



(Do not write above this line.)

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

**ORIGINAL**

<p>Counsel For The State Bar</p> <p><b>Margaret P. Warren</b> Deputy Trial Counsel State Bar of California 1149 S. Hill Street Los Angeles, CA 90015-2299 (213)765-1342</p> <p>Bar # 108774</p>	<p>Case Number (s) <b>06-J-12385</b></p> <p align="center"><b>PUBLIC MATTER</b></p>	<p>(for Court's use)</p> <p align="center"><b>FILED</b></p> <p align="center">SEP 17 2007 <i>R</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p><b>W. Iain Elder Levie</b> The Stables Westertown Rothienorman Inverurie Aberdeenshire, SCOTLAND AD5 18US Tel. 0114-7825-169-494</p> <p>Bar # 152175</p>	<p>Submitted to: <b>Assigned Judge</b></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>	
<p>In the Matter Of: <b>W. Iain Elder Levie</b></p> <p>Bar # 152175</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **May 10, 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 **25** 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: (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. **Respondent's failure to comply with the arbitrator's January 18, 2002 order to disclose and document all encumbrances on the bronze sculptures delivered to Respondent's client by Gruppo Mondiale and to deliver all of the bronzes (including the three bronzes in possession of Respondent's law firm) to a gallery within a specific period of time, caused actual prejudice to the administration of justice in that additional proceedings became necessary to enforce the arbitrator's order; sanctions were entered against Respondent's client; and Gruppo Mondiale was exposed to the risk of losing the proceeds from three of the bronzes that were in possession of Respondent's law firm.**
- (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:**

**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**

**Although the misconduct herein is serious, Respondent has no prior record of discipline since being admitted to the practice of law of May 10, 1991.**

**D. Discipline:**

- (1)  **Stayed Suspension:**

- (a)  Respondent must be suspended from the practice of law for a period of **eighteen (18) 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:
- (b)  The above-referenced suspension is stayed.

- (2)  **Probation:**

Respondent must be placed on probation for a period of **eighteen (18) months**, 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 **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:

**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.

(Do not write above this line.)

- (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: **Please see Attachment at p. 9, "State Bar Ethics School Substitution".**
- (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: **Please see Attachment, at p. 10, "Multistate Professional Responsibility Examination Exclusion".**

- (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: Please see Attachment, at p. 9, "State Bar Client Trust Accounting School Substitution".**

**ATTACHMENT TO**

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

IN THE MATTER OF:           W. IAIN ELDER LEVIE

CASE NUMBER(S):           06-J-12385

**PENDING PROCEEDINGS.**

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

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 6, 2007, the costs to be assessed against Respondent in this matter are approximately \$1,983.00. 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.

**AGREEMENTS AND WAIVERS PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6049.1.**

1. Respondent's culpability determined in the disciplinary proceeding in the State of Oregon would warrant the imposition of discipline in the State of California under the laws or rules in effect in this State at the time the misconduct was committed; and
2. The proceeding in the above jurisdiction provided respondent with fundamental constitutional protection.

**FACTS AND CONCLUSIONS OF LAW.**

**Background:**

The instant proceeding is brought before the State Bar Court pursuant to section 6049.1 of the Cal. Bus. & Prof. Code, having arisen out of a disciplinary action brought against Respondent in the State of Oregon.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and Rules of Professional Conduct:

Respondent was admitted to the practice of law in the State of Oregon in 1991. By order of the Supreme Court of the State of Oregon, Respondent was actually suspended from the practice of law in the State of Oregon for a period of one (1) year, effective May 7, 2007.

**Statement of Acts or Omissions of Respondent which are Admitted and Acknowledged by the Respondent as Cause or Causes for Discipline:**

The parties herein stipulate to the recital of acts and omissions and conclusions of law set forth in the Decision of the Supreme Court of the State of Oregon, filed March 8, 2007 in Respondent's Oregon disciplinary matter, entitled *In re Complaint as to the Conduct of Iain Levie*, OSB 04-97; SC S53311 (the "Decision").<sup>1</sup> A true and correct copy of the Decision is attached hereto and incorporated by reference herein.

