settlement, Ms. Ruiz received notice from EDS that her medical lien in the amount of \$5,077.71 from ICM had not been paid by Respondent.

27. On March 15, 2005, Ms. Ruiz contacted Respondent's office regarding the unpaid ICM medical lien and faxed a copy of EDS's notice to Respondent. Respondent's office received the notice from Ms. Ruiz on that same day.

28. In August 2005, Respondent had discussions with the attorney for AMS/EDS and staff at ICM to try to resolve the payment of the medical lien.

29. On August 16, 2005, AMS filed a lawsuit in the matter of *Account Management Services, Inc. v. Teresita Ruiz*, Case Number RCCI089682, filed on August 16, 2005, in the Superior Court for the County of San Bernardino (the "lien case") regarding the unpaid medical lien of \$5,077.71 and her that interest in the amount of \$2,006.04, for a total of \$7,083.75.

30. On August 31, 2005, Respondent informed Ms. Ruiz that he would send payment to Dr. Tyler and not AMS or EDS because Dr. Tyler had provided the medical care.

31. On September 7, 2005, Respondent sent CTA check # 2711, in the amount of \$2,000.00 to Dr. Tyler/ICM. On September 12, 2005, this check was negotiated by ICM.

32. On October 13, 2005, Ms. Ruiz left a message for Respondent that she had been served with a summons and complaint in the lien case, and requested a call back from Respondent. Respondent returned Ms. Ruiz's call on October 19, 2005, and requested that Ms. Ruiz fax him a copy of the summons and complaint. Ms. Ruiz faxed a copy of the summons and complaint to Respondent. Respondent received the summons and complaint. Ms. Ruiz also requested a copy of the check that Respondent claimed had been sent to Dr. Tyler.

33. On October 19, 2005, Respondent sent a letter to counsel for AMS, Gary Bemis ("Mr. Bemis"), and informed him that he represented Ms. Ruiz, that the medical lien had been negotiated down to \$2,000.00, and the lien was paid on September 7, 2005 to Dr. Tyler/ICM.

34. On October 25, 2005, Mr. Bemis sent a letter by facsimile to Respondent informing him that the payment should not have been sent to Dr. Tyler because the lien had been assigned to AMS in September 2002.

35. On October 27, 2005, Ms. Ruiz terminated Respondent's services.

36. On October 27, 2005, Ms. Ruiz reached a settlement with AMS for \$4,000.00 to satisfy the

\$5,077.71 unpaid medical lien.

37. On October 31, 2005, Ms. Ruiz paid \$2,000.00 to AMS, out of her personal funds. On November 25, 2005, Ms. Ruiz paid the final \$2,000.00 to AMS, out of her personal funds. On November 25, 2005, AMS sent a letter to Ms. Ruiz informing her that her obligation for the unpaid medical lien had been satisfied and the lien case against her would be dismissed. The case was dismissed on December 21, 2005.

38. On August 14, 2006, almost five years later, Respondent disbursed CTA check # 2835 in the amount of \$158 to cover costs which were incurred in 2001, related to the representation of Ms. Ruiz in her 2001 auto accident case.

39. In December 2003, Respondent issued CTA check # 2374 in the amount of \$1,350.00 which was drawn upon Respondent's CTA. On December 29, 2003, Wells Fargo paid the check against insufficient funds lowering the balance in Respondent's CTA to -\$1,018.31.

40. In July 2004, Respondent issued CTA check # 2469 in the amount of \$2,000.00 which was drawn upon Respondent's CTA. On July 14, 2004, Wells Fargo paid the check against insufficient funds lowering the balance in Respondent's CTA to -\$471.31.

41. In July 2004, Respondent issued CTA check # 2500 in the amount of \$1,500.00 which was drawn upon Respondent's CTA. On July 19, 2004, Wells Fargo paid the check against insufficient funds lowering the balance in Respondent's CTA to -\$413.31.

