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State Bar Court of California
Hearing Department
Los Angeles

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Counsel For The State Bar

Bitu Shasty
 1149 S. Hill Street
 Los Angeles, California 90015

Bar # 225177

Counsel For Respondent

Susan L. Margolis
 2000 Riverside Drive
 Los Angeles, California 90039-3758

Bar # 132699

In the Matter Of:
 KENNETH ALAN REED

Bar # 133567

A Member of the State Bar of California
 (Respondent)

Case Number (s)
 07-O-11444, 07-O-
 11795, 08-O-13878

(for Court's use)

PUBLIC MATTER**FILED**

SEP 01 2010

STATE BAR COURT
 CLERK'S OFFICE
 LOS ANGELES

Submitted to: **Settlement Judge**

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

ACTUAL SUSPENSION☐ 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 14, 1988.
- (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.
- (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. See Attachment Page 10
- (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

See attachment pages 10 and 11

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 30 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.

- (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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: _____
- (2) ☐ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 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 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 **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
KENNETH ALAN REED

Case number(s):
07-O-11444, 07-O-11795, 08-O-13878

A Member of the State Bar

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:
- 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

- B.S. ☒ 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.
- KAL
SUM

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: KENNETH A. REED

CASE NUMBER(S): 07-O-1114, 07-O-11795, 08-O-13878

FACTS AND CONCLUSIONS OF LAW.

Respondent Kenneth A. Reed ("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.

FACTS RE CASE NOS. 07-O-11444 AND 07-O-11795

1. From December 1, 2006 to on or about November 31, 2007, Respondent maintained a client trust account at Wells Fargo Bank, account no. ***-***7362 ("CTA").¹
2. Between January 10, 2006 and August 10, 2007, Respondent deposited his personal funds into his CTA as follows:
 - a. On January 10, 2006, Respondent deposited the approximate sum of \$10,000 into his CTA from a County of Orange check for \$17,500;
 - b. On April 18, 2006, Respondent deposited the approximate sum of \$12,000 into his CTA from a United States Treasury, Administrative Office of the U.S. Courts, Washington, D.C. check ("U.S. Treasury") for \$40,935;
 - c. On May 2, 2006, Respondent deposited the approximate sum of \$24,515 into his CTA from a U.S. Treasury check for \$30,015;
 - d. On June 14, 2006, Respondent deposited the approximate sum of \$23,202 into his CTA from a U.S. Treasury check for \$23,202;
 - e. On June 27, 2006, Respondent deposited the approximate sum of \$40,000 into his CTA from a U.S. Treasury check for \$46,200;
 - f. On July 10, 2006, Respondent deposited the approximate sum of \$30,000 into his CTA from a U.S. Treasury check for \$31,904.21;
 - g. On August 16, 2006, Respondent deposited the approximate sum of \$25,000 into his CTA from a U.S. Treasury check for \$29,665.49;
 - h. On September 26, 2006, Respondent deposited the approximate sum of \$25,000 into his CTA from a U.S. Treasury check for \$28,665;

¹ The account number has been redacted to protect its identity.

i. On June 26, 2007, Respondent deposited the approximate sum of \$20,000 into his CTA from a County of Orange check for \$24,900; and

j. On August 10, 2007, Respondent deposited the approximate sum of \$5,000 into his CTA from a U.S. Treasury check for \$20,838.

3. During the same time period, Respondent removed earned fees from the CTA every month by regularly writing checks payable to himself in varying amounts.

4. During said time period, there were no client funds in the CTA and Respondent never paid personal expenses directly from his CTA.

FACTS RE CASE NO. 08-O-13878

5. On June 1, 2008, George Castaneda ("Castaneda") employed Respondent to obtain the return of his truck and over \$700 in cash seized by the Tustin Police Department (the "Tustin PD"). Castaneda paid Respondent \$15,000 in advance attorney fees. Respondent did not prepare a retainer agreement.