**Conclusions of law:**

1. Respondent's culpability of affirmatively misstating as to the whereabouts of the three bronzes and the law firm's security interest in them in his responses to opposing counsel Smith's November 2001 summary judgment motion; falsely representing to attorney Smith, in his January 2002 emails, that all the bronzes had been delivered to the Gallery; and falsely representing to the arbitrator in March and April 2002 that he had understood that the three bronzes had remained at the law firm's office with attorney Smith's full knowledge and consent, was in violation of section 6106 of the California Business and Professions Code ("Bus. & Prof. Code), warranting the imposition of discipline in the State of California.
2. Respondent's culpability of failing to comply with the arbitrator's order to deliver all of the bronzes to a mutually acceptable gallery for sale was in violation of section 6103 of the Bus. & Prof. Code, warranting the imposition of discipline in the State of California.
4. Respondent's culpability of continuing to represent McMullen and McMullen's companies after the arbitrator ordered all bronzes, including the three that Respondent's law firm held a security interest in, to be delivered to a gallery, was in violation of rule 3-300 of the Rules of Professional Conduct, warranting the imposition of discipline in the State of California..
5. Respondent's culpability of using his client trust account as a personal checking account on

---

<sup>1</sup> There is a typographical error in the Decision at line 15 of page 17, *infra*: the parties agree that "March 11, 2000" should in fact read "March 11, 2002."

approximately 3 occasions in or about 2002 was in violation of rule 4-100(A) of the Rules of Professional Conduct, warranting the imposition of discipline in the State of California.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.3 of the Standards for Attorney Sanctions for Professional Misconduct (“Standards”) provides: “Culpability of a member of an act of moral turpitude . . . 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 extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member’s acts within the practice of law.”

Standard 2.8 of the Standards provides, in pertinent part: “Culpability of a member of a wilful violation of rule 3-300 . . . shall result in suspension unless the extent of the member’s misconduct and the harm to the client are minimal . . .”

Standard 2.2 (b) of the Standards provides, in pertinent part: “Culpability of a member of commingling of entrusted funds or property with personal property . . . shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.”

#### **STATE BAR ETHICS SCHOOL SUBSTITUTION.**

Respondent resides outside the United States of America and is unable to personally attend the State Bar’s Ethics School. As an alternative to personally attending Ethics School, the parties agree that the State Bar will provide Respondent with a copy of its “Ethics School Workbook” and with the test administered to attendees of Ethics School. Respondent shall study the Ethics School Workbook and complete the test within six (6) months of the effective date of the California Supreme Court’s Order of Discipline in this matter, and shall submit a copy of his completed test to the Office of Probation with his Quarterly Report covering the annual quarter in which he completed the test. Respondent shall not be permitted to claim Minimum Continuing Legal Education (“MCLE”) credit for completing this condition of probation.

#### **STATE BAR CLIENT TRUST ACCOUNTING SCHOOL SUBSTITUTION.**

Respondent resides outside the United States of America and is unable to personally attend the State Bar’s Client Trust Accounting School. As an alternative to personally attending Client Trust Accounting School, the parties agree that the State Bar will provide Respondent with a copy of its “Handbook on Client Trust Accounting for California Attorneys” and with the test administered to attendees of Client Trust Accounting School. Respondent shall study the

Handbook on Client Trust Accounting for California Attorneys and complete the test within six (6) months of the effective date of the California Supreme Court's Order of Discipline in this matter, and shall submit a copy of his completed test to the Office of Probation with his Quarterly Report covering the annual quarter in which he completed the test. Respondent shall not be permitted to claim MCLE credit for completing this condition of probation.

#### **MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.**

It is recommended that respondent not be required to take the Multistate Professional Responsibility Examination ("MPRE") as he resides outside the United States of America. The protection of the public and the interests of the Respondent do not require passage of the MPRE in this case. See *In the Matter of Respondent G* (Review Dept. 1992), 2 Cal. State Bar Ct. Rptr. 181.

