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

Counsel For The State Bar Bita Shasty 1149 S. Hill Street Los Angeles, California 90015 Bar # 225177	Case Number (s) 06-O-14235-RAP; Investigation No. 07-O-13173	(for Court's use) FILED APR 02 2009 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent Edward O. Lear Century Law Group LLP 5200 West Century Blvd., Ste. 345 Los Angeles, CA 90045 Bar # 132699	Submitted to: Assigned Judge	
In the Matter Of: GREGORY ALLEN PAIVA Bar # 207218 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 5, 2000**.
- (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 **15** 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.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension

(Do not write above this line.)

- (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:

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 has been a member of the California State Bar for 8 years and has no prior record of discipline.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **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 **2 years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **60 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.

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- (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 type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 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.

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

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GREGORY ALLEN PAIVA

CASE NUMBER(S): 06-O-14235-RAP; 07-O-13173

FACTS AND CONCLUSIONS OF LAW.

Respondent Gregory Allen Paiva ("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.

CASE NO. 06-O-14235-RAP

FACTS

1. On August 2, 2005, Renee Joy Young passed away.
2. On August 31, 2005, attorney Beverly Sparrow filed a Petition for Probate of Will and for Letters Testamentary on behalf of her client, Regina Abernathy, asking that Abernathy be appointed the executor of Young's estate (the "probate matter").
3. On November 14, 2005, the court appointed Abernathy as the special administrator of Young's estate.
4. On January 13, 2006, Respondent filed a substitution of attorney, substitution himself in place of Sparrow as the attorney of record for Abernathy in the probate matter.
5. On April 11, 2006, the court held a hearing regarding the Petition for Probate of Will and for Letters Testamentary in the probate matter. Respondent appeared at the April 11, 2006 hearing. On or about April 11, 2006, the court appointed Abernathy as the Executor of Young's estate and gave her the full authority to administer the estate under the Independent Administration of Estates Act. During the April 11, 2006 hearing, the court also ordered the letters testamentary be issued.
6. At all times relevant herein, Respondent maintained a trust checking account at Wells Fargo Bank, designated account no. xxx-x332089 ("trust account").

7. On July 11, 2006, Beverly Sparrow issued a cashier's check to Respondent turning over \$17,613.56 in funds belonging to the Young estate. Sparrow also provided an estate accounting to Respondent.

8. On July 14, 2006, Respondent deposited the \$17,613.56 into his trust account.

9. On July 20, 2006, Respondent issued trust account check number 1661 to Visterra Credit Union in the amount of \$2,430 to bring the second mortgage on the Young property current. Check number 1661 cleared Respondent's trust account on July 25, 2006.

10. On July 24, 2006, Respondent issued trust account check number 1662 to Visterra Credit Union in the amount of \$649.20 to pay the balance due on foreclosure fees owed on the Young property. Check number 1662 cleared Respondent's trust account on July 26, 2006.

11. On July 24, 2006, Respondent issued an invoice to Abernathy stating that he had also paid \$110.00 to Bond Services of California on behalf of the Young estate.

12. After July 24, 2006, Respondent did not disburse any other funds on behalf of the Young estate.

13. As of August 9, 2006, Respondent was required to maintain \$14,424.36 in his trust account on behalf of the Young estate.

14. On or about August 9, 2006, the balance in Respondent's trust account was \$13,828.94.

15. On November 1, 2006, Abernathy wrote Respondent terminating his services and requesting an accounting of the funds he was to hold for the Young Estate. On or about November 1, 2006, Abernathy properly mailed the letter to Respondent. Respondent received the November 1, 2006 letter.

16. On November 8, 2006, Abernathy wrote Respondent requesting her file, an accounting and the funds belonging to the Young estate. On or about November 8, 2006, Abernathy sent the letter to Respondent by facsimile. Respondent received the November 8, 2006 letter.

17. On November 28, 2006, the balance in Respondent's trust account was \$13,508.94.

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18. As of December 1, 2006, Respondent was required to maintain \$14,424.36 in his trust account on behalf of the Young estate.

