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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>			<b>PUBLIC MATTER</b>
Counsel For The State Bar  Larry DeSha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1336  Bar # 117910	Case Number(s):  09-N-15798-RAP	For Court use only  <div style="text-align: center;"> <b>FILED</b>  <b>MAR 29 2011</b>                      STATE BAR COURT                      CLERK'S OFFICE                      LOS ANGELES                 </div>	
Counsel For Respondent  Michael E. Wine 301 N. Lake Avenue; Ste. 800 Pasadena, CA 91101 (626) 796-6688  Bar # 58657	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of:  CHRISTOPHER J. O'KEEFE  Bar # 165197  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 18, 1993.
- (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.



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- (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 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are 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 08-PM-12170-RAH
  - (b)  Date prior discipline effective May 29, 2009
  - (c)  Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code section 6068(k)
  - (d)  Degree of prior discipline Actual suspension of two years and until relief under std. 1.4(c)(ii)
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.

State Bar Court case no. 06-PM-10555-RAP

Date prior discipline effective: July 29, 2006

State Bar Act violation: Business and Professions Code section 6068(k)

Degree of prior discipline: Actual suspension of 30 days

State Bar Court case no. 04-O-14389-JMR

Date prior discipline effective: January 15, 2006

Rules of Professional Conduct violation: Rule 3-700(A)(2)

State Bar Act violations: Business and Professions Code sections 6106 and 6068(i)

Degree of prior discipline: Actual suspension of six months and until restitution and relief under rule 205, Rules of Procedure

State Bar Court case no. 03-O-04419JMR

Date prior discipline effective: July 10, 2005

Rules of Professional Conduct violations: Rules 4-100(A) and 4-100(B)(3)

State Bar Act violations: Business and Professions Code sections 6106 and 6068(i)

Degree of prior discipline: Actual suspension of 60 days

- (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. See Stipulation Attachment, pages 7 and 8.
- (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:**

**D. Discipline:**

- (1)  **Stayed Suspension:**
  - (a)  Respondent must be suspended from the practice of law for a period of two (2) 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 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)

(3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California 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:

**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 the 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 5.162(A) & (E), 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:** As part of his proof of rehabilitation and present fitness to practice law, as required by Std. 1.4(c)(ii), Respondent shall provide medical evidence in State Bar Court from a psychiatrist who will describe the drugs then prescribed for Respondent, state the purpose and side effects of each drug, and give an opinion that Respondent can successfully deal with the stress of returning to the practice of law.

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

**IN THE MATTER OF: CHRISTOPHER J. O'KEEFE**  
**CASE NO.: 09-N-15798-RAP**

**FACTS:**

1. On April 29, 2009, the California Supreme Court filed its Order No. S137831 imposing discipline on Respondent in State Bar Court case no. 08-PM-12170-RAH. The effective date of the order was May 29, 2009. One of the provisions in the order required Respondent to comply with rule 9.20, California Rules of Court. Rule 9.20(c) required Respondent to file a Compliance Declaration with the Clerk of State Bar Court no later than July 8, 2009.
2. Respondent filed his Compliance Declaration on October 9, 2009, which was 93 days late.

**CONCLUSIONS OF LAW:**

3. By filing his Compliance Declaration 93 days late, Respondent willfully violated rule 9.20(c) of the California Rules of Court.

**MITIGATING CIRCUMSTANCES:**

Emotional/Physical Difficulties

On March 2, 2009, Respondent was involved in a motor vehicle accident which resulted in soft tissue injury to his neck. He sought medical treatment from Dr. William L. Tontz for pain in his back and neck. On March 27, 2009, an MRI of the cervical spine showed a minor bulging disc in his neck at C5-C6.

On May 2, 2009, Dr. Gregory Paniccia, a psychiatrist, prescribed the drug Paroxetine for Respondent for treatment of depression. Respondent began taking Paroxetine daily from May 3, 2009, and continued taking it until June 15, 2009, when Dr. Dennis Cook prescribed a different drug with less harmful side effects. The manufacturer of Paroxetine warns of possible side effects of "forgetfulness" and "confusion," and Respondent complained to Dr. Paniccia of those side effects.

On May 4, 2009, Dr. Tontz prescribed the drug Hydrocodone for treatment of Respondent's complaint of neck pain. Respondent began taking Hydrocodone daily from May 4, 2009 until the end of August 2009. The manufacturer of Hydrocodone warns of possible side effects of "fuzzy thinking."

On June 3, 2009, Dr. Paniccia prescribed the drug Clonazepam as an anti-seizure medication. Respondent began taking Clonazepam daily from June 3, 2009 until July 9, 2009, when Dr. Scott Geiger changed the prescription to Gabapentin. The manufacturer of Clonazepam warns of possible side effects of “difficulty thinking and remembering.”