In lieu of taking and passing the MPRE, Respondent shall complete six (6) hours of Minimum Continuing Legal Education ("MCLE") courses in legal ethics provided by a California MCLE Approved Provider within one (1) year of the effective date of the California Supreme Court's Order of Discipline in this matter. These six (6) hours of MCLE courses shall be in addition to the twenty-five (25) hours of MCLE credits that members of the California Bar are required to complete every three (3) years (the "regular MCLE requirement"), and Respondent shall not be permitted to claim MCLE credit for any of these six (6) hours for the purpose of satisfying the regular MCLE requirement. Respondent may complete these six (6) hours of legal ethics courses online, and may obtain the necessary information about courses offered online from, among other sources, the California State Bar's official website, [www.calbar.ca.gov](http://www.calbar.ca.gov). Respondent shall submit satisfactory proof of his completion of the courses to the Office of Probation with his Quarterly Report(s) covering the annual quarter(s) in which he completed the courses.

Filed: March 8, 2007

IN THE SUPREME COURT OF THE STATE OF OREGON

In re Complaint as to the Conduct of

IAIN LEVIE,

Accused.

RECEIVED

MAR - 8 2007

DISCIPLINARY COUNSEL

(OSB 04-97; SC S53311)

En banc

Argued and submitted January 10, 2007.

Iain Levie, Portland, filed the briefs for himself.

Mary A. Cooper, Assistant Disciplinary Counsel, Lake Oswego, argued the cause and filed the brief for the Oregon State Bar.

PER CURIAM

The accused is suspended from the practice of law for one year, effective 60 days from the date of this decision.

---

**DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS**

Prevailing party: Oregon State Bar

- No costs allowed.
- Costs allowed, payable by: Accused
- Costs allowed, to abide the outcome on remand, payable by:

I certify that this document is  
a true copy of the original and  
the voluminous proof.  
*Neerath Hides*  
OSB# 75767

1 PER CURIAM

2 The issue in this lawyer disciplinary proceeding is whether the accused, in  
3 the course of representing a client, violated various provisions of the former Code of  
4 Professional Responsibility<sup>1</sup>: DR 1-102(A)(3) (dishonesty, fraud, deceit, or  
5 misrepresentation); DR 7-102(A)(5) (knowingly making false statement of law or fact  
6 while representing his own or a client's interests); DR 7-106(A) (disregarding ruling of a  
7 tribunal); DR 1-102(A)(4) (conduct prejudicial to administration of justice); and DR 5-  
8 101(A)(1) (continuing employment involving financial conflict). A trial panel found the  
9 accused guilty of those violations, as well as with one other.<sup>2</sup> The trial panel suspended  
10 the accused for one year. The accused challenges the foregoing findings of guilt.<sup>3</sup> We  
11 review the decision of the trial panel *de novo*. ORS 9.536(2); BR 10.6. For the reasons  
12 that follow, we find the accused guilty of the contested charges and suspend him from the  
13 practice of law for one year.

14 The accused joined the Oregon State Bar in 1991 and, at the time of the  
15 conduct at issue, was an associate in a Portland law firm. In February 2001, the accused

---

1 <sup>1</sup> The Oregon Rules of Professional Conduct became effective January 1,  
2 2005. Because the conduct at issue in this case occurred before that date, we apply the  
3 Code of Professional Responsibility.

1 <sup>2</sup> The trial panel found the accused guilty of three violations of DR 9-101(A)  
2 (failing to keep client trust account separate from other accounts). The accused does not  
3 contest the trial panel's finding that he committed three violations of DR 9-101(A).

1 <sup>3</sup> The accused does not separately challenge the trial panel's choice of  
2 sanction.

