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State Bar Court of California Hearing Department Los Angeles			PUBLIC MATTER
Counsel For The State Bar Dane C. Dauphine Supervising Trial Counsel 1149 South Hill St. Los Angeles, CA 90015-2299 Tel. (213) 765-1293 Bar # 121606	Case Number (s) 07-O-10776, 09-O-10715, 09-O-12882	(for Court's use) <div style="text-align: center;"> FILED JUL 22 2010 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div> <div style="text-align: center; margin-top: 20px;"> <small>kwiktag® 018 039 687</small>  </div>	
Counsel For Respondent Edward O. Lear Century Law Group LLP 5200 W. Century Blvd., #345 Los Angeles, CA 90045 Tel. (310) 642-6900 Bar # 132699	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter Of: VINCENT MICHAEL CASIANO Bar # 208565 A Member of the State Bar of California (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 **November 13, 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 **10** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline.
 - costs to be paid in equal amounts prior to February 1 for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case
 - (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 or a separate attachment entitled "Prior Discipline."
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (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. **The misconduct involved three separate client matters in which Respondent failed to account for fees paid by the clients.**
- (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 changed his office procedures so that one full-time employee will be responsible for the generation of billing, and he has adopted a policy to provide invoices at an interval of no more than 60 days. In addition, he has required his staff to participate in online training programs to ensure that

information is properly entered in the program, and he is using additional software functions to improve the efficiency of his billing system.

D. Discipline:

(1) **Stayed Suspension:**

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

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

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

iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

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

E. Additional Conditions of Probation:

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

(2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(3) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(4) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

(5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested,

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in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

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

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**
- 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: VINCENT MICHAEL CASIANO

CASE NUMBER(S): 07-O-10776, 09-O-10715, 09-O-12882

FACTS AND CONCLUSIONS OF LAW.

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

THE THOMPSON/DAVIS MATTER

FACTS:

1. In or about 2006, John L. Davis ("Davis") was terminally ill and gave a power of attorney to his sister, Laurie Thompson ("Thompson"), to handle Davis's legal and financial matters.
2. On or about July 14, 2006, Thompson met with Respondent to discuss Davis's legal matters pursuant to the power of attorney from Davis. At that time, Thompson employed Respondent on behalf of Davis to prepare a revocable living trust for Davis. Thompson also employed Respondent to investigate and file a lawsuit against one of Davis's health care providers for elder abuse. Thompson paid Respondent \$2,000 in advance attorney fees to prepare the Trust and \$3,000 in advance attorney fees to investigate and file the lawsuit.
3. On or about September 23, 2006, Thompson sent an email to Respondent requesting an accounting of the advanced attorney fees paid to him to prepare the Trust documents. Respondent received the email but did not send the accounting to Davis or Thompson.
4. On or about September 28, 2006, Thompson called and spoke with Respondent. Thompson told Respondent that neither she nor Davis had received the Trust documents or the accounting. In October 2006, Respondent provided Thompson with some of the Trust documents but did not provide the accounting.
5. On or about November 29, 2006, Thompson faxed and mailed a letter to Respondent demanding that he provide a written status report on the lawsuit and the accounting, or she would consider the attorney-client relationship to be terminated. On or about November 30, 2006, Respondent responded by an email to Thompson stating that he needed until the following week to prepare the status report on the lawsuit and the accounting. Thereafter, Respondent did not provide an accounting for the fees received for a lawsuit.
6. On or about January 9, 2007, Respondent provided Thompson with the final version of the Trust. Thompson signed the Trust on behalf of Davis, and Respondent notarized it. On or about January 16, 2007, Davis died. Respondent had not filed a lawsuit on behalf of Davis.

7. Respondent did not provide an accounting to Thompson for the \$3,000 paid to investigate and file a lawsuit on behalf of Davis. Davis initiated fee arbitration, and on September 19, 2007, Respondent and Thompson attended a fee arbitration hearing. At that time, Respondent agreed to refund the full \$5,000 in fees to Thompson. On or about October 4, 2007, Thompson received a cashier's check for \$5,000 from Respondent.

CONCLUSIONS OF LAW:

8. By not providing Thompson with an accounting for his fees in January 2007 at Thompson's request and upon Davis's death until May 5, 2010, Respondent failed to render appropriate accounts to a client regarding all client funds coming into his possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

THE LARSSON MATTER

FACTS:

9. On or about January 30, 2007, Colleen Hartigan Larsson ("Larsson") employed Respondent to represent her regarding her claims against the estate of her mother, Irma Hartigan ("Hartigan"). Larsson agreed to pay Respondent an hourly fee and a contingency fee of 25% of any recovery prior to mediation and of 30% of any recovery after mediation.

10. On or about February 1, 2007, Larsson paid Respondent \$10,000 in advance attorney fees.

11. On or about February 1, 2007, Ernest Dunscombe ("Dunscombe"), who was Hartigan's brother, caused a probate to be filed concerning Hartigan in the San Diego County Superior Court in the matter titled *Estate of Irma Hartigan*, case no. P191384-1A ("*Estate of Hartigan*").

12. On or about November 26, 2007, Larsson paid Respondent an additional \$10,000 in advance attorney fees.

13. On or about November 26, 2007, Respondent and Larsson attended mediation in *Estate of Hartigan*. At that time, the parties agreed to compromise and settle their dispute by selling Hartigan's home and distributing 35% of the sale proceeds to Larsson.

14. On or about May 9, 2008, Respondent received a check payable to Respondent's trust account for \$31,147.51 which represented 35% of the sale proceeds from Hartigan's home. On or about May 9, 2008, Respondent deposited a check for \$31,147.51 in his Client Trust Account at California Bank & Trust, account no. *****4691 (the "CTA")¹. Thereafter, Respondent did not promptly inform Larsson of the receipt of the funds on her behalf.

