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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

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| <p>Counsel For The State Bar</p> <p>BRANDON K. TADY Office of Chief Trial Counsel 1149 South Hill Street Los Angeles, California 90015</p> <p>Bar # 83045</p> | <p>Case Number(s): 09-O-12032 09-O-16041 09-O-15673 10-O-05168 10-O-08535 10-O-02105 10-O-05958</p> | <p>For Court use only</p> <p>FILED <i>mc</i> MAY 19 2011</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p> |
| <p>In Pro Per Respondent</p> <p>Marc Russell Levine 16485 Laguna Canyon Rd Ste 250 Irvine, CA 92616</p> <p>Bar # 113671</p> | <p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> | |
| <p>In the Matter of: Marc Russell Levine</p> <p>Bar # 113671</p> <p>A Member of the State Bar of California (Respondent)</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 June 13, 1984.
- (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 30 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."



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- (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: three (3) billing cycles following the effective date of the Supreme Court order on this matter. (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 07-O-14858
 - (b) Date prior discipline effective June 25, 2010
 - (c) Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code, sections 6103, 6068(i), and 6068(o)(3)
 - (d) Degree of prior discipline One (1) year stayed suspension, One (1) year probation, with conditions.
 - (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. See Stipulation Re Facts, Conclusions and Disposition

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- (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 Stipulation Re Facts, Conclusions and Disposition
- (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. See Stipulation Re Facts, Conclusions and Disposition
- (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. See Stipulation Re Facts, Conclusions and Disposition

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- (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 Stipulation Re Facts, Conclusions and Disposition
- (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 Stipulation Re Facts, Conclusions and Disposition

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 three (3) 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 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:

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:
 - Substance Abuse Conditions
 - Medical Conditions
 - Law Office Management Conditions
 - Financial Conditions

F. Other Conditions Negotiated by the Parties:

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- (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:** None

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| In the Matter of: Marc Russell Levine | Case Number(s): 09-O-12032 09-O-16041 09-O-15673 10-O-05168 10-O-08535 10-O-02105 10-O-05958 |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------|

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 |
|------------------------------|------------------|-------------------------|
| Orange County Superior Court | \$2,500 | n/a |
| George P. Sepulveda | \$2,593.75 | Date discipline imposed |
| Kendrick Ellis | \$22,631.25 | Date discipline imposed |
| | | |

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than thirty (30) days before the end of the probationary period except for the payment of \$2500 in sanctions to the Orange County Superior Court. See attached Stipulation of Facts for the probation condition requiring the payment of these sanctions.

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 |
|---------------------------|------------------------|-------------------|
| George P. Sepulveda | \$50 | Monthly |
| Kendrick Ellis | \$50 | Monthly |
| | | |

- 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.

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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:
 - a. 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

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Marc Russell Levine

CASE NUMBER(S): 09-O-12032
 09-O-16041
 09-O-15673
 10-O-05168
 10-O-08535
 10-O-02105
 10-O-05958

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 09-O-12032 (Complainant: Barbara Shuman)

FACTS: (Counts 1-4 of the Notice of Disciplinary Charges)

1. On or about July 25, 2006, the law firm of Ervin, Cohen, & Jessup (“ECP”) filed a complaint on behalf of Barbara Shuman (“Barbara”) and Richard Shuman (“Richard”), Barbara’s former husband, against the Shumans’ business partners titled *Richard Shuman, Barbra Shuman v. Michael Findlay, Jilly Findlay, Motorsports, Inc.*, Riverside County Superior Court case number RIC453709 (the “Shuman civil matter”).

2. On or about April 24, 2007, Barbara substituted into the Shuman civil matter In Pro Per, replacing ECP as the attorney of record on her behalf. On or about April 24, 2007, the law firm of Tenner, Johnson, LLP substituted into the Shuman civil matter replacing ECP as Richard’s attorney of record.

3. On or about December 20, 2007, Richard’s counsel filed a request for dismissal of the Shuman civil matter on his behalf. In exchange for the dismissal, Michael and Jill Findlay (collectively, “the Findlays”), the defendants in the Shuman civil matter, agreed to waive their costs. In or about December 2007, the Findlays made the same offer to Barbara, *i.e.*, a waiver of costs in exchange for a dismissal.