42. In October 2005, Respondent issued CTA check # 2724 in the amount of \$7,400.00 which was drawn upon Respondent's CTA. On October 3, 2005, Wells Fargo paid the check against insufficient funds lowering the balance in Respondent's CTA to -\$180.26.

43. Respondent issued these four checks even though he knew or in the absence of gross negligence would have known that there were insufficient funds in Respondent's CTA to pay them. Respondent made no effort to ensure there were sufficient funds in Respondent's CTA to cover the checks after Respondent issued the checks.

CONCLUSIONS OF LAW.

44. By failing to oversee his CTA, failing to maintain his client's funds, and failing to properly supervise his employees who were disbursing funds, Respondent acted with gross negligence and recklessness in connection with his CTA duties, thus committing acts involving moral turpitude, dishonesty and/or corruption in willful violation of Business and Professions Code, section 6106.

45. By not maintaining at least \$2,301.67 on behalf of Ms. Ruiz in Respondent's CTA, Respondent failed to maintain funds in a client trust account, in willful violation of Rules of Professional Conduct, rule

4-100(A).

46. By issuing checks drawn upon Respondent's CTA when he knew or in the absence of gross negligence would have known that there were insufficient funds in the account to pay them and by failing to ensure that there were sufficient funds in the account to pay the checks, Respondent committed acts involving moral turpitude, dishonesty and/or corruption, in willful violation of Business and Professions Code, section 6106.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.

The parties waive any variance between the Notice of Disciplinary Charges filed on September 17, 2008 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A (7), was March 11, 2009.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 11, 2009, the estimated prosecution costs in this matter are approximately \$3,654.00. Respondent acknowledges that this figure is an estimate only and that it might not include State Bar Court costs that will be included in any final cost assessment (see Bus. & Prof. Code section 6068.10(c)) or taxable costs (see C.C.P. section 1033.5(a)), 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. It is also noted that if Respondent 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.

MITIGATING CIRCUMSTANCES.

Between August and December 2002, Respondent was coping with the death of his father. The loss of Respondent's father necessitated trips overseas to Nigeria to tend to his father's estate. Respondent was out of the country for long periods of time. Since then, however, Respondent has completely recovered from these emotional difficulties. (Std. 1.2(e)(iv).)

Four character references expressed their belief in Respondent's integrity and honesty even with the knowledge of the misconduct and believe that the conduct was due to error and will not recur. (Std. 1.2(e)(vi).)

Remorse and objective steps to rectify or remedy his CTA management system. (Std. 1.2(e)(vii).) Respondent's records show that a check was drafted on December 14, 2001 payable to ICM. Respondent concedes that had he maintained proper CTA recordkeeping he would have discovered that the check was never negotiated.

When Respondent learned of the NSF checks, he immediately consulted with ethics counsel to learn about his CTA obligations and deficiencies. Respondent voluntarily cured the office management problems related to his CTA shortly thereafter. Respondent also, employed the services of a CPA and now reconciles his CTA and client ledgers weekly. Remedial steps support that the misappropriation was due to Respondent's laxity rather than intent to defraud. (*Waysman v. State Bar* (1986) 41 Cal.3d 452, 797-798.)

In 2001, Respondent, while representing Ms. Ruiz, had voluntarily reduced his fees in order that she might recover the full coverage for the repairs to her vehicle in the property damage portion of her auto accident case. This reduction was not noticed by Respondent's office manager which resulted in the disbursement of Respondent's earned fees on November 8, 2001, in accordance with the signed retainer agreement. By November 20, 2001, the CTA balance was \$240.84. Once Respondent realized that this error was made, the funds were restored to the CTA within two weeks; by November 28, 2001. (*Guzzetta v. State Bar* (1987) 43 Cal.3d 962.) Respondent's actions demonstrate he is remorseful and contrite.