6. On June 8, 2008, Respondent was able to obtain the return of Castaneda's truck from the Tustin PD.

7. Although Respondent obtained the return of the truck, he did not obtain the return of the cash and therefore did not earn the entire portion of the advanced attorney fees.

8. Between June 9, 2008, and late July 2008, Castaneda called Respondent two or three times to obtain a status report on the return of the \$700 cash. Respondent was not available, and so Castaneda left messages with Respondent's secretary requesting that Respondent call him and provide a status report. Respondent asserts he did not receive the messages, and therefore did not provide a status report or otherwise communicate with Castaneda.

9. In late July 2008, Castaneda called Respondent and spoke with Respondent's secretary. Castaneda told Respondent's secretary that Castaneda was terminating Respondent and requested a refund of the unearned advance attorney fees. Respondent's office received the message, but Respondent asserts he did not receive the messages and therefore did not provide a refund or accounting of the unearned advance attorney fees.

10. On November 19, 2008 and December 8, 2008, a State Bar Investigator (the "Investigator") mailed letters to Respondent at his official membership address that requested, among other things, that he provide an accounting of the services provided and a refund of unearned advance attorney fees. Respondent received the letters.

11. On November 26, 2008 and December 19, 2008, Respondent refunded \$10,000 and \$5,000 (respectively) to Castaneda.

ADDITIONAL FACTS

12. Respondent asserts that on May 16, 2006, Klaudia, his legal secretary and office manager of many years, called in sick to take her son to the doctor. That was a Friday, and by Sunday, Klaudia advised him that she would not be able to return to work any time soon because her son had been diagnosed with cancer (leukemia).
13. Respondent asserts that Adrianna had been employed by Respondent for about two years prior to Klaudia leaving. She had assisted Klaudia with filing, answering the phones, running errands, and opening mail. Klaudia had also trained Adrianna to be a receptionist. Adrianna knew how to use the TimeMatters program.
14. During that time, Respondent was very busy with work. He assumed Adrianna knew the basic procedures to answer the phone and take messages for him, make copies, and run errands. When he was in the office, he did everything else. He thought he was getting all his phone messages and mail. However, unbeknownst to Respondent, Adrianna could not handle the job by herself, and by the time of the Castaneda matter, she had apparently stopped opening the mail and stopped delivering phone messages to him on a regular basis.
15. Respondent further asserts, that Adrianna actively concealed her malfeasance from him. Respondent contends he did not discover that Mr. Castaneda had called to complain or ask for a refund until months after the fact. When Respondent discovered Adrianna's failure to discharge her duties, he confronted her, she apologized to him for not properly doing her job, and she was asked to leave his employ.
16. Respondent's former secretary, Klaudia, returned to work in November 2008, and together they restored his office to smooth running order.
17. Once Respondent had actual knowledge of Castaneda's termination of his services and request for a refund, he acted promptly to refund the entire retainer to Mr. Castaneda.

CONCLUSIONS OF LAW CASE NOS. 07-O-11444 AND 07-O-11795 (COUNT TWO)

18. By depositing or commingling funds belonging to Respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A).

CONCLUSIONS OF LAW CASE NO. 08-O-13878 (COUNT FIVE)

19. By failing to refund the unearned portion of advanced attorney fees between late July 2008 and November and December 2008, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in violation of Rules of Professional Conduct, rule 3-700(D)(2).

DISMISSALS

The parties respectfully requests that the Court dismiss in the interest of justice the following alleged violation in the Notice of Disciplinary Charges ("NDC") herein filed on April 13, 2010:

Case Nos.	Count	Alleged Violation
07-O-1114, 07-O-11795	One	Business and Professions Code § 6106
07-O-1114, 07-O-11795	Three	Business and Professions Code § 6106
07-O-1114, 07-O-11795	Four	Business and Professions Code § 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 April 13, 2010, in case nos. 07-O-1114, 07-O-11795 and 08-O-13878 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.

AGGRAVATING CIRCUMSTANCES

Multiple Acts of Misconduct (Standard. 1.2(b)(ii))

Respondent commingled his personal funds in his client trust account and failed to promptly refund unearned fees. This misconduct evidences multiple acts of wrongdoing.