4. On or about December 21, 2007, Barbara employed Respondent to represent her in the Shuman civil matter. On or about January 8, 2008, Barbara paid Respondent \$2,000 in advanced attorney fees, and on or about January 29, 2008, Respondent filed a substitution of attorney in the Shuman civil matter, replacing Shuman who had been representing herself In Pro Per.

5. In or about December or January 2008, Respondent advised Barbara not to accept the Findlays' offer to waive their costs in exchange for a dismissal. Respondent represented that Barbara did not need to sign the Findlays' proposed Release Agreement, because as long as she dismissed the Shuman civil matter prior to trial, the Findlays would not be permitted to recover their costs against her. At no time did Respondent advise Barbara of the consequences of dismissing the Shuman civil matter without obtaining a waiver of costs.

6. On or about February 19, 2008, Respondent filed a request for dismissal of the Shuman civil matter on behalf of Barbara and dismissed the matter in its entirety. Pursuant to Code of Civil Procedure § 1032, the Findlays were the prevailing party and entitled to recover the costs incurred in connection with the Shuman civil matter.

7. On or about March 3, 2008, the Findlays filed a Memorandum of Costs ("MOC") and properly served it on Respondent. Respondent received the MOC. In the MOC, the Findlays requested that the court assess \$31,752.86 in costs against Barbara.

8. At no time did Respondent inform Barbara that the Findlays had filed the MOC requesting \$31,752.86, as cost incurred in connection with the Shuman civil matter.

9. On or about May 21, 2008, the Findlays filed a Judgment Following Dismissal ("Judgment") in the Shuman civil matter and properly served it on Respondent. Respondent received the Judgment. The Judgment awarded the Findlays \$31,752.86 in costs against Barbara.

10. Respondent did not promptly inform Barbara of the Judgment. On or about August 13, 2008, Barbara learned about the Judgment, when a Writ of Execution was served at the office of her divorce attorney.

11. On or about August 15, 2008, Barbara met with Respondent. At the meeting, Respondent stated that he had prepared a motion to vacate the Judgment and that he intended to file the motion with

the court. Respondent requested that Barbara contact him the following week to check on the status of the motion to vacate the Judgment.

12. At no time did Respondent file any opposition or motion to tax costs in response to the MOC, or file a motion to vacate the Judgment, and/or any other legal pleading on behalf of Barbara.

13. On or about August 22, 2008, Barbara telephoned Respondent, but Respondent stated only that he would call her back. Respondent did not return Barbara's call.

14. Between on or about August 22, 2008, and on or about August 27, 2008, Barbara telephoned Respondent every day inquiring about the status of the motion to vacate the Judgment. Respondent received the messages. Respondent did not respond to them.

15. On or about August 28, 2008, Barbara mailed Respondent a letter inquiring about the efforts he was making to vacate the Judgment in the Shuman civil matter. Respondent received the letter. Respondent did not respond to it.

16. On or about October 4, 2008, counsel for the Findlays served Barbara with a notice of a judgment debtor's examination. On or about October 4, 2008, Barbara spoke with Respondent and he stated that he would once again move to vacate the Judgment. Respondent did not communicate with Barbara after on or about October 4, 2008.

17. On or about October 7, 2008, pursuant to a court order in the Shuman civil matter, the Findlays initiated a levy on Barbara's checking and savings accounts at Wells Fargo Bank and USA Federal Credit Union to satisfy the Judgment against Barbara.

18. On or about October 7, 2008, Barbara sent Respondent an e-mail advising him that Wells Fargo and Federal Credit Union were served with levies and requesting his assistance. Barbara also asked if Respondent would find out if the Findlays had attempted to garnish her wages and, if so, whether he could take legal action to prevent them from doing so. Respondent received the e-mail. Respondent did not respond to Barbara's email or otherwise communicate with her. Respondent did not take any legal action on behalf of Barbara in response to the levies on her bank accounts.

19. On or about October 31, 2008, Barbara filed a complaint for legal malpractice against Respondent in a matter titled, *Barbara Shuman v. Marc R. Levine, et. al.*, Riverside County Superior

Court case number RIC 512020 (the “legal malpractice matter”). On or about December 22, 2009, the court filed a default judgment in the legal malpractice matter against Respondent in the sum of \$37,973.