19. On December 1, 2006, the balance in Respondent's trust account had fallen to \$12,508.94.

20. In December 2006, Respondent deposited funds into his trust account unrelated to the Young estate. Thereafter, the balance in Respondent's trust account remained above the \$14,424.36 balance Respondent was required to maintain on behalf of the Young estate.

21. On March 22, 2007, Respondent transferred the funds belonging to the Young estate to Auton-Beck. Specifically, or about March 22, 2007, Respondent issued check number 1684 to Auton-Beck from his trust account in the amount of \$14,424.36. Check number 1684 cleared Respondent's trust account on March 26, 2007.

22. On October 1, 2006, Respondent sent an invoice to Abernathy, which stated that he had issued trust account check number 1669 to Visterra Credit Union in the amount of \$1,458 on behalf of the Young estate. This statement was false and Respondent knew or was grossly negligent in not knowing it was false.

23. On October 25, 2006, Respondent wrote the State Bar and represented that he had issued trust check number 1669 to Visterra Credit Union in the amount of \$1,458 to pay the second mortgage owed by the Young State. This statement was false and Respondent knew or was grossly negligent in not knowing it was false.

24. On or about December 1, 2006, trust account check number 1669 in the amount of \$1,000 cleared Respondent's trust account. As a result, the balance in Respondent's trust account fell to \$12,508.94.

25. On or about January 8, 2007, Respondent wrote Abernathy regarding the funds belonging to the Young Estate and sent a copy of the letter to a State Bar Investigator. In the January 8, 2007 letter, Respondent told Abernathy that trust account check number 1669 had not cleared the account, and, as a result, he had put a stop payment on the check. This statement was false and Respondent knew or was grossly negligent in not knowing it was false.

CONCLUSIONS OF LAW RE CASE NO. 06-O-14235 (COUNT 1)

26. By not maintaining at least \$14,424.36 of the Young Estate's funds in his CTA from August 9, 2006 to December 2006, Respondent failed to maintain client funds in a trust account, in willful violation of rule 4-100(A), Rules of Professional Conduct.

CONCLUSIONS OF LAW RE CASE NO. 06-O-14235 (COUNT 2)

27. By misrepresenting to Abernathy and the State Bar that he had paid \$1,458 to Visterra Credit Union towards the second mortgage on the Young home when he had not and by misrepresenting that check 1669 had not cleared the account and as a result he had to put a stop payment on the check, Respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

INVESTIGATION NO. 07-O-13173

FACTS

28. In July 2005, Tu Nguyen ("Nguyen") employed Respondent to represent him in an eviction proceeding against Oanh Bui ("Bui"). Nguyen paid Respondent \$525 for his services.

29. On October 21, 2005, Respondent filed an action for unlawful detainer against Bui.

30. On November 30, 2005, Bui filed a lawsuit against Nguyen in the County of Orange Superior Court entitled Oanh Bui v. Hai Truong Nguyen, Tu Nguyen, case no. 05CC12672 ("County of Orange Matter").

30. In December 2005, Nguyen employed Respondent to defend him in the County of Orange Matter and paid an initial retainer of \$2,000.

31. In December 2005, Nguyen requested that Respondent 1) obtain discovery from Bui, 2) file a motion to obtain rent from Bui during the pendency of the case, and 3) to file a Motion for Summary Judgment. Respondent agreed to do this at that time.

32. Between March 1, 2006 and October 27, 2006, Respondent and Nguyen exchanged numerous emails regarding the status of the case including the issues of discovery, motion to obtain rent and Motion for Summary Judgment.

33. In an e-mail dated March 7, 2006, Nguyen asked Respondent whether the motion for rent payment had been filed with the court yet. In an e-mail dated March 14, 2006, Respondent wrote Nguyen back stating that the motion had been filed and a date was set for

April 17, 2006. This statement was false and Respondent knew or was grossly negligent in not knowing it was false.

34. On April 13, 2006, after receiving a telephone message from Nguyen inquiring about the status of the motion for rent payment, Respondent sent an e-mail to Nguyen saying that the tentative on the motion was to grant it. On May 9, 2006, Respondent advised Nguyen via telephone that the motion for collection of rent had been granted without a hearing. Furthermore, Respondent wrote Nguyen that he had sent the order out that day for approval and signature. These statements were false and Respondent knew or was grossly negligent in not knowing they were false.

