(Do not write above this line.)

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State Bar Court of Californa BLIC MATTER Hearing Department Los Angeles

Case Number (s) (for Court's use) Counsel For The State Bar 06-0-14241 Margaret P. Warren Bar # 108774 Counsel For Respondent STATE BAR COURT Joseph James Olsen, in pro. per. CLERK'S OFFICE LOS ANGELES Bar # 51276 Submitted to: Assigned Judge In the Matter Of: STIPULATION RE FACTS, CONCLUSIONS OF LAW AND Joseph James Olsen DISPOSITION AND ORDER APPROVING Bar # 51276 **ACTUAL SUSPENSION** A Member of the State Bar of California ☐ PREVIOUS STIPULATION REJECTED (Respondent)

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 **January 5, 1972**.
- (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 **13** 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.

(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: (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.	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.			
Add	Additional mitigating circumstances				
	Respondent was admitted to the practice of law on January 5, 1972 and has no prior disciplinary record.				
D.	Disc	ipline:			
(1)	\boxtimes	Stayed Suspension:			

(Do 1	no <u>t</u> write	e abov	e this lir	ne.)				
	(a)		Resp	pondent must be suspended from the practice of law for a period of one (1) year.				
		l.		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)	\boxtimes	The	above-referenced suspension is stayed.				
(2)		Prol	ation	: <u>-</u>				
	Res date	spond e of th	ent mi	ust be placed on probation for a period of two (2) years , which will commence upon the effective preme Court order in this matter. (See rule 9.18, California Rules of Court)				
(3)	\boxtimes	Actual Suspension:						
	(a)	\boxtimes		condent must be actually suspended from the practice of law in the State of California for a period nety (90) 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. /	Addit	tiona	al Co	nditions 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)	\boxtimes	During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.						
(3)		State	e Bar a	(10) days of any change, Respondent must report to the Membership Records Office of the and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of an including current office address and telephone number, or other address for State Bar				

promptly meet with the probation deputy as directed and upon request.

(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

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

(Do n	of writ	e above	e this line.)				
(5)		July when cond are a curre	10, and October 10 of the period of probat ther Respondent has complied with the Sta litions of probation during the preceding ca any proceedings pending against him or he	tion. Ur ate Bar alendar er in the ort wo	he Office of Probation on each January 10, April 10, ander penalty of perjury, Respondent must state Act, the Rules of Professional Conduct, and all quarter. Respondent must also state whether there is State Bar Court and if so, the case number and all cover less than 30 days, that report must be ended period.		
					ining the same information, is due no earlier than robation and no later than the last day of probation.		
(6)		cond Durir in ad	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)	\boxtimes	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. Reaso	n:	•		
(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)	\boxtimes	The	following conditions are attached hereto ar	nd inco	rporated:		
			Substance Abuse Conditions		Law Office Management Conditions		
			Medical Conditions	\boxtimes	Financial Conditions		
F. O	the	Cor	nditions Negotiated by the Partie	s:			
(1)	\boxtimes	the Cor one fur l	Multistate Professional Responsibility Examplerence of Bar Examiners, to the Office of eyear, whichever period is longer. Failure	mination Proba to pas	on: Respondent must provide proof of passage of on ("MPRE"), administered by the National tion during the period of actual suspension or within ss the MPRE results in actual suspension without 10(b), California Rules of Court, and rule 321(a)(1)		
			No MPRE recommended. Reason: .				
(2)		9.20	 California Rules of Court, and perform the single of the si	ne acts	dent must comply with the requirements of rule 955 specified in subdivisions (a) and (c) of that rule ne effective date of the Supreme Court's Order in this		

(Do no	Do not write above this line.)				
(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)	\boxtimes	Other Conditions: Client Trust Account Schoolplease see p. 8, "Financial Conditions," below.			