20. On or about February 23, 2009, Barbara filed a complaint against Respondent with the State Bar of California.

21. On or about May 14, 2009, and June 30, 2009, a State Bar investigator mailed letters to Respondent regarding Barbara’s complaint. The letters were mailed to Respondent’s official membership records address. The letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Barbara’s complaint. Respondent received the letters. Respondent did not respond to them or otherwise cooperate in the investigation.

22. On or about May 14, 2009, a State Bar investigator also mailed a letter to Respondent at an address provided by Barbara. The letter requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Barbara’s complaint. Respondent received the letter. Respondent did not respond to it or otherwise cooperate in the investigation.

CONCLUSIONS OF LAW:

23. In Count One of the NDC, Respondent admits that by failing to inform Shuman of the MOC, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code, section 6068(m).

24. In Count Two of the NDC, Respondent admits that by failing to file any opposition or motion to tax costs in response to the MOC, or file a motion to vacate the Judgment, or any other legal pleading on behalf of Barbara to file an opposition, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of Rules of Professional Conduct, rule 3-110(A).

25. In Count Three of the NDC, Respondent admits that by failing to respond to Shuman’s phone calls, or e-mails, Respondent willfully violated California Business and Professions Code, section 6068(m), by failing to respond promptly to reasonable status inquiries of a client.

26. In Count Four of the NDC, Respondent admits that by failing to respond to the State Bar investigator, Respondent willfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent.

Case No. 09-O-16041 (Complainants: Renee and Thomas Hafen)

FACTS (Counts 5-6 of the Notice of Disciplinary Charges):

27. On or about June 11, 2009, the Supreme Court of California filed Order No. S173613 (“Suspension Order”) which ordered that Respondent be suspended from the practice of law in the state of California due to his failure to pay his State Bar membership dues. On or about June 17, 2009, the State Bar served a copy of the Suspension Order on Respondent by mail to his member address of record. The effective date of the Suspension Order was on or about July 1, 2009.

28. Between on or about July 1, 2009, and on or about July 17, 2009, Respondent was suspended from the practice of law and membership in the State Bar of California due to his failure to pay his State Bar membership dues.

29. Between on or about July 1, 2009, and on or about September 3, 2009, Respondent was also not eligible to practice of law in the State of California because he failed to comply with the Minimum Continuing Legal Education (“MCLE”) requirements.

30. On or about July 10, 2009, Respondent appeared at a Mandatory Settlement Conference on behalf of Michael Meacher and Thomas Carlson, defendants in a civil matter titled, *Thomas and Renee Hafen, Trustees of the Hafen Trust v. Rhonda Nielson, et. al.*, Orange County Superior Court case number 05CC07279 (the “Hafen Trust civil matter”).

31. On or about July 16, 2009, Respondent paid his membership dues; however, he continued to be not eligible to practice law in the State of California due to his non-compliance with the MCLE requirements.

32. On or about September 3, 2009, Respondent complied with the MCLE requirements and he was reinstated to the practice of law in the State of California.

33. On or September 9, 2009, Renee and Thomas Hafen (the “Hafens”), the plaintiffs in the Hafen Trust civil matter, filed a complaint against Respondent with the State Bar alleging that

Respondent appeared in court on behalf of two of the defendants in the Hafen civil matter while Respondent was suspended from the practice of law in the state of California.

34. On or about October 14, 2009, and on or about November 12, 2009, a State Bar investigator mailed letters to Respondent regarding the Hafens' State Bar complaint. The letters requested that Respondent respond in writing to the Hafens' allegation that represented two of the defendants in the Hafen civil matter while Respondent was suspended from the practice of law in the state of California. Respondent received the letters. Respondent did not respond to them or otherwise cooperate in the investigation.

CONCLUSIONS OF LAW:

35. In Count Five of the NDC, Respondent admits that by appearing at the Mandatory Settlement Conference on behalf of clients while he was suspended from the practice of law, Respondent willfully violated Business and Professions Code, section 6068(a), by failing to support the Constitution and laws of the United States and of this State, by advertising or holding himself out as practicing or entitled to practice law or otherwise practicing law or attempting to practice law when he was not an active member of the State Bar in violation of Business and Professions Code section 6125 and 6126.

