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

|  |   |  |
|--|---|--|
| <p>Counsel For The State Bar</p> <p><b>Michael J. Glass</b><br/> <b>Deputy Trial Counsel</b><br/> <b>1149 S. Hill Street</b><br/> <b>Los Angeles, CA 90015</b><br/> <b>(213) 765-1254</b></p> <p>Bar # <b>102700</b></p> | <p>Case Number (s)<br/> <b>06-O-14203 DFM</b><br/> <b>07-O-11093</b><br/> <b>07-C-10608</b></p>   | <p>(for Court's use)</p> <p align="center"><b>FILED</b></p> <p align="center">SEP 11 2009 <i>YSC</i></p> <p align="center">STATE BAR COURT<br/>         CLERK'S OFFICE<br/>         LOS ANGELES</p> <p align="center"><b>PUBLIC MATTER</b></p> |
| <p>In Pro Per Respondent</p> <p><b>Andrew Levy</b><br/> <b>Law Ofc Andrew Levy</b><br/> <b>543 Country Club Dr. #B417</b><br/> <b>Simi Valley, CA 93065</b><br/> <b>(805) 750-3113</b></p> <p>Bar # <b>153999</b></p>    | <p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND<br/>         DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> |  |
| <p>In the Matter Of:<br/> <b>ANDREW LEVY</b></p> <p>Bar # <b>153999</b></p> <p>A Member of the State Bar of California<br/>         (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 **September 30, 1991**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **18** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."



- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: **prior to February 1 in three billing cycles following the effective date of the discipline.**  
(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 **00-O-14761**
  - (b) ☒ Date prior discipline effective **October 13, 2006**
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **rules 3-110(A), 3-300(A), 3-700(D)(2), 110(A), and 4-100(A) of the Rules of Professional Conduct.**
  - (d) ☒ Degree of prior discipline **Two year stayed suspension and until Respondent complies with standard 1.4(c)(ii), two years probation with conditions, including a one year actual suspension.**
  - (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. **See Attachment Page 7.**
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **See Attachment Page 7.**
- (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. **See Attachment Pages 7-8.**
- (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**

#### D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **three (3) years**.

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

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **three (3)**, 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 **two (2) years**.

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

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

☐ No MPRE recommended. Reason: .

- (2) ☒ **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

In the Matter of

ANDREW LEVY

A Member of the State Bar

Case number(s):

06-O-14203-DFM

07-O-11093

07-C-10608

### Law Office Management Conditions

- a. ☐ Within        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/    8 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    8    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          | Case number(s):  |
| ANDREW LEVY               | 06-0-14203 - DFM |
| A Member of the State Bar | 07-0-11093       |
|                           | 07-C-10608       |

### 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 reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

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

#### c. Client Funds Certificate

- ☒ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from ~~Respondent and/or~~ a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";



b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
  1. the name of such client;
  2. the date, amount and source of all funds received on behalf of such client;
  3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
  4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
  1. the name of such account;
  2. the date, amount and client affected by each debit and credit; and,
  3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

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

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

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

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

**d. Client Trust Accounting School**

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

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

IN THE MATTER OF:                      Andrew Levy

CASE NUMBER(S): ET AL.              06-O-14203; 07-O-11093; 07-C-10608

**FACTS AND CONCLUSIONS OF LAW**

Respondent Andrew Levy ("Respondent") admits that the following facts are true and that he is culpable of violation of the specified statutes and/or Rules of Professional Conduct.