After Respondent paid Dr. Tyler/ICM and learned that AMS/EDS was still pursuing the claim against Ms. Ruiz, Respondent offered to represent Ms. Ruiz for no fee in an indemnification action. Ms. Ruiz decided to reject Respondent's offer and resolve a settlement with AMS on her own. In so doing, Ms. Ruiz agreed to pay AMS \$4,000.00. Ms. Ruiz's actions were out of the control and advice of Respondent. Respondent paid Ms. Ruiz, \$4,000.00 on March 16, 2009. The \$4,000.00 payment to Ms. Ruiz covers \$2,000.00 in restitution, 10% interest per annum, and an additional amount made at Respondent's discretion. Respondent initially delayed payment of restitution to Ms. Ruiz because he relied upon advice of ethics counsel. (Cf. *Doyle v. State Bar* (1982) 32 Cal.3d 12, 24 – restitution made only under the pressure of a forthcoming disciplinary investigation is entitled to no weight as a mitigating circumstance.)

The CTA management during 2003 and 2004 was not typical of the way Respondent practiced law and does not reflect his CTA management during the course of his entire practice. However, the six or seven years of blemish-free practice prior to the misconduct is an insufficient period of trouble-free practice to consider as substantial mitigation. (See, e.g., *Kelly v. State Bar* (1988) 45 Cal.3d 649, 658.)

AUTHORITIES SUPPORTING DISCIPLINE.

Sanctions are imposed to protect the public, the court and the legal profession; maintain high professional standards by attorneys; and preserve public confidence in the legal profession. (Std. 1.3; *Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 474; *In re Morse* (1995) 11 Cal.4th 184, 205, Std. 1.3; *Tarver v. State Bar* (1984) 37 Cal.3d 122, 133, 207 Cal.Rptr. 302, 688 P.2d 911; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) The determination of discipline involves an analysis of the standards and a balancing of the nature and extent of the facts and circumstances surrounding the misconduct and the mitigating and aggravating

circumstances (Std. 1.6(b); *Segal v. State Bar* (1988) 44 Cal.3d 1077, 1089; *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-11) on a case-by-case basis. (*Bate v. State Bar* (1983) 34 Cal.3d 920, 924.)

Here, the mere fact that the balance of Respondent's CTA dipped below \$2,000.00 supports a conclusion of misappropriation. (*Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 474.) Respondent's management method of his CTA rises to the level of gross carelessness and negligence which constitutes a violation of the oath of an attorney to faithfully discharge his duties to the best of his knowledge and ability. This conduct involves moral turpitude because it breaches the fiduciary relationship owed to clients. (*Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 475.) No matter the size, breaches of the fiduciary duty owed by an attorney to his client undermines public confidence in the profession. Because Respondent neglected his duty to safeguard shortfalls in his CTA by delegating the management of his CTA, a nondelegable duty, to his office manager, actual suspension is warranted. (*Brody v. State Bar* (1974) 11 Cal.3d 347, 351 – one-year actual suspension.)

Culpability of a member of willful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances. (Std. 2.2(a).)

Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the magnitude of the act of misconduct and the degree to which it related to the member's acts within the practice of law. (Std. 2.3.)

The misconduct was the product of lax office practices and inadequate employee supervision rather than deliberate venality. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 37 – misappropriation caused by serious, inexcusable violation of duty to oversee entrusted funds is deemed willful even in the absence of deliberate wrongdoing.) Misconduct which is technically willful may be less culpable if it is committed through negligence rather than if it is committed deliberately. (See, e.g., *Edwards v. State Bar* (1990) 52 Cal.3d 28, 38 – willful misappropriation covers a broad range of conduct varying significantly in the degree of culpability.) Though this does not absolve Respondent of the violation, it provides an explanation of the circumstances surrounding the misconduct.

Here, there are extenuating circumstances which substantiate a deviation from one-year actual suspension. (*Doyle v. State Bar* (1982) 32 Cal.3d 12, 23; *Cain v. State Bar* (1979) 25 Cal.3d 956, 961; *Waysman v. State Bar* (1986) 41 Cal.3d 452 – 6 months actual suspension; *Palomo v. State Bar* (1984) 36 Cal.3d 785 – deviation from disbarment substantiated.)