ADDITIONAL MITIGATING CIRCUMSTANCES

Respondent has been a member of the California State Bar for 22 years with no prior record of discipline.

Respondent has instituted corrective measures in his office and record-keeping procedures to avoid a reoccurrence of problems in the future. Bradpiece v. State Bar (1974) 10 Cal.3d 742, 747-748; Std. 1.2(e)(vii). Specifically, he has obtained a 24-hour live answering service. Both he and Klaudia can be reached by the service 24 hours a day. He purchased a server that he can access anywhere. The server allows him and Klaudia to do their computer work anywhere. He purchased a laptop for Klaudia and himself, and a program called Mype.com, so they can access their desktops and are able to work from home or any other location.

Respondent asserts that he checks in with Klaudia every day, at least twice a day. He sits down with Klaudia once a week and together they review the status of all the office files. He is fully involved with his practice, and has enough access that if Klaudia were to leave, he would have time to hire and train adequate personnel to replace her, but still manage to keep his practice running smoothly in the interim.

Respondent's conduct was not motivated by personal enrichment. In re Higbie (1972) 6 Cal.3d 562, 573. Respondent returned Castaneda's retainer in full.

Respondent is a criminal law specialist certified by the State Bar of California. Respondent contends that for the past three years, he has been teaching a free, weekly martial arts class for low-income children at the Tustin Boys & Girls Club.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), July 29, 2010.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 29, 2010, the approximate costs in this matter is \$1,641.00. 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.

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.

Standard 2.2(b) states that culpability of a member for violations of rule 4-100, Rules of Professional Conduct "shall result in at least three months actual suspension from the practice of law irrespective of mitigating circumstances."

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 parties submit it would be manifestly unjust to apply Standard 2.2(b) in this matter without deviation for the following reasons.

Respondent is a criminal law specialist certified by the State Bar of California who is frequently court-appointed to represent defendants in complex federal and state felony trials. During the period of time where Respondent was depositing his earned attorneys fees into his CTA, there were no client funds in the CTA and thus no clients were harmed as a result of his commingling. Respondent asserts that he was not aware he should not have been depositing earned funds into his CTA. Respondent contends once he took Client Trust Accounting school, he realized his mistake and immediately stopped depositing earned fees into his CTA. As such, Respondent's conduct does not present a significant concern that he poses a future threat to the public or his clients.

Standard 2.10 provides that a violation of any provision of the Rules of Professional Conduct "not specified in these standards shall result in reproof or suspension according to 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."

Despite the fact that Respondent relied on his secretary to handle his office procedure properly, he now recognizes that he is solely and ultimately responsible for the management of his law practice. Respondent has accepted responsibility for the mismanagement of his office and has taken numerous steps, as described above, installing new office procedures with his current secretary. The Castaneda matter appeared to be an isolated incident which Respondent has since remedied.


(Do not write above this line.)

In the Matter of KENNETH ALAN REED , No. 133567	Case number(s): 07-O-1114, 07-O-11795, 08-O-13878
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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.

8/9/2010
Date


Respondent's Signature

KENNETH ALAN REED
Print Name

8/9/10
Date


Respondent's Counsel Signature

SUSAN L. MARGOLIS
Print Name

8/12/10
Date


Deputy Trial Counsel's Signature

BITA SHASTY
Print Name

(Do not write above this line.)

In the Matter Of
KENNETH ALAN REED, No. 132699

Case Number(s):
07-O-11444, 07-O-11795, 08-O-13878

ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☒ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date

8-31-10

Judge of the State Bar Court

RICHARD A. HONN

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 1, 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:

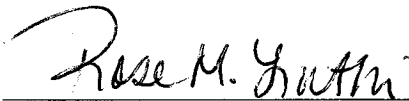
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SUSAN LYNN MARGOLIS, ESQ.
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039

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

BITA SHASTY, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 1, 2010.



Rose Luthi
Case Administrator
State Bar Court