1 agreed to represent Cosmopolitan Imports, LLC, an import company, in a dispute arising  
2 out of the company's contract to purchase a number of August Rodin cast bronze  
3 sculptures from Gruppo Mondiale, a Liechtenstein company. McMullen, a friend and  
4 former business partner of the accused, owned Cosmopolitan Imports. McMullen also  
5 owned a second company, Cosmopolitan Motors, LLC.<sup>4</sup>

6 Under the contract at issue, Cosmopolitan Imports agreed to deliver three  
7 classic cars, which were to be supplied by Cosmopolitan Motors, to Gruppo Mondiale, in  
8 exchange for 23 Rodin bronze sculptures. By the time that the accused became involved,  
9 Cosmopolitan Imports had received most of the 23 bronzes but had not delivered any of  
10 the promised cars.

11 In March 2001, Gruppo Mondiale filed an action for breach of contract  
12 against Cosmopolitan Imports, Cosmopolitan Motors, McMullen, and others, in  
13 Washington state. The accused asked Noel, an associate in the law firm's Bellevue office,  
14 to assist in the Washington litigation and to serve as attorney of record. At the time, the  
15 accused told Noel that Noel need not worry about Cosmopolitan Imports paying the firm's  
16 fee, because the firm would have a security interest in some of the bronzes at issue in the  
17 litigation. The accused was referring to three bronzes that McMullen had given to the

---

1 <sup>4</sup> At various points in the record, one could conclude that McMullen,  
2 Cosmopolitan Imports, Cosmopolitan Motors, or some combination of the three were the  
3 accused's clients. The accused makes no issue respecting the identity of his client in  
4 connection with the charges against him, and we do not attempt to sort the matter out  
5 further.

1 accused to display in the firm's Portland offices, apparently to serve both as a marketing  
2 device and as security for his company's mounting legal bills.

3 In June 2001, relying on an allegation that his import company owed a debt  
4 to his motor company, McMullen filed a UCC-1 form with the Washington Department  
5 of Licensing giving Cosmopolitan Motors a priority interest in the proceeds from any sale  
6 of the 23 bronzes to secure the debt owed by Cosmopolitan Imports. Shortly thereafter,  
7 Lewis, a partner at the accused's firm, told the accused that the informal agreement to  
8 treat the three bronzes at the firm as security for Cosmopolitan Imports' legal fees should  
9 be formalized. Lewis asked another firm partner, Paterson, to negotiate a security  
10 agreement. Paterson, in turn, contacted McMullen and had him sign a security agreement  
11 on behalf of Cosmopolitan Imports. There is no direct evidence in the record that the  
12 accused played any role in the negotiations between Paterson and McMullen.

13 In the meantime, Gruppo Mondiale's lawyer, Smith, had filed a motion in  
14 the circuit court in Seattle to compel McMullen and his companies to advise him where  
15 the bronzes were located and provide a statement that they had not been sold or  
16 encumbered. Smith also asked the Washington court to enjoin McMullen from selling or  
17 encumbering the bronzes in the future. Noel, the attorney of record, discussed the motion  
18 with McMullen and the accused and advised both men that, if they intended to perfect a  
19 security interest for the law firm in the three bronzes, they should do so before the court  
20 ruled on the motion. Within a few weeks, Paterson had filed a UCC-1 form with the

1 Washington Department of Licensing, thereby establishing the law firm's place in the line  
2 of priority with respect to the three bronzes displayed in its offices.<sup>5</sup>

3 The circuit court subsequently heard and granted Gruppo Mondiale's motion  
4 to compel, enjoined McMullen and his companies from selling or encumbering the 23  
5 bronzes, and ordered him to advise Gruppo Mondiale of the location of the bronzes and  
6 whether they had been sold or encumbered. On September 5, 2001, in a declaration that  
7 the accused either drafted or discussed with Noel, McMullen certified that the bronzes  
8 were encumbered by unspecified perfected security interests and that they were located in  
9 six different places in Oregon and Washington, one of which was the law firm's offices.