**Case No. 06-O-14203**

1. In or about October 2005, Ms. Angelica Kampa ("Kampa") employed Respondent to represent her, on a contingency fee basis, in a personal injury matter which occurred on September 22, 2005. Pursuant to their written fee agreement, Respondent was entitled to a fee of 33 1/3% of any recovery before a lawsuit was filed.
2. Prior to the filing of a lawsuit, Respondent settled Ms. Kampa's case. On July 10, 2006, the defendant's insurer issued a settlement draft in the amount of \$10,000.00 made payable to Ms. Kampa and Respondent. On July 20, 2006, Respondent deposited the settlement draft into Respondent's Client Trust Account, Account Number 0221979990 at Wells Fargo Bank ("cta"). After the deposit of the settlement draft, the balance in Respondent's cta was \$10,011.55.
3. On July 24, 2006, Respondent issued check no. 2094, from his cta, in the amount of \$3,333.33, made payable to Respondent as attorneys fees in the Kampa matter, leaving a balance of \$6,678.22 in his cta.
4. On July 31, 2006, Respondent issued check no. 2095, from his cta, in the amount of \$2,886.46, made payable to "Cash", leaving a balance of \$3,791.76 in his cta. These funds were used with Ms. Kampa's authorization and consent to pay Ms. Kampa's medical bills with Family Health Group.
5. On August 1, 2006, Respondent issued check no. 2096, from his cta, in the amount of \$3,780.21, made payable to "Cash", leaving a balance of \$11.55 in his cta. Respondent paid these funds to Saul Carrillo, Ms. Kampa's brother, whom Respondent believed Ms. Kampa had authorized to receive said funds on her behalf. Ms. Kampa subsequently received the funds from Mr. Carrillo with Ms. Kampa's authorization and consent.
6. Between July 31, 2006, and August 1, 2006, Respondent did not maintain the \$3,780.21 as Ms. Kampa's share of the settlement funds in his cta on behalf of Kampa.
7. On September 12, 2006, Respondent deposited a check from West Coast Escrow, dated September 11, 2006, in the amount of \$49,794.92, made payable to Liberty Financial Goup, LLC, a California Limited Liability Company, in his cta. The \$49,794.92 in funds belonged to Respondent.

## Conclusions of Law

8. By not maintaining at least \$3,780.21 received on behalf of Kampa in his cta, Respondent willfully failed to maintain client funds in a client trust account in violation of Rule 4-100(A) of the Rules of Professional Conduct.

9. By depositing the West Coast Escrow check in the amount of \$49,794.92 into his cta Respondent willfully deposited or commingled funds belonging to him in his cta in violation of rule 4-100(A) of the Rules of Professional Conduct.

### Case No. 07-O-11093

1. On May 24, 2006, Respondent entered into a Stipulation of Facts and Disposition ("Stipulation") with the State Bar in State Bar Court Case Nos. 00-O-14761; 01-O-02226; 01-O-04636; 01-O-05327; 04-O-10813; 05-O-01347 (Investigation); 06-O-10721 (Investigation);, and 06-O-11577 (Investigation) ("hereinafter, Case Nos. 00-O-14761 et al."). On May 31, 2006, the Hearing Department filed and served its Order Approving the Stipulation in Case Nos. 00-O-14761, et al.

2. On September 13, 2006, the Supreme Court of California filed its Order in Case No. S144988 (State Bar Court Case Nos. 00-O-14761 et al.), ordering that discipline be imposed as to Respondent consisting of a stayed two year suspension and until Respondent complies with standard 1.4(c)ii, two years probation with conditions, including a one year actual suspension. The discipline became effective October 13, 2006.

3. Under the conditions of probation, Respondent was required to file timely quarterly reports, CPA Reports, complete 8 hours of Minimum Continuing Legal Education ("MCLE") approved courses in law office management, attorney/client relations, or general legal ethics, apart from any separate MCLE requirement, and submit proof of completion to the Office of Probation for the State Bar of California ("Office of Probation"), within six months of the effective date of the discipline, pay restitution to Lilia Rodriguez (including the principal amount, plus 10 % per annum accruing from November 23, 2004) in the principal amount of \$7,085.00, payable at a monthly rate of a minimum of \$500.00 beginning May 28, 2006, and the 28<sup>th</sup> day of each month thereafter until fully paid, and to provide satisfactory proof of payment to the Office of Probation with each quarterly report.

