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State Bar Court of California Hearing Department San Francisco		
Counsel For The State Bar Susan I. Kagan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2037 Bar # 214209	Case Number (s) 08-O-12603	(for Court's use) <div style="text-align: center; font-size: 1.2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED <i>R</i></div> <div style="text-align: center;">AUG 17 2009</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
Counsel For Respondent Steven A. Lewis, Esq. Lewis & Bacon 1050 Fulton Avenue, Suite 125 Sacramento, CA 95825 (916) 485-5005 Bar # 63488	Submitted to: Settlement 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: Terrence J. Thompson Bar # 207059 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 June 5, 2000.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 9 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."

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- (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.
- (8) **No aggravating circumstances are involved. See page 8.**

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. **See page 8.**
- (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. **See page 8.**
- (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. **See page 8.**
- (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. **See page 8.**
- (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

No Prior Discipline. See page 8.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one (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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **two (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)

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

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- (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:**

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW

Facts

1. In May 2002, respondent entered into a partnership with Justin Gingery. From May 2002 through September 2002, respondent and Justin Gingery were partners in the law firm, Gingery & Thompson. In September 2002, Ryan Derdowski ("Derdowski") entered into a partnership with respondent and Justin Gingery. From September 2002 through May 2007, respondent, Justin Gingery and Derdowski were partners in the law firm, Gingery, Thompson & Derdowski.
2. At all relevant times, respondent and respondent's partners employed Justin Gingery's father, Richard Gingery, Sr. ("Richard Sr."), and Justin Gingery's brother, Richard Gingery, Jr. ("Richard Jr."). Both Richard Sr. and Richard Jr., held the title of "Administrator" until approximately May 2007, when their titles were changed to "Legal Assistant." Neither Richard Sr., nor Richard Jr., is an attorney.
3. From before May 2002 through May 2007, Justin Gingery was the direct supervisor of Richard Sr. and Richard Jr. During that time period, Justin Gingery permitted Richard Sr. and Richard Jr. to practice law by, among other things, allowing them to handle pre-litigation personal injury matters in the law firm with little or no supervision by Justin Gingery. During that time period, Justin Gingery aided Richard Sr. and Richard Jr. in the unauthorized practice of law.
4. From May 2002 through May 2007, respondent handled personal injury litigation at Gingery, Thompson and Derdowski and did not directly supervise Richard Sr. or Richard Jr.
5. From May 2002 through at least October 2006, respondent and Derdowski had no knowledge that Justin Gingery was permitting Richard Sr. and Richard Jr. to practice law by allowing them to handle pre-litigation personal injury matters for Gingery, Thompson & Derdowski, with little or no supervision by Justin Gingery. During that time period, respondent and Derdowski had no knowledge that Justin Gingery was aiding Richard Sr. and Richard Jr. in the unauthorized practice of law.
6. Around October 2006, respondent and Derdowski became aware of the State Bar's allegations that Justin Gingery had aided Richard Sr. in the unauthorized practice of law from 2000 through 2002 (State Bar Case No. 03-O-01775). At that time, respondent discussed with Justin Gingery the allegations that Justin Gingery had aided Richard Sr. in the unauthorized practice of law. At all relevant times, Justin Gingery denied aiding Richard Sr. and Richard Jr. in the unauthorized practice of law, and claimed that the State Bar's allegations that he aided Richard Sr. in the unauthorized practice of law from June 2000 through August or December 2002, were false.
7. Sometime after November 20, 2006, respondent became aware that Justin Gingery entered into a stipulation with the State Bar in Case No. 03-O-01775, wherein Justin Gingery admitted to aiding Richard Sr. in the unauthorized practice of law from June 2000 through August or December 2002, in violation of rule 1-300(A) of the Rules of Professional Conduct. Respondent did not see the stipulation in Case No. 03-O-01775 until after it was published on the State Bar website in approximately May 2007.
8. Between October 2006 and May 2007, the only steps respondent and Derdowski took to ascertain whether Richard Sr. and/or Richard Jr. were practicing law was to retain ethics counsel to advise Justin

Gingery and the law firm and to receive assurances from Justin Gingery, Richard Sr. and Richard Jr. that Richard Sr. and Richard Jr. were not engaged in the unauthorized practice of law. From October 2006 through May 2007, Justin Gingery continued to supervise Richard Sr. and Richard Jr. During that time, the only step respondent and Derdowski took to prevent Richard Sr. and Richard Jr. from engaging in the unauthorized practice of law was to follow the advice of ethics counsel by drafting a form letter to be sent to anyone who wrote letters to the law firm indicating a belief that Richard Sr. and/or Richard Jr. was an attorney. Between October 2006 and May 2007, respondent and Derdowski failed to take adequate steps to prevent Richard Sr. and Richard Jr. from engaging in the unauthorized practice of law.

9. In May 2007, Justin Gingery left Gingery, Thompson & Derdowski. As of May 2007, respondent and Derdowski continue to be partners in the firm, Thompson & Derdowski.