10 A few weeks later, McMullen entered into settlement discussions with and  
11 ultimately signed a settlement agreement with Gruppo Mondiale. The accused was  
12 actively involved in the negotiations, although he claims that McMullen alone was  
13 responsible for the final settlement agreement. Under the settlement, (1) Gruppo  
14 Mondiale agreed to accept a cash payment from the proceeds of the sale of the bronzes  
15 instead of delivery of one of the classic cars; (2) Cosmopolitan Imports granted Gruppo  
16 Mondiale a security interest in the bronzes to secure that payment; (3) McMullen agreed  
17 to consign and deliver all the bronzes to a gallery for sale within 30 days and warranted  
18 that all but two of the bronzes were within his possession or control (the two that he

---

1 <sup>5</sup> We attempt here to reflect the subjective beliefs and assertions of the  
2 various parties (including the accused) who provided evidence. We do not, however,  
3 vouch for the accuracy of any participant's assertions.

1     excepted had not yet been shipped by Gruppo Mondiale); and (4) McMullen warranted  
2     that the bronzes were free from encumbrances except as listed in the settlement  
3     agreement. Notably, the settlement agreement did not disclose the law firm's perfected  
4     security interest in the three bronzes in its offices. McMullen subsequently delivered all  
5     the bronzes, except the three at the law firm's offices, to a gallery in Kirkland,  
6     Washington.

7             Gruppo Mondiale did not become aware that the law firm's three bronzes  
8     had not been delivered to the gallery until November 2001, when Smith became  
9     concerned about whether Cosmopolitan Imports had complied with the parties' settlement  
10    agreement. He filed a demand for arbitration in accordance with an arbitration provision  
11    in the settlement agreement and moved for partial summary judgment in that arbitration.  
12    The summary judgment motion raised, among other things, the issues whether the bronzes  
13    had been delivered to a gallery for sale and whether (and what) encumbrances on the  
14    bronzes existed prior to the settlement agreement. The accused filed a response to the  
15    summary judgment motion that did not address those two issues. However, the accused  
16    contemporaneously wrote a letter to Smith stating that "the casts are presently with the  
17    O'Day Bronze Gallery in Kirkland Washington. \* \* \*. It is where all the bronzes are  
18    currently consigned." That statement was false; three of the bronzes were in the law  
19    firm's Portland offices.

20            On January 18, 2002, the arbitrator issued an order resolving the parties'

1 various motions. The order required McMullen and his companies to disclose and  
2 document all encumbrances on the bronzes and to deliver all the bronzes to a gallery for  
3 sale within a specified period of time. On January 23, 2002, Smith e-mailed the accused,  
4 again inquiring about the security interests in the bronzes. The accused replied, also by e-  
5 mail, "We are unaware of any claimed security interests, although both [the law firm] and  
6 [another entity] probably claim a lien for any unpaid fees, but clearly any such claim is  
7 junior to that of Gruppo Mondiale." In other e-mails at around the same time, the accused  
8 represented to Smith that the bronzes "have already been delivered to the O'Day Bronze  
9 Gallery" and are "currently displayed at the O'Day Bronze Gallery in Kirkland."

10 Smith then e-mailed the accused asking for a written receipt from the  
11 gallery "listing all of the bronzes that it has received." A few weeks later, Smith visited  
12 the gallery and noticed that not all the bronzes that he expected to see were on display.  
13 Smith made some inquiries and the gallery's owner confirmed that all the bronzes that had  
14 been delivered to him were on display.

15 Based on what he had learned, on March 11, 2000, Smith filed a motion  
16 with the arbitrator for a determination of contempt and imposition of sanctions against  
17 McMullen and Cosmopolitan Imports. When the accused received a copy of the motion,  
18 he wrote to the arbitrator stating that, "with the exception of four pieces, all of the bronzes  
19 have been consigned with the O'Day Gallery. Three pieces that have not been consigned  
20 are displayed in my offices with the full knowledge and consent of Mr. Smith." The

1 accused then shipped the three bronzes from the law firm's offices to the O'Day Gallery  
2 and sent a letter to Smith informing him of that action.