4. On September 21, 2006, the Office of Probation wrote Respondent a letter advising Respondent of the terms and conditions of Respondent's probation in connection with the Stipulation and Supreme Court Order.

5. Respondent did not file timely quarterly reports for January 10, 2007, April 10, 2007, and July 10, 2007. Respondent's January 10, 2007, quarterly report was not filed until September 27, 2007; his April 10, 2007 quarterly report was not filed until May 10, 2007, and his July 10, 2007, quarterly report was not filed until July 19, 2007.

6. Respondent did not file timely CPA reports for January 10, 2007, April 10, 2007, and July 10, 2007. Respondent's January 10, 2007, CPA report was not filed until September 27, 2007; his April 10, 2007 CPA report was not filed until May 10, 2007, and his July 10, 2007, CPA report was not filed until July 19, 2007.

7. Respondent did not provide the Office of Probation with satisfactory proof of completion of the 8 units of approved MCLE courses in law office management, attorney/client relations, or general legal ethics, by May 13, 2007. To date, Respondent has failed to provide the Office of Probation with satisfactory proof of completion of the 8 units of approved MCLE courses.

8. Respondent also failed to comply with the conditions of probation regarding restitution to Lilia Rodriguez. In this regard, Respondent's check to Ms. Rodriguez, in the amount of \$500.00, dated August 26, 2006, was returned unpaid due to insufficient funds. Respondent made no monthly restitution payments to Ms. Rodriguez between August 2006 and August 2007.

9. On or about September 17, 2007, Respondent mailed money orders to the Office of Probation, totaling \$7,540.00, on behalf of Ms. Rodriguez, in payment of the principal and interest Respondent owed her.

#### Conclusions of Law

10. By failing to comply with the conditions of probation as set forth above, Respondent willfully violated Business and Professions Code section 6068(k).

#### Case No. 07-C-10608

1. On November 7, 2007, Respondent pled Nolo Contendere to violating Penal Code section 273.6(a) (Disobeying a Domestic Relations Order), a misdemeanor.

2. In the underlying matter, on October 28, 2006, at 9:08 p.m., Respondent was involved in a domestic dispute with this then wife, Yvonne Levy ("Mrs. Levy"). Mrs. Levy accused Respondent of grabbing her arm, choking her, threatening to kill her, and disconnecting the phone lines. Mrs. Levy called the Simi Valley Police who arrested Respondent for violating Penal Code section 243(e)(1)(Domestic Violence); Penal Code section 422 (Criminal Threats; and Penal Code section 136.1(b)(1)(Intimidating a Victim/Witness from Reporting a Crime). The arresting officer, Officer Yaroway, asked Mrs. Levy if she desired an Emergency Protective Order ("EPO"). Mrs. Levy stated that she wanted an EPO as she feared for her life due to Respondent's conduct.

3. On October 28, 2006, Judge Back, the Judge on call, issued an EPO in favor of Mrs. Levy which ordered Respondent to move out of the family residence and precluded Respondent from contacting, telephoning, harassing, and stalking Mrs. Levy. The EPO expired on November 3, 2006, at 5:00 p.m. On October 28, 2006, Officer Yaroway served Respondent with the EPO.

4. On October 31, 2006, at 11:41 a.m., Mrs. Levy called the police because Respondent had made some phone calls to Mrs. Levy. Officer Carney arrived and interviewed Mrs. Levy. While Officer Carney was interviewing Mrs. Levy, Respondent called Mrs. Levy on her cell phone. Officer Carney recorded the phone call. Respondent asked Mrs. Levy if she could help Respondent get his belongings. Mrs. Levy told Respondent he was in violation of the EPO. Respondent said he would stop calling, but just wanted to get his belongings. About 20 minutes later Respondent called Mrs. Levy again. Mrs. Levy stated that Respondent was in violation of the EPO. Respondent stated that he wanted to meet with Mrs. Levy. Mrs. Levy hung up and began to cry hysterically. Mrs. Levy advised Officer Carney that Respondent was staying at Respondent's parent's house at 456-D Country Club Drive in Simi Valley.