36. In Count Six of the NDC, Respondent admits that by failing to respond to the State Bar Investigator's letters, Respondent willfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent, as follows:

Case No. 09-O-15673 (Complainant: Peter Levy)

FACTS (Counts 7-9, and 11 of the Notice of Disciplinary Charges):

37. On or about October 10, 2008, Peter Carton ("Carton"), the CEO of Silicon Color, Inc. ("Silicon Color"), Roland Wood ("Wood"), and Kenn Walker ("Walker") employed Respondent to represent them and Silicon Color in a civil matter titled, *Paul Moebius, et. al. v. Pixels Animation Studios, Inc., Silicon Color, Inc., Peter Carton, Roland Wood, Kenn Walker*, San Diego County Superior Court case number 37-2008-00091593-CU-MC-CTL (the "Silicon Color civil matter"). On or about October 21, 2008, Carton paid Respondent \$10,000 in advanced attorney fees on behalf of Silicon Color, himself, Wood, and Walker (collectively "the defendants").

38. At no time did Respondent file an answer to the complaint, or any other pleading, on behalf the defendants in the Silicon Color civil matter.

39. On or about January 16, 2009, the plaintiffs in the Silicon Color civil matter served each of the defendants with a Request for Entry of Default. The defendants contacted Respondent to inform him that they had received the requests to enter default.

40. On or about January 23, 2009, Respondent sent the defendants an e-mail stating that he secured the promise of opposing counsel to withdraw the default. In fact, the requests to enter default were not withdrawn. On or about February 6, 2009, the court entered defaults against the defendants in the Silicon Color civil matter.

41. On or about April 16, 2009, Silicon Color was served with a Statement of Damages. On or about April 20, 2009, Carton spoke with Respondent on the telephone, advised him of his receipt of the Statement of Damages, and inquired about its significance. Respondent told Carton not to worry about the Statement of Damages and that the default had been set aside. Respondent also told Carton that Respondent had prepared and filed a motion to strike and a demurrer to the complaint in the Silicon Color civil matter and that the motion to strike and demurrer were set for a hearing.

42. In fact, the default had not been set aside in the Silicon Color civil matter. Although Respondent prepared the motion to strike and the demurrer, he never filed them. On April 20, 2009, Respondent knew that the default had not been set aside and that he had not filed a motion to strike or a demurrer on behalf of the defendants in the Silicon Color civil matter.

43. On April 28, 2009, Respondent sent Carton via e-mail a copy of a motion to strike and a demurrer that he claimed to have filed on behalf of the defendants in the Silicon Color civil matter. Both pleadings indicated that a hearing was set for May 1, 2009. In fact, Respondent had not filed either the motion to strike or the demurrer in the Silicon Color civil matter.

44. Between May 1, 2009, and July 27, 2009, Carton left several telephone messages with Respondent inquiring about the status of the Silicon Color civil matter. Carton also sent Respondent e-mails inquiring about the status of the matter. Respondent received the telephone messages and the e-mails. Respondent did not return any of Carton's telephone messages, or respond to any of his e-mails.

45. Between May 1, 2009, and July 27, 2009, Carton was able to speak with Respondent on one occasion. During the telephone conversation, Respondent told Carton that the default had been set aside, that the court had conducted a hearing on the motion to strike and the demurrer, and that the court's ruling was pending. In fact, the default had not been set aside, and at no time had Respondent filed a motion to strike or a demurrer on behalf of the defendants in the Silicon Color civil matter. When he made the representation to Carton, Respondent knew that the default had not been set aside and that he had not filed a motion to strike or a demurrer on behalf of the defendants in the Silicon Color civil matter.

46. On July 27, 2009, Carton contacted attorney Peter Levy ("Levy") to assist him with discovering the status of the Silicon Color civil matter, because Carton had been unable to communicate with Respondent. On that date, Levy advised Carton that Respondent had never filed any pleadings on behalf of the defendants in the Silicon Color civil matter, and that the default had never been vacated.

47. On July 31, 2009, Levy filed a motion to vacate the entry of default in the Silicon Color civil matter on behalf of the defendants.

48. At no time did Respondent file an answer on behalf of the defendants in the Silicon Color civil matter or seek to set aside their defaults. At no time did Respondent appear on behalf of the defendants in the Silicon Color civil matter.