35. At the end of June 2006, Respondent informed Nguyen that he had received the signed court order. This statement was false and Respondent knew or was grossly negligent in not knowing it was false.

36. In fact, the motion for rent was never granted because such a motion was not filed until November 9, 2006. Respondent made numerous misrepresentations to Nguyen regarding the status and filing of the motion.

37. In an e-mail dated May 2, 2006, Respondent informed Nguyen that a Motion to Compel Discovery had been drafted and sent out for filing. This statement was false and Respondent knew or was grossly negligent in not knowing it was false.

38. In fact, Respondent never filed this motion and misrepresented to Nguyen that he had.

39. On numerous occasions, Nguyen and Respondent had discussions regarding preparing and filing a Motion for Summary Judgment. Nguyen was always assured that the motion was being prepared and would be filed. In an e-mail dated October 19, 2006, Nguyen wrote to Respondent asking Respondent to overnight a copy of the Motion for Summary Judgment. Respondent sent a reply e-mail to Nguyen on the same date stating that a copy of the "motion was re-sent." This statement was false and Respondent knew or was grossly negligent in not knowing it was false.

40. Respondent misrepresented to Nguyen that he had filed the Motion for Summary Judgment. No such motion was every filed.

41. On October 27, 2006, Nguyen checked for the first time the case docket on the Orange County Superior Court's official website. It was then that he learned of Respondent's

misrepresentations regarding the motion for rent and Motion for Summary Judgment and that neither had been filed.

CONCLUSIONS OF LAW RE CASE NO. 07-O-11020

42. By misrepresenting to Nguyen that he had filed a motion for rent and a Motion for Summary Judgment, that he had received the signed court order of the motion for rent, that he had filed the Motion to Compel Discovery, and that he would resend a copy of the motion for Summary Judgment, Respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

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

The parties waive any variance between the Notice of Disciplinary Charges filed on July 1, 2008 in case no. 06-O-14235 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 a formal hearing on any charge not included in the pending Notice of Disciplinary Charges. Further, parties waive filing of the Notice of Disciplinary Charges and the right to a formal hearing on the investigation matter no. 07-O-13173.

PENDING PROCEEDINGS.

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

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Violation</u>
06-O-14235	1	Business and Professions Code, section 6106 (Moral Turpitude – Misappropriation)
06-O-14235	3	Rules of Professional Conduct, rule 3-110(A) (Failure to Perform with Competence)
06-O-14235	4	Business and Professions Code, section 6068(m) (Failure to Inform Client of Significant Development)

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COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of March 9, 2009, the approximate costs in these matters are \$5,718.90. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession."

Recently, the Supreme Court emphasized the importance of the standards and held that great weight should be given to the application of the standards in determining the appropriate level of discipline. The Court indicated that unless it has "grave doubts as to the propriety of the recommended discipline," it will uphold the application of the standards. *In re Silverton* (2005) 36 Cal. 4th 81, 91-92.

However, the Court in *Silverton* also indicated that the State Bar may deviate from the Standards where there exists grave doubt as to the propriety of applying them in a particular case. (*Silverton* 36 Cal. 4th at 92.) For example, deviation from the *Standards* may be appropriate where extraordinary circumstances exist or where the imposition of discipline called for by the Standards would be manifestly unjust.

The State Bar recommends deviation from the Standards in this matter, as it believes it would be manifestly unjust to impose a three month actual suspension for Respondent's Failure to Maintain Client Funds his CTA. Respondent's misconduct occurred over a short period of time. Since the misconduct Respondent has taken numerous steps to remedy the problem. He now personally reconciles his accounts. He also has another person reconciling his accounts to make sure they correspond with his reconciliations. Finally, Respondent has a Certified Public Accountant who oversees all accounts.

The parties further submit that the intent and goals of Standard 1.3 are met in this matter by the imposition of 60 days actual suspension with those probationary conditions articulated herein, including that Respondent attend the State Bar's Client Trust Account School.