5. Officer Carney then went to Respondent's parent's house and called Respondent by cell phone. Officer Carney said he needed to talk to Respondent. The garage door at Respondent's parent's residence then opened and Respondent came out. Officer Carney then arrested Respondent for violating

Penal Code section 273.6(d)(Violating a Domestic Violence Protective Order) for calling Mrs. Levy. Respondent told Officer Carney that Mrs. Levy had called Respondent first, and that Respondent had not been given an opportunity to get his belongings.

6. Mrs. Levy accused Respondent of grabbing her arm, choking her, threatening to kill her, and disconnecting the phone lines. Mrs. Levy called the Simi Valley Police who arrested Respondent for violating Penal Code section 243(e)(1)(Domestic Violence); Penal Code section 422 (Criminal Threats; and Penal Code section 136.1(b)(1)(Intimidating a Victim/Witness from Reporting a Crime). The arresting officer, Officer Yaroway, asked Mrs. Levy if she desired an Emergency Protective Order ("EPO"). Mrs. Levy stated that she wanted an EPO as she feared for her life due to Respondent's conduct.

7. On October 28, 2006, Judge Back, the Judge on call, issued an EPO in favor of Mrs. Levy which ordered Respondent to move out of the family residence and precluded Respondent from contacting, telephoning, harassing, stalking, etc. Mrs. Levy. The EPO expired on November 3, 2006, at 5:00 p.m. On October 28, 2006, Officer Yaroway served R with the EPO.

8. On October 31, 2006, at 11:41 a.m., Mrs. Levy called the police because Respondent had made some phone calls to Mrs. Levy. Officer Carney arrived and interviewed Mrs. Levy. While Officer Carney was interviewing Mrs. Levy, Respondent called Mrs. Levy on her cell phone. Officer Carney recorded the phone call. Respondent asked Mrs. Levy if she could help Respondent get his belongings. Mrs. Levy told Respondent he was in violation of the EPO. Respondent said he would stop calling, but just wanted to get his belongings. About 20 minutes later Respondent called Mrs. Levy again. Mrs. Levy stated that Respondent was in violation of the EPO. Respondent stated that he wanted to meet with Mrs. Levy. Mrs. Levy advised Officer Carney that Respondent was staying at Respondent's parent's house at 456-D Country Club Drive in Simi Valley.

9. Officer Carney then went to Respondent's parent's house and called Respondent by cell phone. Officer Carney said he needed to talk to Respondent. Respondent said he was out of the city and would not be back for several hours. Officer Carney told Respondent to call him when Respondent returned. The garage door at Respondent's parent's residence then opened and Respondent came out. Officer Carney called out to Respondent and Respondent turned around. Officer Carney asked Respondent why he had lied to Officer Carney by saying that he was out of town. Respondent said that he told Officer Carney that he was leaving town. Officer Carney then arrested Respondent for violating Penal Code section 273.6(d)(Violating a Domestic Violence Protective Order) for calling Mrs. Levy. Respondent told Officer Carney that Mrs. Levy had called Respondent first, and that Respondent had not been given an opportunity to get his belongings.

10. On February 16, 2007, the Ventura County District Attorney filed five count Information against Respondent alleging: Count 1-violation of Penal Code section 136.1(b)(1) (Dissuading a Witness From Reporting a Crime), a felony; Count 2-violation of Penal Code section 243(e)(1) (Battery), a misdemeanor; Count 3-violation of Penal Code section 243(e)(1)(Battery), a misdemeanor; Count 4-violation of Penal Code section 273.6(a) (Disobeying Domestic Relations Court Order), a misdemeanor; Count 5-violation of Penal Code section 166(a)(4) (Disobeying Court Order), a misdemeanor.