3 On April 1, 2002, Smith wrote to the accused advising him that the  
4 accused's statement to the arbitrator regarding Smith's "full knowledge and consent" was  
5 false and warning him against repeating it. In spite of that warning, the accused filed a  
6 sworn declaration with the arbitrator on April 8, 2002, asserting that "it was my  
7 understanding and belief that Mr. Smith and his client were aware that three of the  
8 bronzes were being displayed in the offices of [the law firm] in Portland."

9 On May 12, 2002, the arbitrator issued an order finding that McMullen and  
10 Cosmopolitan Imports intentionally failed to deliver all the bronzes to the O'Day Gallery,  
11 but represented to Gruppo Mondiale that they had delivered all of them. The arbitrator  
12 found McMullen and his company to be in contempt and imposed a \$19,500 fine.

13 Smith reported the accused's actions to the Bar. An investigation ensued  
14 and the present charges were filed. After a hearing, a trial panel concluded that the  
15 accused was guilty of three counts of violating DR 1-102(A)(3) (dishonesty) by (1)  
16 affirmatively misstating the whereabouts of the three bronzes and the law firm's security  
17 interest in them in his responses to Smith's November 2001 summary judgment motion;  
18 (2) falsely representing to Smith that all the bronzes had been delivered to the O'Day  
19 Gallery in his January 2002 e-mails to Smith; and (3) falsely representing to the arbitrator  
20 in March and April 2002 that he had understood that the three bronzes had remained at

1 the law firm's offices with Smith's full knowledge and consent. The trial panel also found  
2 that the accused had violated DR 7-102 (false statements while representing client's or  
3 lawyer's own interests) in his January 2002 statements to Smith and his March and April  
4 2002 statements to the arbitrator; DR 7-106(A) (disregarding ruling of a tribunal), by  
5 failing to comply with the arbitrator's order to deliver all the bronzes to a mutually  
6 acceptable gallery for sale; DR 1-102(A)(4) (conduct prejudicial to the administration of  
7 justice), by failing to do what the arbitrator specifically had ordered respecting the  
8 bronzes; and DR 5-101(A) (continuing in employment after conflict of interest arises), by  
9 continuing to represent McMullen and his companies after the arbitrator ordered all  
10 bronzes -- including the three that his law firm held a security interest in -- to be delivered  
11 to a gallery.<sup>6</sup> Based on those findings, the trial panel concluded that the accused should  
12 be suspended from the practice of law for one year.

13 The accused argues that the Bar failed to prove any of the contested charges  
14 by clear and convincing evidence. The accused contends that all the charges rely, to some  
15 degree, on a finding that he purposefully or knowingly hid the location and status of the  
16 three bronzes from Gruppo Mondiale and its lawyer, Smith. The accused argues that that  
17 finding is incorrect and that the evidence proves that the opposite was true -- that he did

---

1 <sup>6</sup> As noted, the trial panel also found that the accused had violated DR 9-  
2 101(A) (failing to keep client trust account separate) in an unrelated matter: After leaving  
3 the law firm in May 2002, the accused set up his own law firm and client trust account  
4 and used his trust account as a personal checking account on at least three occasions. The  
5 accused never has contested that charge.

1 not know that the law firm had perfected its prior security interest in the three bronzes  
2 and believed that Smith and Gruppo Mondiale understood all along that the bronzes were  
3 at the law firm's Portland offices. The accused acknowledges that "there are facts and  
4 circumstances that could be construed to support th[e trial panel's] finding" to the contrary  
5 but argues that, "when each of those facts and circumstances is examined in its proper  
6 context, and considering the parties' motivations, objectives and credibility[,] the record  
7 does not support a finding that the [accused] had [such a] subjective belief."

8 The accused contends that the trial panel's conclusions that the accused  
9 knowingly and dishonestly failed to disclose the fact of his law firm's security interest in  
10 the three bronzes rests on an assumption that the accused knew that his firm's security  
11 interest in the bronzes had been perfected. The accused contends that that assumption is  
12 erroneous -- that the evidence supports his claim that he did not know that the security  
13 interest had been perfected. He points to his own "consistent" testimony (as he  
14 characterizes it) to the effect that, "after initially discussing the prospect of a lien with his  
15 managing partner, the matter was placed in the hands of the firm's creditor rights partner  
16 and the [accused] had no further involvement with the matter." Indeed, he asserts that he  
17 could not reasonably have been expected to have anything further to do with that aspect  
18 of his firm's business. He also argues that he did not participate directly in any  
19 misrepresentations that were included in the settlement agreement because McMullen and  
20 Gruppo Mondiale's principal dealt with each other directly.