Standard 2.3 provides that “[c]ulpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client, or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member’s acts within the practice of law.”

Standard 2.2(b) provides that “[c]ulpability 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 Misconduct, 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.

Moral turpitude includes creating a false impression by concealment as well as affirmative misrepresentations. In the Matter of Wells (Review Dept. 2006) 4 Cal State Bar Ct. Rptr. 896. In addition, the court held in In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403, 410 that “[w]hile moral turpitude as included in section 6106 generally requires a certain level of intent, guilty knowledge, or willfulness, the law is clear that where an attorney’s fiduciary duty obligations are involved, particularly trust account duties, a finding of gross negligence will support such a charge.

In In the Matter of Gillis (Review Dept. 2002) 4 Cal State Bar Ct. Rptr, 387, 399, the court held that respondent’s false statement to the State Bar’s investigative letter, showed an intent to mislead the investigator. Such a deliberate attempt to mislead a State Bar investigation constitutes an act involving moral turpitude.

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In the Matter of
GREGORY ALLEN PAIVA (No. 207218)

Case number(s):
06-O-14235-RAP
Investigation No. 07-O-13173

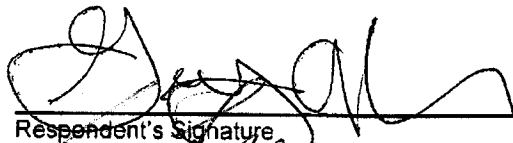
SIGNATURE OF THE PARTIES

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.

3/25/09
Date

3/26/09
Date

Date


Respondent's Signature


Respondent's Counsel Signature

Deputy Trial Counsel's Signature

GREGORY ALLEN PAIVA
Print Name

EDWARD O. LEAR
Print Name

BITA SHASTY
Print Name

(Do not write above this line.)

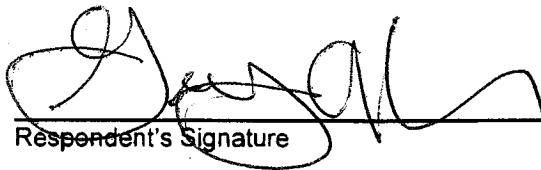
In the Matter of
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SIGNATURE OF THE PARTIES

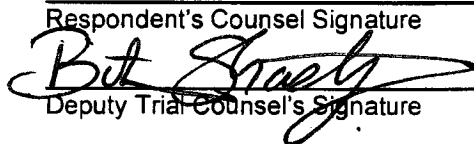
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

3/25/09
Date


Respondent's Signature

GREGORY ALLEN PAIVA
Print Name

3/30/09
Date

Edward O. Lear
Respondent's Counsel Signature

Deputy Trial Counsel's Signature

EDWARD O. LEAR
Print Name

BITA SHASTY
Print Name

(Do not write above this line.)

In the Matter Of
GREGORY ALLEN PAIVA (No. 207218)

Case Number(s):
06-O-14235-RAP
Investigation No. **07-O-13173**

ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, *RAP 4-1-09*
IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED with ~~out~~ 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.)**

04-01-09
Date


Judge of the State Bar Court

RICHARD A. PATEL

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 April 2, 2009, I deposited a true copy of the following document(s):

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

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

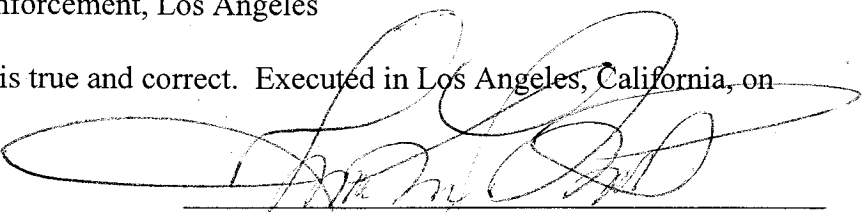
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

EDWARD O. LEAR
CENTURY LAW GROUP LLP
5200 W CENTURY BLVD #345
LOS ANGELES, CA 90045

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

BITA SHASTY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 2, 2009.



Johnnie Lee Smith
Case Administrator
State Bar Court