11. On November 7, 2007, Respondent pled Nolo Contendere to Count 4-violation of Penal Code section 273.6(a) (Disobeying Domestic Relations Court Order), a misdemeanor. The remaining Counts were dismissed.

12. On December 16, 2008, imposition of sentence was suspended and Respondent was released on 36 months formal probation with conditions including, but not limited to, eight (8) days in jail with credit for eight (8) days time actually served, weekly attendance at sessions of domestic violence counseling for a period of one (1) year, \$100.00 fine, \$300.00 fee to be paid to the Ventura County Women's Shelter, and a \$400.00 fee to be paid to the State Domestic Violence Fund. Respondent was also ordered not to annoy, molest, harass, or use force or violence on Mrs. Levy. Respondent is in compliance with all terms of his probation.

13. On January 15, 2009, Respondent filed a Notice of Appeal in regard to his plea of Nolo Contendere to Count 4-violation of Penal Code section 273.6(a) (Disobeying Domestic Relations Court Order), a misdemeanor.

14. On June 19, 2009, an order was filed dismissing Respondent's Appeal in regard to his plea of Nolo Contendere to Count 4-violation of Penal Code section 273.6(a) (Disobeying Domestic Relations Court Order), a misdemeanor.

#### Conclusions of Law

15. The parties stipulate that the facts and circumstances surrounding Respondent's Nolo Contendere plea to and conviction for violating Penal Code section 273.6(a) (Disobeying Domestic Relations Order), a misdemeanor, involved other misconduct warranting discipline.

16. By entering a plea of Nolo Contendere and being convicted of violating Penal Code section 273.6(a) (Disobeying Domestic Relations Order), a misdemeanor, Respondent willfully violated a law of this state in violation of Business and Professions Code section 6068(a).

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was August 11, 2009.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 11, 2009, the prosecution costs in this matter are \$7,686.00. 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.

#### **PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING.**

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

2. On November 7, 2007, respondent was convicted of violating Penal Code section 273.6(a) (Disobeying Domestic Relations Order), a misdemeanor.

3. On January 17, 2009, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: Whether there is probable cause to believe the facts and circumstances surrounding Respondent's conviction for violating Penal Code section 273.6(a), a misdemeanor, involved moral turpitude. If the Hearing Department finds probable cause, the Review Department will consider placing Respondent on interim suspension pursuant to Business and Professions Code section 6102. If Respondent waives finality of conviction, the Hearing Department is to conduct a hearing and file a decision as to whether the facts and circumstances surrounding the violation involved moral turpitude or other misconduct warranting discipline, and if so found, the discipline to be imposed or recommended.

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

Under Standard 1.7(a), Respondent has one prior discipline and "the degree of discipline in the current proceeding shall be greater than that imposed in the prior proceeding unless prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline would be manifestly unjust."

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

Under Standard 2.2(b), "Culpability of a member of commingling of entrusted funds or property with personal property or 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."

Under Standard 2.6, "Culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension depending on 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: (a) Sections 6067 through 6068...."

Standard 3.4 provides that, "Final conviction of a member of a crime which does not involve moral turpitude inherently or in the facts and circumstances surrounding the crime's commission but which does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of these standards appropriate to the nature and extent of the misconduct found to have been committed by the member."

In *Bate v. State Bar* (1983) 34 Cal. 3d 920, the Attorney misappropriated \$2,221.15 in client settlement funds and converted the funds to his own use and benefit without client knowledge or consent. The court imposed discipline consisting of a five year stayed suspension, five years probation including three years actual suspension. In aggravation the Attorney had a casual attitude toward the disciplinary process and made no offer of restitution. In mitigation the Attorney had no priors in 10

years of practice. The Attorney had also received death threats and used the misappropriated funds to travel outside the country to "think the matter out."