1           None of the accused's arguments is persuasive. Even if no one told the  
2 accused exactly when the firm's security interest in the bronzes was perfected, he knew  
3 that another employee of the firm had set the process in motion, that time was vital, and  
4 that there was no reason to believe that that employee would be unsuccessful. In fact, one  
5 partner in the accused's firm testified that he had told the accused to "work with \* \* \*  
6 Paterson to get the security interest perfected and done properly." Given that sequence of  
7 events, we do not credit the accused's testimony that he was unaware of a perfected  
8 security interest when he signed off on the settlement agreement indicating that no one  
9 had priority interests in any of the bronzes. Contrary to the accused's assertions, we find  
10 by clear and convincing evidence that the accused had knowledge of the firm's security  
11 interest in the bronzes.

12           The accused also argues that the trial panel's conclusions of wrongdoing  
13 were based on the incorrect assumption that the accused was motivated to engage in a  
14 series of misrepresentations by a desire to protect his job -- specifically, by a desire to  
15 reassure the partnership that, although he had invested several months of the firm's time  
16 in the Cosmopolitan Imports matter and Cosmopolitan Imports had not yet paid any of its  
17 bills, the bills were as good as paid because the firm had the bronzes. He contends that  
18 the record establishes that that motive did not exist because, before any of the alleged  
19 misrepresentations were made, the accused already had decided to leave the law firm and  
20 embark on a solo practice. He argues:

1 "All that can be stated with any certainty is that the decision was made  
2 sometime between January 1, 2002 and March 8, 2002. That calls into  
3 question why the [accused] would have made material misrepresentations to  
4 [Smith] on January 10, 2002, January 23, 2002, and January 28, 2002. \* \* \*  
5 More importantly, the critical representation at issue, that [the accused]  
6 made in a sworn affidavit to the arbitrator, was made after the [accused's]  
7 email to all of the attorneys and staff at [the law firm] announcing his  
8 resignation."

9 The accused's argument is not persuasive. It is true that the trial panel *did*  
10 suggest that the accused was motivated to misrepresent the location and status of the  
11 bronzes because he was torn between a personal identification with his friend's contract  
12 dispute with Gruppo Mondiale and pressure to perform at his firm (including pressure to  
13 ensure collection of the Cosmopolitan bill), and the evidence certainly permits that  
14 inference. But that suggestion of divided loyalties is irrelevant: Regardless of the  
15 accused's motivations, it remains clear to us that the accused knew the true state of affairs  
16 respecting the location of the bronzes and the firm's security interest in them. The  
17 accused's claim of a prior decision to leave the firm does not detract from the trial panel's  
18 conclusion -- with which we agree -- that the accused knowingly misrepresented the  
19 status and location of the three bronzes to opposing counsel and the arbitrator.

20 The accused also argues that the evidence shows that his subjective belief  
21 about Smith's knowledge of the location and status of the bronzes was correct. The  
22 accused suggests, first, that there is "no dispute" that, as of October 2001, Smith knew  
23 that there were a few bronzes at the offices of the law firm. He then goes on to note that,  
24 although Smith went to the O'Day gallery on February 6, 2002, and learned that not all the

1 bronzes were on display, and although the parties were engaged in settlement discussions  
2 over the next few weeks, Smith never mentioned the missing bronzes to the accused and  
3 instead simply filed a contempt motion on March 11, 2002. The accused suggests that  
4 that sequence of events "lends credibility" to his position that Smith knew where the  
5 bronzes were and was essentially setting him up for a fall.

