


State Bar Court of California
Hearing Department
San Francisco

Counsel For The State Bar Allen Blumenthal Supervising Trial Counsel 180 Howard Street San Francisco, CA 94105 Telephone: (415) 538-2000 Bar # 110243	Case Number (s) 06-O-13454	(for Court's use) PUBLIC MATTER FILED  MAY 14 2008 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Doron Weinberg 523 Octavia Street San Francisco, CA 94102 Telephone: (415) 431-3172 Bar # 46131	Submitted to: Settlement Judge	
In the Matter Of: Mark L Webb Bar # 67959 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO 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 **December 8, 1975**.
- (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 **10** 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."



(Do not write above this line.)

- (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):
- ☒ costs added to membership fee for calendar year following effective date of discipline.
 - ☐ 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 **96-O-08608, 97-O-1118, 97-O-14570**
 - (b) ☒ Date prior discipline effective **October 11, 2000**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **4-100(A), 4-100(B)(1), and 4-100(B)(4) of the Rules of Professional Conduct and section 6068(m) of the Business & Professions Code**
 - (d) ☒ Degree of prior discipline **private reproof**
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (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 misconduct delayed prior counsel from receiving his fees for two years.**
- (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

Respondent's ex-wife managed their law office and when they separated respondent had some difficulty in managing his new law office. Respondent recognizes it is his duty to manage his law office and promptly disburse settlement funds to the proper party, including prior counsel who have a lien on the case.

D. Discipline:

(1) ☒ **Stayed Suspension:**

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

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

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

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

E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ 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.
- (3) ☒ 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.
- (4) ☒ 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.

- (5) ☐ 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.

- (6) ☒ 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.
- (7) ☒ 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 State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☐ 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.
- (9) ☐ 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 within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason:
- (2) ☒ **Other Conditions:**

LAW OFFICE MANAGEMENT CONSULTANT

(A) Respondent will engage the services of Rita DeAngelis ("DeAngelis"), a professional law office management consultant, at his own expense. Promptly upon the effective date of this suspension, respondent will schedule all necessary meetings and appointments with DeAngelis, to allow her to evaluate respondent's office practices and to recommend policies and procedures for him to follow to ensure that "best practices" for operating a law office are followed by him and his staff. At a minimum, DeAngelis' recommended policies and procedures, will include procedures to: (1) send periodic reports to clients based on regular file review; (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, including when respondent is away from the office engaged in court proceedings; (7) review, operate and maintain a client trust account; (8) train and supervise personnel in dealing with liens on cases; and (9) address any other subject area or deficiency that caused or contributed to respondent's misconduct in the current matter. Respondent will cooperate fully with DeAngelis to allow her to evaluate his office policies and procedures, including by granting her access to his bookkeeping, record keeping, and file keeping systems, allowing her to interview any and all staff members, and allowing her to review his trust accounting practices.

(B) Within 60 (sixty) days of the effective date of this suspension, DeAngelis will provide respondent with a written report and recommendation, including recommended office policies and

procedures. A copy of this report and recommendation, with recommended office policies and procedures, will be simultaneously provided by DeAngelis to the Office of Probation and Supervising Trial Counsel, Allen Blumenthal. By executing this stipulation, respondent agrees that DeAngelis may disclose copies of her report and recommendation, with recommended office policies and procedures, as described in this paragraph. Respondent agrees to comply with DeAngelis' report and recommendations.

(C) In all quarterly reports beginning 90 days after the effective date of his suspension, respondent will state under penalty of perjury the following:

- (1) That he hired Ms. DeAngelis;
- (2) Whether and when Ms. DeAngelis has reviewed his office management and procedures;
- (3) Whether and when respondent has received a copy of Ms. DeAngelis' report and recommendations;
- (4) That he is managing his office in conformity with DeAngelis' written report and recommendations;

(D) By executing this stipulation, respondent agrees: (1) that the Office of the Chief Trial Counsel may provide a copy of this stipulation to DeAngelis; and (2) that the Office of the Chief Trial Counsel and the Office of Probation may freely discuss any issues related to respondent's law office management with DeAngelis.

(E) By executing this stipulation, respondent agrees that DeAngelis may report to the Office of Probation and the Office of the Chief Trial Counsel failures by respondent to comply with the conditions of this stipulation known to her.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Mark L. Webb

CASE NUMBER(S): 06-O-13454 ET AL.

FACTS AND CONCLUSIONS OF LAW.

