



(Do not write above this line.)

**State Bar Court of California
Hearing Department
San Francisco**

<p>Counsel For The State Bar</p> <p>Allen Blumenthal 180 Howard Street San Francisco, CA 94105 Tel: 415-538-2228</p> <p>Bar # 110243</p>	<p>Case Number (s) 07-O-13710</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>AS</i></p> <p>OCT 22 2008</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Jonathan Arons 101 Howard Street, #310 San Francisco, CA 94105 Tel: 415-957-1818</p> <p>Bar # 111257</p>	<p>Submitted to: Assigned Judge</p>	
<p>In the Matter Of: Vladislav Viltman</p> <p>Bar # 203140</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **November 22, 1999**.
- (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 **11** 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:
(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

While respondent's misconduct is serious he has no prior record of discipline in nine years of practice.

D. Discipline:

(1) **Stayed Suspension:**

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

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

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **four 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.

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- (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: Within one 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 Trust Account Ethics School, and passage of the test given at the end of the session.**

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Attachment language begins here (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Vladislav Viltman

CASE NUMBER: 07-O-13710

FACTS AND CONCLUSIONS OF LAW.

Facts:

1. Respondent was admitted to the practice of law in California on November 22, 1999 and was a member of the State Bar at all times pertinent herein and is currently a member of the State Bar.
2. Since at least December 30, 2006, respondent maintained a client trust account at Bank of America (hereinafter "respondent's CTA").
3. On January 5, 2007, respondent deposited \$4,000 into his CTA of earned attorney's fees. Subsequently, he failed to promptly remove the earned fees from his CTA. Respondent intentionally kept those funds in his CTA as a surplus. Those funds were not an insignificant amount and were not used to pay bank fees. Respondent failed to research whether he was entitled to do this. In fact, he was not entitled to maintain \$4,000 of his own funds in respondent's CTA.
4. On May 21, 2007, respondent issued check no. 1125 for \$3,700 from his CTA to attorney Susan Griffin ("Griffin") for legal services for respondent in his own personal matter. This was for personal expenses not related to any client. Respondent used his CTA for personal expenses.
5. At the time he issued check no. 1125, respondent had insufficient funds in his CTA to cover the check. At the time he issued and delivered check no. 1125 to Ms. Griffin, respondent knew there were insufficient funds in his CTA to cover the check. He hoped to place other funds into his CTA before Ms. Griffin deposited the funds into her own account, but failed to do so.
6. On May 31, 2007, check no. 1125 from respondent's CTA was returned as a result of insufficient funds. Ms. Griffin had attempted to deposit check no. 1125 into her account, but there were insufficient funds in respondent's CTA to cover the check.
7. On June 4, 2007 before respondent knew check no. 1125 had been returned for insufficient funds, respondent transferred \$2,000 from his personal checking account to his CTA. However, respondent knew that even with this \$2,000 deposit there were insufficient funds to cover the check to Ms. Griffin.
8. On June 5, 2007, respondent transferred \$2,000 from his CTA to his personal checking account. He did so because he had learned the check to Ms. Griffin had not cleared his account and he now intended to issue a personal check to Ms. Griffin.
9. On June 8, 2007, respondent wrote a \$4,000 check (check no. 1519) from his personal checking account to pay Ms. Griffin.

10. On October 24, 2007, when contacted by the State Bar, respondent admitted to the State Bar that he paid \$3,700 to Ms. Griffin from his CTA for personal legal services. Ms. Griffin's services were not related to any client work. Further, respondent issued a check when he knew he had insufficient funds in his client trust account.

11. Respondent used his CTA for paying personal or business expenses. Respondent made no effort to determine his responsibilities relating to his CTA and failed to comply with his responsibilities relating to his CTA. He cloaked a check for his personal or business expenses with the aura of a client trust account and the financial soundness of such accounts. He abdicated and violated his responsibilities regarding his CTA.

Conclusion of Law:

By failing to withdraw his earned fees promptly, by keeping his own personal funds in his CTA, by issuing a check to Ms. Griffin for his own personal matter and not related to any client expenses, and by transferring funds from his personal checking account into his CTA to pay Ms. Griffin, respondent commingled his personal funds with his client funds and misused his CTA, in willful violation of Rules of Professional Conduct rule 4-100(A).

By issuing a check from his CTA when he knew there were insufficient funds in his CTA to cover the check, commingling his funds with client funds, by failing to withdraw earned fees, by transferring funds into his CTA and by issuing checks for respondent's personal and business expenses, by making no effort to determine his responsibilities relating to his CTA, by failing to comply with his responsibilities relating to his CTA, by cloaking checks for his personal and business expenses with the aura of a client trust account and the financial soundness of such accounts, and by abdicating and violating his responsibilities regarding his CTA, respondent committed an act or acts involving moral turpitude, dishonesty or corruption, in willful violation of Business & Professions Code section 6106.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was September 24, 2008.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.3 of the Standards for Attorney Sanctions for Professions Misconduct (hereinafter "standard") recommends an actual suspension for a finding of moral turpitude, dishonesty, or corruption.

