

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles		
PUBLIC MATTER		
Counsel For The State Bar Ashod Mooradian Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1004 Bar # 194283	Case Number (s) 06-O-13239	(for Court's use)
Counsel For Respondent Kevin Gerry, Esq. THE LAW OFFICES OF KEVIN GERRY 433 N. Camden Drive, 4th Floor Beverly Hills, CA 90210 Bar # 129690	Submitted to: Settlement Judge	FILED DEC 10 2008 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In the Matter Of: GEORGE J. PAUKERT Bar # 183124 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **June 11, 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 **16** 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: **two 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.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

None.

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (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 cooperated to the extent that he stipulated to facts, conclusions of law and level of discipline. Respondent also provided documentation as requested by the State Bar.**
- (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. **Respondent's father died and Respondent was involved in settling the estate at the same time period the misconduct occurred.**
- (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

Respondent has no prior record of public discipline over 12 years of practice.

D. Discipline:

(1) **Stayed Suspension:**

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

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **One (1) year**, 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 **Thirty (30) days**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

E. Additional Conditions of Probation:

(1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

(2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar

purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

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No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

A) Respondent will receive Minimum Continuing Legal Education (MCLE) credit for attending the State Bar Ethics School as required pursuant to paragraph E.(8) above and Client Trust Accounting School as required pursuant to the attached Financial Conditions below;

B) Within one (1) year of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of the completion of no less than four (4) hours of MCLE approved courses in law office management or client trust accounting or a combination of the two. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar of California.)

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GEORGE J. PAUKERT

CASE NUMBER(S): 06-O-13239

A. 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 June 10, 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.

B. FACTS AND CONCLUSIONS OF LAW.

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

Facts:

1. In or about June 2003, Respondent hired Dae Won Kim ("Mr. Kim") as his law office manager. Mr. Kim's duties primarily involved the management Respondent's staff and the overseeing of the payment of office expenses. Initially Respondent had an agreement that defined Mr. Kim's responsibilities within the law office, including an agreement regarding the handling of the client trust account and the general account. However, as time went on Respondent gave Mr. Kim more and more responsibilities beyond those defined in the aforementioned agreement. During this first year, Mr. Kim performed his duties to the satisfaction of Respondent.

2. At Mr. Kim's prompting, in or about June 2003 Respondent opened a client trust account, account number 14700021 ("CTA") and a general checking account, account number 14302344 ("General Account"), at Center Bank. Mr. Kim explained that having the CTA and General Accounts at Center Bank would be more convenient for Respondent's Korean clients who lived in the Koreatown area of Los Angeles.

3. Beginning in early 2004, Respondent began to travel to Canada for extended periods of time to take care of his dying father. Then, after the death of his father a few months later, Respondent continued to travel Canada to handle issues regarding administration of his father's estate throughout the balance of 2004.

4. During Respondent's periods of absence, Respondent left Mr. Kim in charge of the office. Although Respondent was available by telephone during his absence, Respondent had not put into place any procedures to ensure that the CTA and General Account were being properly managed by Mr. Kim. Further, Respondent, during his several absences did not put into place any procedures with Center Bank that could have alerted him to unauthorized activities by Mr. Kim. Also, Respondent, during his several absences did not put into place any procedure that could have utilized other staff to verify and/or corroborate transactions completed by Mr. Kim. Finally, Respondent did not, upon his return, have procedures to review the transactions completed by Mr. Kim during his absence that would have detected errors, fraud or thefts from his CTA or General Account.

5. Between September 2004 and December 2004, Respondent allowed checks to be drawn upon his General Account against insufficient funds including:

<u>CHECK NUMBER</u>	<u>CHECK AMOUNT</u>	<u>DATE PRESENTED</u>	<u>PAYEE</u>
1617	\$6,000	9/22/04	Cash
1593	\$4,000	9/22/04	Mark Choz
1592	\$6,362	9/22/04	Mark Choz
1624	\$7,800	10/14/04	Kim's Accu. ____
1628	\$8,000	10/15/04	Kim's Accu. ____
1618	\$7,850	10/13/04	David Kim
1798	\$2,500	12/24/04	George Paukert
1680	\$3,000	11/05/04	King Y.
1636	\$9,500	10/18/04	Unity Auto Body
1580	\$3,200	9/17/04	Cash
1585	\$4,000	9/20/04	Cash.

6. Further, between November 2004 and December 2004, Respondent allowed checks to be drawn upon his CTA in that Respondent failed to properly supervise Mr. Kim. The following CTA checks were not paid because of insufficient funds and/or because payment was ordered stopped:

<u>CHECK NUMBER</u>	<u>CHECK AMOUNT</u>	<u>DATE</u>	<u>PAYEE</u>	<u>BALANCE</u>	
-----	\$6,405	10/05/04	-----	\$3,182.27	Returned Item
-----	\$3,500	10/12/04	-----	\$177.27	Returned Item
1324	\$3,100	12/24/04	J. Young Hong	\$64.09	Payment Stopped
1325	\$3,300	12/24/04	Norman Adler	\$64.09	Payment Stopped
1326	\$2,750	12/24/04	Jai Keun Bae	\$64.09	Payment Stopped

7. Overall, eleven general account checks and three CTA checks were paid by Gary's Liquor Store and then refused by Respondent's bank. The five (5) NSF checks drawn on Respondent's CTA total approximately \$19,055.