(Do not write above this line.)
Attachment language begins here (if any):

J	n the Mat oseph Jan 1276	ter of nes Olsen, Bar No.	Case number(s): 06-0-14241	
A	Member o	f the State Bar		
_		Conditions		
a.	Restitution	on		
	annur one o Resp	m) to the payee(s) listed or more of the payee(s) for	ion (including the principal amou below. If the Client Security Fur or all or any portion of the princip stitution to CSF in the amount(s)	nd ("CSF") has reimbursed al amount(s) listed below,
	Payee		Principal Amount	Interest Accrues From
	-			
	<u> </u>		<u> </u>	
b.	Instal Responsible to the part of the par	Iment Restitution Paynondent must pay the abook Respondent must provach quarterly probation rer than 30 days prior to tally, Respondent must myment of restitution, inclination.	nents ve-referenced restitution on the pride satisfactory proof of payment report, or as otherwise directed by the expiration of the period of proake any necessary final payments.	payment schedule set forth t to the Office of Probation y the Office of Probation bation (or period of
	raye	ercor (as applicable)	Willingth Fayment Amount	rayment riequency
			Land to the second to the seco	
c.	Client	required quarterly reported to the certificate from Responsional approved a. Respondent has moduliness in the Sta	ses client funds at any time during ort, Respondent must file with each dent and/or a certified public accept the Office of Probation, certify taintained a bank account in a batte of California, at a branch local such account is designated as a	ch required report a countant or other financial ring that: Ink authorized to do ted within the State of
		"Clients' Funds Acc		. Hade Moddille Of

- b. Respondent has kept and maintained the following:
 - 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:
- 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.
- 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:

JOSEPH JAMES OLSEN

CASE NUMBER(S):

06-O-14241

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 06-O-14241/ Count One

FACTS:

- 1. At all times relevant herein, Respondent maintained a client trust checking account at Bank of America, designated account no. 16643-40186 ("CTA").
- 2. At all times relevant herein, Respondent was the only authorized signatory on the CTA.
- 3. At all times relevant herein, Respondent deposited client funds into the CTA and disbursed client funds from the CTA.
- 4. From on or about April 24, 2006 through in or about January 2007, Respondent rented an apartment at Kipling Apartments. Evergreen Investment Group owns Kipling Apartments.
- 5. From June through November of 2006, Respondent repeatedly issued cheeks drawn upon his CTA to pay personal expenses, as follows:

CHECK NUMBER	DATE ISSUED	PAYEE	CHECK AMOUNT	CHECK MEMO
3251	06/05/06	Kipling Apartments	\$ 725.00	"rent"
3261	07/05/06	Kipling Apartment [sic]	\$ 725.00	
3272	07/27/06	Evergreen Investment Group	\$ 725.00	
3280	09/05/06	Kipling Apt Evergreen Invest [sic]	\$ 725.00	
3295	11/07/06	Evergreen Investment Group	\$ 725.00	
3384	11/22/06	Evergreen	\$ 725.00	

6. On or about September 5, 2006, Respondent issued CTA check # 3279, in the amount of \$100.00, payable to "C. Medill." The memo section of CTA check # 3279 bore the notation, "cell phone (310) 8699880."

CONCLUSIONS OF LAW:

7. By maintaining personal funds in his CTA and by disbursing funds from his CTA to pay personal expenses, Respondent commingled his personal funds in a bank account labeled "Trust Account," "Client's Fund Account" or words of similar import, in willful violation of rule 4-100(A) of the Rules of Professional Conduct.

Case No. 06-O-14241 / Count Two

FACTS:

- 8. At all times relevant herein, Respondent maintained a client trust checking account at Bank of America, designated account no. 16644-40354 ("second CTA").
- 9. From March 12, 2004 to January 12, 2009, Respondent's official State Bar membership records address was listed as 1445 Leslie Rd #V5, Richland, Washington 99352. 1445 Leslie Rd, Richland, Washington 99352 is the address for "Orchard Hills Apartments."
- 10. On August 4, 2006, Respondent issued check # 1098 drawn on the second CTA, in the amount of \$830.00, payable to "Orchard Hills." The memo section of check number 1098 bore the notation, "5-V."
- 11. On February 23, 2007, Marlene Greenly, Respondent's counsel, told the State Bar that Respondent had issued check # 1098 for personal purposes.