In *In Re Otto* (1989) 48 Cal. 3d 970, Respondent was convicted on felony charges of assault by means likely to produce great bodily injury and infliction of corporal punishment on a cohabitant of the opposite sex resulting in a traumatic condition. The trial court reduced both counts to misdemeanors. The Supreme Court found that Respondent's conduct did not involve moral turpitude. The Supreme Court imposed discipline consisting of a two year stayed suspension, two years probation with conditions including a six month actual suspension. The Supreme Court did not discuss any aggravating or mitigating circumstances.

In *In Re Larkin* (1989) 48 Cal. 3d 236, Respondent was convicted of assault with a deadly weapon, in violation of Penal Code section 245(a)(1), a misdemeanor, and conspiracy to commit assault with a deadly weapon, in violation of Penal Code section 182, a misdemeanor. The Hearing Panel and Review Department found that Respondent's conduct did not involve moral turpitude. The Supreme Court declined to decide the issue of moral turpitude. The Supreme Court imposed discipline consisting of a three year stayed suspension, three years probation with conditions including a one year actual suspension. In mitigation the court noted that Respondent suffered from emotional distress, suffered from substance abuse, had no prior record of discipline, had a physical handicap, had extensive bar activities, had done pro bono work, and demonstrated that the misconduct was aberrational conduct and would not reoccur.

## **AGGRAVATING CIRCUMSTANCES.**

### **FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.**

Under standard 1.2(b)(iv), in Case No. 06-O-14203, Respondent's misconduct significantly harmed his client Kampa as Respondent failed to maintain \$3,780.21 of his client Kampa's settlement funds in his cta.

Under standard 1.2(b)(iv), in Case No. 07-O-11093, Respondent's misconduct significantly harmed the administration of justice as Respondent failed to comply with the terms of his probation in Supreme Court Case No. S144988 (State Bar Court Case Nos. 00-O-14761 et. al.).

Under standard 1.2(b)(ii), in Case Nos. 06-O-14203; 07-O-11093; and 07-C-10608, Respondent's misconduct evidences multiple acts of wrongdoing as Respondent failed to maintain at least \$3,780.21 in his cta on behalf of his client Kampa, commingled \$49,794.92 in funds belonging to Respondent with funds in Respondent's cta, failed to comply with the terms of his probation in Supreme Court Case No. S144988 (State Bar



Court Case Nos. 00-O-14761 et. al.), and pled Nolo Contendere and was convicted of violating Penal Code section 273.6(a), a misdemeanor.

**MITIGATING CIRCUMSTANCES.**

None.

**STATE BAR ETHICS SCHOOL.**

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

**DISMISSALS**

In the interest of justice, the State Bar dismisses with prejudice, Count Two of Case No. 06-O-14203-Business and Professions Code section 6106 of the Notice of Disciplinary Charges filed on October 3, 2008.

(Do not write above this line.)

In the Matter of  
Andrew Levy

Case number(s):

06-O-14203

07-O-11093

07-C-10608

### 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.

August 24 2009  
Date

  
Respondent's Signature

Andrew Levy  
Print Name

Date

Respondent's Counsel Signature

Print Name

August 24 2009  
Date

  
Deputy Trial Counsel's Signature

Michael J. Glass  
Print Name

(Do not write above this line.)

|  |  |
|--|--|
| In the Matter Of<br><b>Andrew Levy</b> | Case Number(s):<br><b>06-O-14203</b><br><b>07-O-11093</b><br><b>07-C-10608</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.

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.)**

8/27/09

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 11, 2009, I deposited a true copy of the following document(s):

### STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

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:

**ANDREW LEVY  
LAW OFC ANDREW LEVY  
543 COUNTRY CLUB DR #B417  
SIMI VALLEY, CA 93065**

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

**MICHAEL GLASS, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 11, 2009.

  
\_\_\_\_\_  
Tammy Cleaver  
Case Administrator  
State Bar Court