8. In December 2004, Mr. Kim did not show up for work at Respondent's law office and could not be located at any time thereafter. Then, a few weeks after Mr. Kim's departure, Respondent discovered that a number of general account checks had been cashed at Gary's Liquor Store. Further, Respondent learned that his CTA checks had been presented and cashed at the same store. Respondent ultimately uncovered that the checking transactions were negotiated by Mr. Kim. However, Respondent did not report Mr. Kim's actions to law enforcement or take any further action regarding this matter even though Respondent was aware that Gary's Liquor Store had paid money out on the checks listed above but was not able to then negotiate these checks at Center Bank resulting in a monetary loss.

9. Starting approximately in the beginning of 2006, James Park ("Park") visited Respondent's law office demanding payment to cover the losses suffered by Gary's Liquor Store. Mr. Park explained to Respondent that he was the assignee of a series of bad checks drawn on Respondent's bank account and cashed by his assignor, Gary's Liquor Store. Respondent did not resolve this matter with Park at this time.

10. On or about April 13, 2006, Park sent a complaint form to the State Bar (the "Park matter") with a supplemental letter dated March 16, 2006. Park also told the State Bar that he was the assignee of a series of bad checks drawn on Respondent's bank account and cashed by his assignor, Gary's Liquor Store. Park included a copy of his First Amended complaint entitled *James Park v. George J. Paukert, et al.*, Los Angeles County Superior Court case no. BC344878.

11. On or about June 27, 2006, the State Bar sent a letter to Respondent that requested his written response to Park's allegations by July 10, 2006. Respondent received the letter.

12. On or about June 27, 2006, Respondent responded to the State Bar investigator stating he was presently negotiating with Park to settle the Park matter and indicating that the State Bar complaint would be withdrawn if a satisfactory financial settlement was reached between him and Park.

13. On or about July 14, 2006, Respondent further responded in writing to the State Bar to include other facts that were omitted from the Respondent's June 27, 2006, letter, and stated that Park might withdraw the State Bar complaint after settlement negotiation.

14. On or about August 10, 2006, Park requested the withdrawal of the State Bar complaint as the parties had negotiated a settlement.

15. On or about August 10, 2006, Park filed a partial dismissal with the civil court dismissing the Respondent from the civil suit as a condition of the settlement.

16. On or about August 16, 2006, the State Bar sent a letter to the Respondent stating the allegations raised by Park and requesting his written response by August 31, 2006, together with trust records. Respondent received the letter.

17. On or about August 28, 2006, Respondent responded to the State Bar letter and requested additional time to provide documentation and provide supplemental information, and stating that neither a police report nor insurance claim were filed against his Kim for Kim's unauthorized actions.

18. On or about August 29, 2006, Respondent sent a supplemental response to the State Bar, stating that Respondent had questions regarding the State Bar investigation and provided recommendations.

19. On or about September 11, 2006, Respondent sent a supplemental response to the State Bar. Respondent provided checks and statements for his Center Bank General Account and Trust Accounts as requested by the State Bar.

Conclusions of Law:

By allowing Mr. Kim to issue checks drawn upon Respondent's Center Bank CTA, when Respondent should have known that payment would not be made and Center Bank would not honor the checks because of insufficient funds and/or payment stopped in his Center Bank CTA, Respondent was grossly negligent and thereby failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in wilful violation of *Rules of Professional Conduct*, rule 4-100(A).

By failing properly supervise Mr. Kim's and failing to put into place reasonable procedures that would detect error, fraud or theft, Respondent intentionally, recklessly, or repeatedly failed perform legal services with competence in that Respondent failed to supervise his employees under his charge, in wilful violation of *Rules of Professional Conduct*, rule 3-110(A).

By entering into a verbal and written agreement with Park for the withdrawal of his State Bar complaint in order to settle the civil matter, Respondent agreed or sought an agreement that a party or complaining witness would withdraw a disciplinary complaint or would not cooperate with the investigation or prosecution conducted by the disciplinary agency, in wilful violation of *Business and Professions Code*, section 6090.5(a)(2)

C. AUTHORITIES SUPPORTING DISCIPLINE.

Standards:

Standard 2.2(b) states that culpability "...of a member of...the commission of another violation of rule 4-100, *Rules of Professional Conduct*, none of which offenses

result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.”

Standard 2.10 states that culpability “...of a violation of any provision of the Business and Professions Code not specified in these standards or of a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.”