The CTA deficiencies were not caused by any deliberate conversion of the funds by Respondent. However, the lack of an evil intent does not immunize the attorney's conduct from a finding of moral turpitude. (*Fitzsimmons v. State Bar* (1983) 34 Cal.3d 327, 331.)

In *Hipolito v. State Bar* (1989) 48 Cal.3d 621, 627-628, the attorney misappropriated \$2,000.00 from a client by depositing a settlement check in his general account, after tendering to the client a personal check for the client's share of the settlement. The personal check was returned for insufficient funds and as a

result of severe financial difficulties the attorney was unable to make restitution promptly. In a second matter involving another client, the attorney was found culpable of abandonment and failure to communicate. In mitigation, the attorney demonstrated remorse, made restitution voluntarily as soon as he was able, and hired a management firm to prevent his misconduct from recurring. The attorney's misconduct stemmed from inexactitude and insolvency, not greed or venality and was disciplined with three years' stayed suspension three years' probation and one year actual suspension. Here, the facts involve a client trust account and rather than insolvency, Respondent was not prompt in paying Ms. Ruiz because he relied on advice from ethics counsel. Respondent has a similar amount of mitigation based on different facts and similar culpability as the attorney in *Hipolito*.

In *Edwards v. State Bar* (1990) 52 Cal.3d 28, the attorney's misconduct consisted of willful misappropriation from client funds coupled with habitual negligence in handling his client trust account. Mitigating factors included prompt, full restitution, within 3 months of the misappropriation and before the attorney became aware of the complaint with the State Bar, attorney's good faith in refraining from acts of deceit towards the client, an 18-year unblemished history of practice, candor and cooperation, the and voluntary steps by the attorney to improve his management of funds. The Supreme Court found one-year actual suspension sufficient to protect the public. Here, Respondent has similar mitigating factors and a unique set of facts which establish Respondent's matter is less egregious than the attorney in *Edwards* and a six-month actual suspension is appropriate to protect the public in this case. Respondent's mitigation includes restoring the misappropriated funds within a short period of time and Respondent's aggravation is less than that in *Edwards*. Respondent did not learn of the outstanding medical lien until several years later because of his grossly negligent and inadequate CTA management. Respondent would have caught the uncashed ICM check had he been performing appropriate reconciliations. Here, a six-month actual suspension is sufficient to protect the public. (Std. 1.2(e); *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404.)

STATE BAR ETHICS SCHOOL.

Because Respondent has agreed to attend State Bar Ethics School as part of this stipulation, Respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

In the Matter of
Alfred Oshiomele Anyia

Case number(s):
05-O-04734-RAH

A Member of the State Bar

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 **TWO YEARS AFTER THE EFFECTIVE DATE OF PROBATION**.

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.

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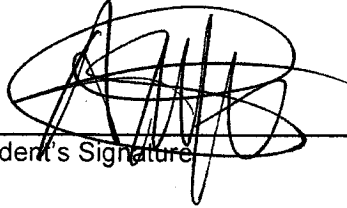
In the Matter of Alfred Oshiemele Anyia	Case number(s): 05-O-04734-RAH
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SIGNATURE OF THE PARTIES

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.

March 24, 2009
Date

Respondent's Signature



Alfred O. Anyia
Print Name

Date

Respondent's Counsel Signature

Print Name

March 24, 2009
Date

Deputy Trial Counsel's Signature



Jean Cha
Print Name

(Do not write above this line.)

In the Matter Of Alfred Oshiomele Anyia	Case Number(s): 05-O-04734-RAH
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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.)**

3/24/09
Date



Judge of the State Bar Court

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 March 26, 2009, 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:

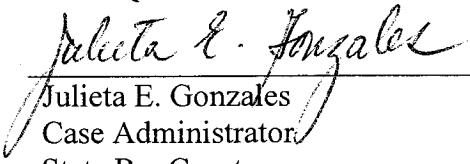
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ALFRED O ANYIA ESQ
880 W 1ST ST #108
LOS ANGELES, CA 90012

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

Jean H. Cha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 26, 2009.



Julieta E. Gonzales
Case Administrator
State Bar Court