15. On or about August 18, 2008, Larsson mailed a letter to Respondent requesting a status report on the distribution of the sales proceeds and an accounting for Respondent's services. Respondent received the letter but did not distribute the sales proceeds or provide an accounting. On or about September 2, 2008, one of Respondent's assistants sent Larsson an email informing her that a distribution check would be issued on September 3, 2008.

¹ The account number has been redacted to protect the account and account holder.

16. On or about September 23, 2008, one of Respondent's assistants sent Larsson a letter enclosing a CTA check for \$25,000. The letter stated that Respondent was withholding \$2,000 until he was able to determine if a bill had been paid and would provide an accounting in a few weeks.

17. On or about October 6, 2008, Larsson faxed a letter to Respondent that stated that she requested the accounting by October 28, 2008. Respondent received the letter but did not provide the accounting.

18. Larsson complained to the State Bar, and on June 9, 2009, a State Bar Investigator mailed a letter to Respondent concerning Larsson's allegation that he had failed to provide her with an accounting. Respondent received the letter.

19. Respondent did not provide an accounting for his fees until May 5, 2010, which indicated that Respondent's total fees and costs were \$26,962.87 and that he was owed an additional \$815.32 over the \$26,147.51 that he had received in advanced fees and retained settlement funds.

CONCLUSIONS OF LAW:

20. By failing to notify Larson of the receipt of her settlement funds in May 2008 until September 2, 2008, Respondent failed to notify a client promptly of the receipt of the client's funds in willful violation of Rules of Professional Conduct, rule 4-100(B)(1).

21. By not providing Larsson in October 2008 with an accounting for his fees and costs and for the funds retained from the settlement proceeds received on her behalf until May 2010, Respondent failed to render appropriate accounts to a client regarding all client funds coming into his possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

THE DICKINSON MATTER

FACTS:

22. On or about July 1, 2008, Kathleen Dickinson ("Dickinson") employed Respondent to represent her as co-trustee of the estate of her grandmother, Gayle Swickheimer ("Swickheimer"). Dickinson agreed to pay Respondent an hourly fee. On or about July 18, 2008, Dickinson paid Respondent \$5,000 in advanced attorney fees.

23. On or about May 7, 2009, Dickinson called and told Respondent that she was terminating him and demanding an accounting and refund of the unearned advanced attorney fees. On or about May 8, 2009, Dickinson mailed a letter to Respondent terminating him and demanding an accounting and refund of the unearned advance attorney fees. Respondent received Dickinson's letter but did not provide an accounting for the attorney fees he received from Dickinson.

24. Dickinson made a complaint to the State Bar, and on July 13, 2009, a State Bar Investigator mailed a letter to Respondent requesting that Respondent respond to Dickinson complaint, including his failure to account. Respondent received the letter.

25. Respondent did not provide an accounting for the fees received from Dickinson until May 5, 2010, which indicated that Respondent's total fees and costs were \$6,235.39 and that he was owed an additional \$1,235.39 in fees.

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CONCLUSIONS OF LAW:

26. By failing to provide an accounting in May 2009 as requested by Dickinson until May 5, 2010, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was June 29, 2010.

AUTHORITIES SUPPORTING DISCIPLINE.

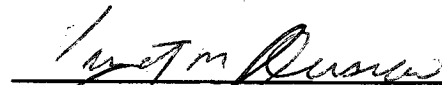

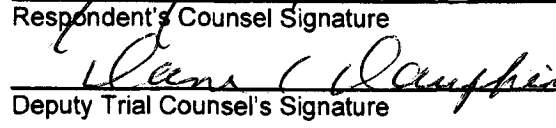
The Standards for Attorney Sanctions for Professional Misconduct provide, at Standard 2.2(b), for a minimum actual suspension of three months irrespective of mitigating circumstances for the commission of a violation of rule 4-100, Rules of Professional Conduct, which does not result in the willful misappropriation of entrusted funds or property. Under case law, a failure to render appropriate accountings for client funds has resulted in stayed suspension and actual suspension of less than 90 days. (*In the Matter of Fonte* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 751 [60-day actual suspension for failure to account for fees and conflicts in two client matters where attorney had 25 years with no discipline]; *In the Matter of Cacioppo* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128 [six-month stayed suspension for failure to render a proper accounting of settlement funds and failing to communicate, where attorney had a prior public reproof]; *In the Matter of Lazarus* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 387 [two-month stayed suspension for failure to notify client of receipt of settlement funds and failure to render an accounting of settlement funds].) For his failure to account and notify promptly of receipt of funds, the stipulated disposition is within the range of discipline established by caselaw and meets the goals of attorney discipline.

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In the Matter of VINCENT MICHAEL CASIANO, Bar No. 208565	Case number(s): 07-O-10776, 09-O-10715, 09-O-12882
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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.

7/8/10		Vincent M. Casiano Print Name
7/16/10		Edward O. Lear Print Name
7-20-10		Dane C. Dauphine Print Name

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In the Matter Of VINCENT MICHAEL CASIANO, Bar No. 208565	Case Number(s): 07-O-10776, 09-O-10715, 09-O-12882
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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.)**

7-22-10
Date

Steph Elliott
Judge of the State Bar Court
PRO TEM JUDGE

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 July 22, 2010, 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:

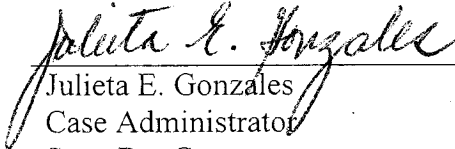
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

EDWARD O LEAR ESQ
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:

Dane C. Dauphine, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 22, 2010.



Julieta E. Gonzales
Case Administrator
State Bar Court