Standard 2.2(b) provides culpability of a member for commingling of entrusted funds or property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses resulted in the willful misappropriation of entrusted funds or property, shall result in at least three months actual suspension from the practice of law, irrespective of mitigating circumstances.

The Supreme Court recently re-affirmed that great weight is to be given the Standards and that they should be followed whenever possible. (*In re Silvertown* (2005) 36 Cal.4th 81, 92.)

Thus, while the Standards are not mandatory, the Supreme Court has held that they should be followed unless the charged attorney can demonstrate the existence of extraordinary circumstances justifying a lesser sanction. (*In re Silvertown*, supra, 36 Cal.4th at 92.) That is, it is Respondent's burden to demonstrate that there are extraordinary circumstances justifying a lesser sanction than that recommended by the Standards.

Although the standards call for a 90 day actual suspension, given respondent's mitigation, including his showing of good character, his lack of priors, and the very limited misuse of his CTA, the parties believe that it is appropriate to deviate from the standards.

Case law also supports an actual suspension of thirty days. Every attorney is supposed to know that trust accounts are never to be used for personal purposes, even if client funds are not on deposit. (See *Arm v. State Bar* (1990) 50 Cal.3d 763, 777; *In the Matter of Bleecker* (Review Dept., 1990) 1 Cal. State Bar Ct. Rptr. 113,123; *In the Matter of Heiser* (Review Dept., 1990) 1 Cal State Bar Ct. Rptr. 47, 54.)

As the Review Department has written: "By using Trust Account checks to pay personal debts, the attorney cloaks the transaction with the care and soundness represented by the account and its relation to the confidential bond between attorney and the client. Trading on the 'aura' of the Trust Account, the attorney seeks to offer the check recipient added assurance as to the validity of the instrument." *In the Matter of Heiser*, supra, 1 Cal. State Bar Ct. Rptr. At 54.

In commingling cases, the discipline has generally ranged from six months actual suspension to 60 day actual suspension when there are no other violations. In *In the Matter of Doran* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871, an attorney was suspended for 18 months, stayed, 3 years probation, and six months actual suspension for repeated violations of rule 4-100 over three years by depositing personal funds into the attorney's CTAs and using these accounts for personal expenses. Moral turpitude was found for using the CTA for expenses and repeatedly issuing NSF checks. The attorney had no prior record of discipline, but the misconduct began within two years of being admitted. He presented two favorable character witnesses.

In *In the Matter of Bleecker* (Review Dept., 1990) 1 Cal. State Bar Ct. Rptr. 113, an attorney was actually suspended for 60 days for commingling his funds with his clients' and a \$274 misappropriation.

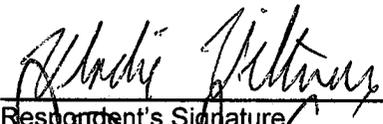
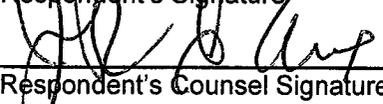
Respondent's misconduct is even less egregious than Bleecker's misconduct. Thus, in light of the mitigating factors discussed earlier, the recommended discipline for respondent is a two year suspension, stayed, with four years probation and thirty days actual suspension as a means to protect the public, maintain high professional standards, and preserve public confidence in the legal profession.

(Do not write above this line.)

In the Matter of Vladislav Viltman	Case number(s): 07-O-13710
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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.

<u>October 6, 2008</u> Date	 Respondent's Signature	<u>Vladislav Viltman</u> Print Name
<u>October 6, 2008</u> Date	 Respondent's Counsel Signature	<u>Jonathan Arons</u> Print Name
<u>October 6, 2008</u> Date	 Deputy Trial Counsel's Signature	<u>Allen Blumenthal</u> Print Name

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In the Matter Of Vladislav Viltman	Case Number(s): 07-O-13710
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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.)**

Oct. 20, 2008
Date

Jury Ad
Judge of the State Bar Court
Lucy Armendariz

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 San Francisco, on October 22, 2008, 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:

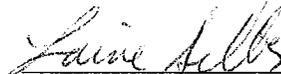
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JONATHAN IRWIN ARONS
LAW OFC JONATHAN I ARONS
101 HOWARD ST #310
SAN FRANCISCO, CA 94105

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

ALLEN BLUMENTHAL, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 22, 2008.



Laine Silber
Case Administrator
State Bar Court