CONCLUSIONS OF LAW:

12. By maintaining personal funds in his second CTA and by disbursing funds from his second CTA to pay personal expenses, Respondent commingled his personal funds in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in willful violation of rule 4-100(A) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was April 28, 2009.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 28, 2009, the prosecution costs in this matter are approximately \$3,654.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

An attorney "has a 'personal obligation of reasonable care to comply with the critically important rules for the safekeeping and disposition of client funds.' (*Palomo v. State Bar* (1984) 36 Cal.3d 785, 795.) These duties are nondelegable. (*Coppock v. State Bar* (1988) 44 Cal.3d 665, 680.)." *In the Matter of Blum* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403, 411. Even if an attorney "reasonably relies on a partner, associate, or other responsible employee to care for" his client trust account, "even that reasonable reliance on another to care for the trust account does not relieve the attorney from the professional responsibility to properly maintain funds in that account." *Id*.

It is well-settled that trust accounts are never to be used for personal purposes, barring the very narrow exceptions outlined in rule 4-100 (A). Using checks drawn on a client trust account to pay personal debts constituted a violation of the rule prohibiting the use of a client trust account for personal purposes. In the Matter of Heiser (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 47, 54. Commingling is committed when a client's money is intermingled with that of the attorney and its separate identity lost so that it may be used for the attorney's personal expenses. Use of the trust account for personal purposes is absolutely prohibited, even in cases where client funds are not on deposit. See, e.g., In the Matter of Bleecker (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, 123.

As the California Supreme Court reminded us, over thirty years ago, in *Heavy v. State Bar* (1976) 17 Cal.3d 553, 558: "[T]he prohibition against commingling was adopted 'to provide against the probability in some cases, the possibility in many cases, and the danger in all cases that such commingling will result in the loss of clients' money.' [Citation.] *That no harm may result from commingling in a particular case is mere fortuity*..." (Emphasis added.)

Standard 2.2 (b) of the Standards for Attorney Sanctions for Professional Misconduct ("Standards") provides, in pertinent part:

Culpability of a member of . . . the commission of another violation of rule 4-100 . . . 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**. (Emphasis added.)

Standard 1.3 of the Standards provides:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct 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. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

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.

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.

30 July 200	7 Justol 1 Lean	Joseph J. Olsen (in pro. per.)
Date	Respondent's Signature	Print Name
	Mal X	
Date	Respondent's Counsel Signature,	Print Name
30304 2009	Millant	Margaret P. Warren
Date	Depyty Trial Counsel's/Signature	Print Name

ORDER Case Number(s)		
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. FACE 2 - A (9) - CHECK BOX - COSTI TO BE PAID IN EQUAL AMOUNTS PART FEISLUMG I FOR THE FULLIAL MEMBELL PROBLEM CONT. The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or 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 hereinormally 30 days after file date. (See rule 9.18(a), California Rules of Court.)	In the Matter Of	
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Date 57 - 32 - 65 Judge of the State Bar Court	the stipulation, filed within 15 days after service or further modifies the approved stipulation. (Seffective date of this disposition is the effective date	e of this order, is granted; or 2) this court modifies ee rule 135(b), Rules of Procedure.) The ctive date of the Supreme Court order herein,
Date Judge of the State Bar Court	87-32-09	
	Judge of the State Bar Court	

RICHARD A. PLATEL

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 August 17, 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:

JOSEPH JAMES OLSEN PO BOX 5091 BEVERLY HILLS, CA 90209

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

Margaret P. Warren, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 17, 2009.

Johnnie Lee Smith

Case Administrator

State Bar Court