10. From May 2007 through February 2008, respondent and Derdowski employed Richard Sr. as a Legal Assistant at Thompson & Derdowski. From May 2007 through May 2008, respondent and Derdowski employed Richard Jr. as a Legal Assistant at Thompson & Derdowski.

11. From May 2007 through February 2008, respondent was the direct supervisor of Richard Sr. From May 2007 through May 2008, respondent was the direct supervisor of Richard Jr.

12. In February 2008, Thompson & Derdowski terminated Richard Sr.'s employment. In May 2008, Thompson & Derdowski terminated Richard Jr.'s employment.

13. During the time period between May 2002 and May 2007, while Justin Gingery was responsible for supervising Richard Sr. and Richard Jr., respondent failed to take adequate steps to prevent Richard Sr. and Richard Jr. from, among other things: (a) holding themselves out as attorneys; (b) providing legal advice to clients; (c) negotiating settlements with insurance companies; and (d) discussing settlements with clients.

14. From May 2007 through August 2007, while respondent was responsible for supervising Richard Sr. and Richard Jr., respondent permitted Richard Sr. and Richard Jr. to do the following, among other things: (a) hold themselves out as attorneys; (b) provide legal advice to clients; (c) negotiate settlements with insurance companies; and (d) discuss settlements with clients.

15. Commencing in August 2007 and through the respective dates Richard Sr. and Richard Jr. left Thompson & Derdowski, respondent and Derdowski took adequate steps to supervise that Richard Sr. and Richard Jr. to prevent them from engaging in unauthorized practice of law. However, Richard Sr. and Richard Jr. may have continued to engage in acts constituting the unauthorized practice of law without respondent or Derdowski's knowledge.

Conclusions of Law

By failing to take adequate steps through May 2007 to prevent Richard Sr. and Richard Jr., non-attorneys, from holding themselves out as attorneys and/or providing legal advice to clients, negotiating settlements with insurance companies and discussing settlement with clients, and/or engaging in other acts, with little or no supervision by respondent or respondent's partners, and by allowing Richard Sr. and Richard Jr. to hold themselves out as attorneys and provide legal advice to clients, negotiate settlements with insurance companies and discuss settlement with clients and/or engage in other acts after May 2007, with little or no

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supervision by respondent or Derdowski, respondent aided Richard Sr. and Richard Jr. in the unauthorized practice of law.

PENDING PROCEEDINGS

The disclosure date referred to on page two, paragraph A (7) was July 16, 2009.

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.

FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES

AGGRAVATING CIRCUMSTANCES

There are no aggravating circumstances in this matter.

MITIGATING CIRCUMSTANCES

Standard 1.2(e)(i). Respondent has been in practice since June 5, 2000. He has no prior record of discipline.

Standard 1.2(e)(iii). No clients were harmed by respondent's misconduct.

Standard 1.2(e)(v). Respondent displayed spontaneous candor and cooperation to the State Bar during the disciplinary proceedings.

Standard 1.2(e)(vi). Respondent demonstrated good character.

Standard 1.2(e)(vii). Respondent displayed remorse for his misconduct.

SUPPORTING AUTHORITY

Standard 2.10 requires that a violation of any provision of the Rules of Professional Conduct not specified in the standards (e.g., rule 1-300(A)) shall result in reproof or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

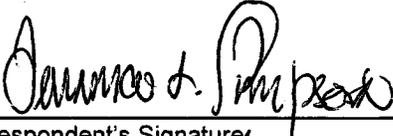
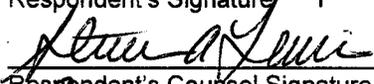
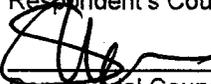
Culpability for aiding UPL generally results in an actual suspension (see *In the Matter of Bragg* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615; *In the Matter of Jones* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411; *In the Matter of Scapa and Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635; *In the Matter of Nelson* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 178; *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498.) However, based on the facts, the standards, the lack of aggravating circumstances and extensive mitigation in this matter, a one-year stayed suspension is the appropriate level of discipline.

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In the Matter of Terrence J. Thompson	Case number(s): 08-O-12603
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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>7/30/09</u> Date	 Respondent's Signature	<u>Terrence J. Thompson</u> Print Name
<u>7/29/2009</u> Date	 Respondent's Counsel Signature	<u>Steven A. Lewis, Esq.</u> Print Name
<u>8/3/09</u> Date	 Deputy Trial Counsel's Signature	<u>Susan I. Kagan</u> Print Name

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In the Matter Of Terrance J. Thompson	Case Number(s): 08-O-12603
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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.)**

Aug. 17, 2009
Date

Lucy Armen Lariz
Judge of the State Bar Court
Lucy Armen Lariz

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 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 San Francisco, California, addressed as follows:

**STEVEN ALLAN LEWIS
LEWIS & BACON
1050 FULTON AVE #125
SACRAMENTO, CA 95825**

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

SUSAN I. KAGAN, Enforcement, San Francisco

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



Bernadette C.O. Molina
Case Administrator
State Bar Court