6 That argument is not persuasive. It is true that there is evidence that Smith  
7 knew that some of the bronzes were at the law firm's Portland offices in early October:  
8 McMullen had signed a declaration stating that the bronzes were in several different  
9 locations, including the firm offices. But, within a few weeks, McMullen also had signed  
10 an agreement promising to send all the bronzes to a gallery for sale by a specified date.  
11 There is no persuasive evidence anywhere in the record suggesting that McMullen or the  
12 accused somehow had conveyed to anyone that the law firm's three bronzes would be  
13 exempt from that promise. Neither does the fact that Smith refrained from asking about  
14 the missing bronzes during subsequent settlement discussions in any way suggest that he  
15 knew where they were. All that Smith needed to know was that the accused had not  
16 produced an itemized consignment agreement in spite of Smith's repeated requests and  
17 that not all the bronzes were at the gallery that the parties had agreed upon. That was a  
18 sufficient justification for Smith to act as he did.

19 We find the accused guilty of the charged offenses. Respecting sanction,  
20 we note that the accused agrees with the Bar that the sanction chosen by the trial panel --

1 a one-year suspension -- is an appropriate one if the alleged violations are sustained.

2 Having concluded that the accused is guilty of the violations alleged, we agree with the  
3 parties and the trial panel that a one-year suspension is appropriate. A further discussion  
4 of that topic would not, in our view, aid the parties, the public, bench, or bar.

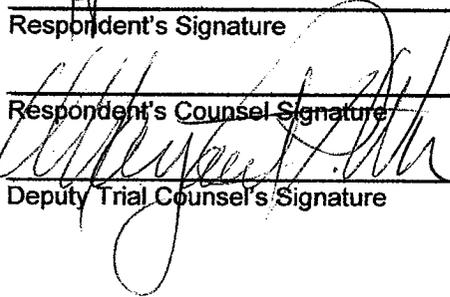
5 The accused is suspended from the practice of law for one year, effective 60  
6 days from the date of this decision.

(Do not write above this line.)

In the Matter of W. Iain Elder Levie Bar # 152175	Case number(s): 06-J-12385
---	-------------------------------

**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.

<u>8/7/2007</u> Date	 Respondent's Signature	<u>W. Iain Elder Levie</u> Print Name
<u>8/15/07</u> Date	 Respondent's Counsel Signature Deputy Trial Counsel's Signature	<u>Margaret P. Warren</u> Print Name

(Do not write above this line.)

In the Matter Of <b>W. Iain Elder Levie</b> <b>Bar #152175</b>	Case Number(s): <b>06-J-12385</b>
--	--------------------------------------

**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 6, an X is inserted at F.(2) [Rule 9.20].

At page 8, Conclusions of law (4): rule 3-300 is deleted, and rule 3-310 is inserted in its place.

At page 9, Authorities Supporting Discipline: the second paragraph (regarding Standard 2.8) is deleted.

At page 9, State Bar Ethics School Substitution, at the end of the paragraph insert:  
"The Office of Probation must promptly forward respondent's test to the State Bar's Ethics School for grading, and respondent must make a passing score on the test as though he had attended the school in person."

At page 10, State Bar Client Trust Accounting School Substitution: at the end of the paragraph insert:  
"The Office of Probation must promptly forward respondent's test to the State Bar's Client Trust Accounting School for grading, and respondent must make a passing score on the test as though he had attended the school in person."

(Do not write above this line.)

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.)**

9/14/07  
Date

  
Judge of the State Bar Court

**DONALD F. MILES**

**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 September 17, 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:

**W. IAIN ELDER LEVIE, ESQ.**  
**LEVIE LAW PC**  
**6808 SE 144TH AVE**  
**PORTLAND, OR 97236**

**W. IAIN ELDER LEVIE, ESQ.**  
**THE STABLES**  
**WESTERTOWN**  
**ROTHIENORMAN**  
**INVERURIE**  
**ABERDEENSHIRE, SCOTLAND AD5 18US**

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

**MARGARET P. WARREN, ESQ., Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 17, 2007**.



**Rose M. Luthi**  
Case Administrator  
State Bar Court