On July 9, 2009, Dr. Geiger prescribed the drug Gabapentin as an anti-seizure medication in place of Clonazepam. Respondent began taking Gabapentin daily from July 9, 2009 until the end of August 2009. The manufacturer of Gabapentin warns of possible side effects of “memory problems.

On October 17, 2009, Respondent told Dr. Paniccia that he had been unable to file his Rule 9.20 Compliance Declaration because he was under too much stress. However, he had already filed it on October 9, 2009. On October 31, 2009, Respondent told Dr. Paniccia again that he still had not filed his Compliance Declaration.

Drs. Tontz, Cook, and Geiger are available to testify that Respondent’s pain problems were resolved by the end of August 2009, and that he no longer needed the drugs they prescribed. Dr. Paniccia is available to testify that he is still treating Respondent for depression and anxiety, that Respondent’s main source of stress arises from this State Bar disciplinary proceeding, and that he believes Respondent will be able to return to the practice of law after he has completed his expected period of actual suspension. [Standard 1.2(e)(vi).]

## **SUPPORTING AUTHORITY:**

### Standards

Standard 1.2(e) defines “mitigating circumstances” as “an event or factor established clearly and convincingly by the member subject to a disciplinary proceeding as having caused or underlain the member’s professional misconduct and which demonstrates that the public, courts and legal profession would be adequately protected by a more lenient degree of sanction than set forth in these standards for the particular act or professional misconduct found or acknowledged.”

Standard 1.7(a) requires that the degree of discipline to be imposed in a second proceeding shall be greater than that imposed in the prior proceeding, unless the prior discipline was so remote in time and so minimal in severity that greater discipline would be manifestly unjust.

Standard 1.7(b) requires that a third imposition of discipline shall be disbarment unless the most compelling circumstances clearly predominate.

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Case Law

“Nothing on the face of rule 955 or in our prior practice distinguishes between ‘substantial’ and ‘unsubstantial’ violations of rule 955. In every case, rule 955 performs the critical prophylactic function of ensuring that all concerned parties ... learn about an attorney’s discipline. (Citation.) ... Thus, a willful violation of this rule is, by definition, deserving of strong disciplinary measures.”

*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187

**PENDING PROCEEDINGS:**

The disclosure date referred to on page 2, paragraph A.(7), was March 18, 2011.

**COSTS:**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 18, 2011, the costs in this matter are \$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.

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In the Matter of:  CHRISTOPHER J. O'KEEFE	Case number(s):  09-N-15798-RAP
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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 Facts, Conclusions of Law, and Disposition.

March <u>22</u> , 2011 Date	 Respondent's Signature	Christopher J. O'Keefe Print Name
March <u>27</u> , 2011 Date	 Respondent's Counsel Signature	Michael E. Wine Print Name
March <u>24</u> , 2011 Date	 Deputy Trial Counsel's Signature	Larry DeSha Print Name

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In the Matter of:  CHRISTOPHER J. O'KEEFE	Case Number(s):  09-N-15798-RAP
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### ACTUAL SUSPENSION 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.

On page 4 of the stipulation, the "X" in box D(1)(a)(i) is DELETED to remove the "and until" condition which would have required that respondent's two-year stayed suspension continue until he complied with standard 1.4(c)(ii). (It is inappropriate to attach "and until" conditions to periods of *stayed* suspension.)

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 5.58(E) & (F), 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.)**

3/29/11

Date



Judge of the State Bar Court

**DONALD F. MILES**

**CERTIFICATE OF SERVICE**

[Rules Proc. of State Bar; Rule 5.27(B); 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 March 29, 2011, 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:

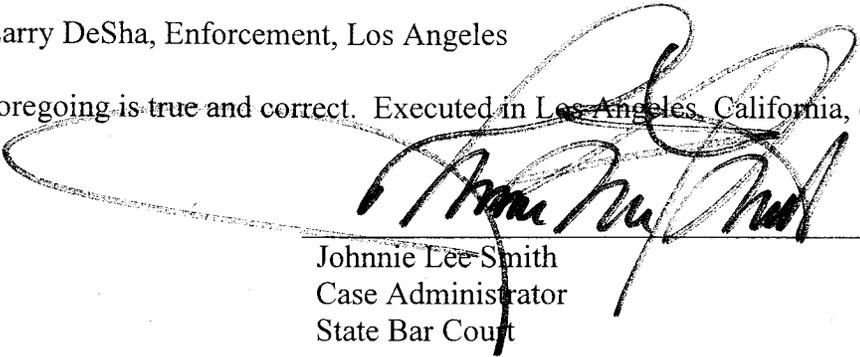
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL E. WINE  
301 N LAKE AVE STE 800  
PASADENA, CA 91101 - 5113

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

Ernest Larry DeSha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 29, 2011.



Johnnie Lee Smith  
Case Administrator  
State Bar Court