Caselaw:

In *Matter of Blum* (2002) 4 Cal. State Bar Ct. Rptr. 403, the respondents failed, among other things, to properly maintain her client trust account and stipulated to a violation of *Rules of Professional Conduct*, rule 4-100(A). The attorney in *Blum* had significant mitigation, including 14 years of discipline-free practice, good character testimony, psychiatric testimony that the attorney was suffering from extreme emotional difficulties, an abusive law partner-husband whom she was relying on to take care of the trust account and being over-extended in a landmark fertility litigation case. The Review Department held that an attorney has a personal obligation of reasonable care to comply with the critically important rules for the safekeeping and disposition of funds. Further, the Review Department stated that even a reasonable reliance on another to care for the trust account does not relieve the attorney from the professional responsibility to properly maintain funds in that account and the attorney does not avoid that direct professional responsibility by, even reasonable reliance on a partner, associate or responsible employee. The Review Department then recommended a three-year period of stayed suspension and a thirty-day period of actual suspension.

In *Sternlieb v. State Bar* (1990) 52 Cal.3d 317, the court found that the attorney misappropriated slightly over \$4,000 of funds belonging to a client and her husband, but that the evidence did not support a finding of moral turpitude. The attorney had no prior discipline and had an excellent reputation as an attorney, and the trial court found that the misconduct was not likely to recur. *Sternlieb v. State Bar*, supra, 52 Cal.3d at pp. 331-332. Ultimately, the attorney was placed on probation for one year with a thirty-day actual suspension. *Id.* at p. 333. The Supreme Court held that although “...the evidence does not support the review department's finding that petitioner acted ‘dishonestly,’ it also fails to support the attorney’s claim that her belief, that she was authorized to use client trust funds for the payment of fees, was reasonable.” Further, the Supreme Court stated that “...the good faith of an attorney is not a defense to a charge of misappropriation, even if no person is injured by the attorney's failure to manage trust funds...”. Finally, the Supreme Court stated that discipline “...may be warranted even if the mismanagement was neither fraudulent nor willful. (Citing *Guzzetta v. State Bar* (1987) 43 Cal.3d 692, 976 and *Heavey v. State Bar* (1976) 17 Cal.3d 553, 558).

Comparison:

The present matter, like the matters presented in *Blum* and *Sternlieb*, involved the mishandling of the client trust account. Further, the present matter, like the matters presented in *Blum* and *Sternlieb*, involved situations where the attorney acted without moral turpitude yet still violated the obligations and duties pursuant to California Rules of Professional Conduct, rule 4-100(A). In addition, the Respondent herein, like the attorney in *Blum*, delegated his duties regarding the client trust account to another person. Finally, in the present matter, like the matters presented in *Blum* and *Sternlieb*, there are mitigating factors that support deviation from Standard 2.2(b) and the recommendation of a lesser degree of discipline in order to protect the public. Therefore, Respondent's discipline is consistent with the applicable standards and caselaw.

D. PENDING PROCEEDINGS.

The disclosure date referred to on page one, paragraph A. (7) was November 13, 2008.

E. COSTS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of November 13, 2008, the estimated prosecution costs in this matter are approximately \$4,391.00. Respondent acknowledges that this figure is an estimate only. 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.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6068.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in *Business and Professions Code*, section 6140.7 and as a money judgment unless relief has been granted under the *Rules of Procedure of the State Bar of California*. (*Rules Proc. of State Bar*, rule 286.)

In the Matter of
GEORGE J. PAUKERT

Case number(s):
06-O-13239

A Member of the State Bar

Law Office Management Conditions

- a. Within **90** days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/ months/ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

In the Matter of GEORGE J. PAUKERT	Case number(s): 06-O-13239
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

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 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";

(Financial Conditions form approved by SBC Executive Committee 10/16/2000. Revised 12/16/2004; 12/13/2006.)

- 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.

(Do not write above this line.)

In the Matter of GEORGE J. PAUKERT	Case number(s): 06-O-13239
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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.

Date	Respondent's Signature	George J. Paukert Print Name
<u>11-14-08</u>		Kevin Gerry Print Name
Date	Respondent's Counsel Signature	
<u>11-14-08</u>		Ashod Mooradian Print Name
Date	Deputy Trial Counsel's Signature	

(Do not write above this line.)

In the Matter of GEORGE J. PAUKERT	Case number(s): 06-O-13239
--	--------------------------------------

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.

11-14-08
Date



Respondent's Signature

George J. Paukert
Print Name

Date

Respondent's Counsel Signature

Kevin Gerry
Print Name

Date

Deputy Trial Counsel's Signature

Ashod Mooradian
Print Name

(Do not write above this line.)

In the Matter Of GEORGE J. PAUKERT	Case Number(s): 06-O-13239
--	--------------------------------------

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.)**

12-8-08
Date



Judge of the State Bar Court

RICHARD A. HONN

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 December 10, 2008, I deposited a true copy of the following document(s):

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

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

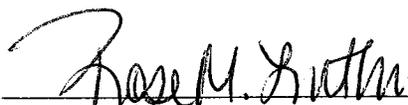
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KEVIN P. GERRY, ESQ.
1001 OLIVE ST
SANTA BARBARA, CA 93101

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

ASHOD MOORADIAN, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 10, 2008.



Rose Luthi
Case Administrator
State Bar Court