Facts

1. On or about May 5, 2003, Betty Singer was seriously injured in an automobile accident.
2. Subsequently, Ms. Singer hired attorney Craig H. Collins to represent her. After doing some work for Ms. Singer, Mr. Collins and Ms. Singer disagreed about the approach to be taken on the case and Mr. Collins withdrew from representing Ms. Singer on or about June 26, 2003. They agreed at that time that Mr. Collins would have a lien on Ms. Singer's case for \$2,323 for Mr. Collins' services in this matter. Subsequently, Mr. Collins noticed his lien in this matter.
3. On or about February 18, 2004, Ms. Singer hired respondent to represent her in this matter. At the time he was hired, Respondent was made aware of Mr. Collins' lien.
4. On or about September 14, 2004, respondent settled Ms. Singer's case for \$710,000 with CNA Insurance Company (hereinafter CNA). On or about September 27, 2004, CNA issued a check to respondent and Ms. Singer in the amount of \$703,301.59 and a check to Dr. Robert F. Gravina for \$2,875 for services rendered to Ms. Singer. The rest of the settlement funds had been previously advanced. Respondent received the \$703,301.59 check and deposited the funds into his client trust account. Subsequently, respondent disbursed funds to himself and Ms. Singer. He withheld funds to pay liens, including withholding \$2,323 to pay Mr. Collins. Ms. Singer instructed respondent to pay Mr. Collins' lien.
5. In or about December 2004, Mr. Collins was contacted by Ms. Singer and asked if he had been paid his fees. He had not. On or about December 8, 2004, Mr. Collins wrote respondent requesting that respondent forward the \$2,323 to him. Respondent received this letter from Mr. Collins by on or about December 13, 2004.
6. Subsequently, respondent failed to pay Mr. Collins the \$2,323. He also failed to

respond or communicate with Mr. Collins.

7. From on or about December 13, 2004 to on or about June 14, 2006, respondent failed to pay Mr. Collins the \$2,323, despite being aware of Mr. Collins' lien, being aware of Ms. Singer's authorization for respondent to pay those funds, and despite Mr. Collins' December 8, 2004 letter. On or about June 14, 2006 Respondent paid Mr. Collins the \$2,323 owed, but only after he complained to the State Bar of California regarding respondent's failure to pay the lien.

8. At all times, respondent maintained the \$2,323 in his client trust account.

Conclusions of Law

9. By failing to promptly honor Mr. Collins' lien, by failing to disburse the funds withheld for him, despite Ms. Singer's instructions, and by failing to communicate with Mr. Collins, despite his December 8, 2004 letter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of rule 3-110(A) of the Rules of Professional Conduct. (See *In the Matter of Riley* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91, 111-112.)

10. By failing to promptly honor Mr. Collins' lien and communicate with him, despite the client's authorization, respondent wilfully violated his common law fiduciary duty to Mr. Collins as a lien holder in the matter, in violation of section 6088(a) of the Business & Professions Code. (*In the Matter of Riley*, supra, 3 Cal. State Bar Ct. Rptr. at 110-111.)

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was April 11, 2008.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.4(b) recommends a reproof or suspension for a wilful failure to perform in a matter not demonstrating a pattern of misconduct. Standard 2.6 recommends disbarment or suspension for a violation section 6068 of the Business & Professions Code. Standard 1.7(a) states that an attorney who has a prior record of discipline shall receive a discipline greater than was received in the prior discipline.

The Supreme Court recently re-affirmed that great weight is to be given the Standards and that they should be followed whenever possible. (*In re Silvertown* (2005) 36 Cal.4th 81, 92.)

Thus, while the Standards are not mandatory, the Supreme Court has held that they should be followed unless the charged attorney can demonstrate the existence of extraordinary

circumstances justifying a lesser sanction. (*In re Silverton*, supra, 36 Cal.4th at 92.) That is, it is Respondent's burden to demonstrate that there are extraordinary circumstances justifying a lesser sanction than that recommended by the Standards.

In *In the Matter of Riley*, supra, 3 Cal. State Bar Ct. Rptr. at 91, an attorney was suspended for one year, stayed with 90 days actual suspension for numerous failures to honor medical liens and other violations. Riley had no prior record of discipline.

Here, respondent had separated from his wife, who was also his law partner and managed their law office. He failed to pay the lien because he was too busy and had inadequate office procedures. Respondent has a prior record of discipline. In 2000, respondent received a private reproof for two counts of commingling and one count of failing to notify and disburse money to lien holders. He was sent to Ethics School and Trust Account Ethics School as conditions of his private reproof.

However, even taking respondent's prior record of discipline into account, his misconduct is not as severe or numerous as Riley's misconduct. Usually, misconduct similar to respondent's misconduct would result in a period of actual suspension, but due to his cooperation and agreement to have a management consultant come in and examine his office procedures and create an office management plan that respondent will abide by so that similar misconduct does not reoccur, the State Bar believes that a stayed suspension with the conditions noted here is warranted and protects the public.

Respondent is made aware by this stipulation that should misconduct occur in the future, or he does not comply with the conditions of this discipline he can expect severe discipline, including disbarment.

(Do not write above this line.)

In the Matter of Mark L. Webb	Case number(s): 06-O-13454
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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.

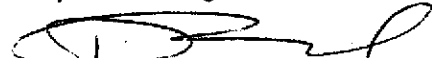
4/28/08
Date

4/28/08
Date

5/1/08
Date


Respondent's Signature

Mark L. Webb
Print Name


Respondent's Counsel Signature

Doron Weinberg
Print Name


Deputy Trial Counsel's Signature

Allen Blumenthal
Print Name

(Do not write above this line.)

In the Matter Of
Mark L. Webb

Case Number(s):
06-O-13454

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.)**

Date

May 14, 2008

Judge of the State Bar Court

Bar McElen

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 San Francisco, on May 14, 2008, I deposited a true copy of the following document(s):

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

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


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

**DORON WEINBERG
523 OCTAVIA ST
SAN FRANCISCO, CA 94102**

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

ALLEN BLUMENTHAL, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 14, 2008.


Laurretta Cramer
Case Administrator
State Bar Court