49. On August 17, 2009, attorney Levy, on behalf of Carton, filed a complaint against Respondent with the State Bar of California.

50. On September 25, 2009, and On April 14, 2010, a State Bar investigator mailed letters to Respondent regarding Levy's complaint. The letters were mailed to Respondent's official membership records address. The letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Levy's complaint. Respondent received the letters. Respondent did not respond to them or otherwise cooperate in the investigation.

51. On July 30, 2010, the State Bar investigator spoke with Respondent on the telephone. Respondent confirmed that his official membership records address was current, and stated that he intended to respond to the allegations of misconduct raised by Levy in two weeks. At no time did

Respondent provide the State Bar with a written response to the allegations of misconduct raised by Levy.

CONCLUSIONS OF LAW:

52. In Count Seven of the NDC, Respondent admits that by misrepresenting to Carton that the default against the defendants in the Silicon Color civil matter had been set aside, that he had filed a motion to strike and a demurrer on behalf of the defendants, that the court had held a hearing on the motion to strike and the demurrer and that the court's ruling was pending, Respondent committed an act involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code, section 6106.

53. In Count Eight of the NDC, Respondent admits that by failing to file an answer on behalf of the defendants in the Silicon Color civil matter or seek to set aside their defaults, Respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence.

54. In Count Nine of the NDC, Respondent admits that by failing to respond Carton's telephone messages and e-mails between May 1, 2009, and July 27, 2009, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code, section 6068(m).

55. In Count Eleven of the NDC, Respondent admits that by failing to respond to the State Bar Investigator's letters, Respondent willfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent.

Case No. 10-O-05168 (Complainant: Nicholas Accettura)

FACTS (Counts 12-15 of the Notice of Disciplinary Charges):

56. In or about May 2007, Nicholas Accettura ("Accettura") employed Respondent to represent him on a contingency fee basis in a personal injury claim arising out of an automobile accident which occurred May 7, 2007. The driver of the other vehicle involved in the accident was employed by All Yellow Taxi, Inc. ("All Yellow Taxi"), and was the primary cause of the collision according to the traffic collision report prepared by the California Highway Patrol.

57. Between May 2007 and January 27, 2009, Accettura spoke with Respondent approximately ten times about his personal injury claim.

58. At no time did Respondent file a complaint on behalf of Accettura with respect to his personal injury claim arising out of the May 7, 2007 accident. At no time did Respondent take any action to settle the personal injury claim on behalf of Accettura. On May 7, 2009, the statute of limitations on Accettura's personal injury claim lapsed.

59. Between March 12, 2009, and August 13, 2009, Accettura telephoned Respondent approximately twenty-one (21) times, and each time he left a message inquiring about the status of his personal injury claim. Respondent received the messages. Respondent did not respond to them.

60. On September 22, 2009, Accettura hand-delivered a letter to Respondent's receptionist terminating Respondent's services and requesting his client file. Respondent received the letter. At no time did Respondent respond to the letter or otherwise provide Accettura with his client file.

61. On April 1, 2010, Accettura filed against Respondent with the State Bar of California.

62. On June 4, 2010, and on July 30, 2010, a State Bar investigator mailed letters to Respondent regarding Accettura's complaint. The letters were mailed to Respondent's official membership records address. The letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Accettura's complaint. Respondent received the letters. Respondent did not respond to them or otherwise cooperate in the investigation.

CONCLUSIONS OF LAW:

63. In Count Twelve of the NDC, Respondent admits that by failing to file a complaint on behalf of Accettura, failing to take action to settle Accettura's claim, and allowing the state of limitations to lapse on Accettura's claim, Respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence.

64. In Count Thirteen of the NDC, Respondent admits that by failing to return Accettura's phone calls, Respondent willfully violated Business and Professions Code, section 6068(m), by failing to respond promptly to reasonable status inquiries of a client.

65. In Count Fourteen of the NDC, Respondent admits that by failing to provide Accettura with his client file, Respondent failed to release promptly, upon termination of employment, to the client, at

the request of the client, all the client papers and property in violation of Rules of Professional Conduct, rule 3-700(D)(1).

66. In Count Fifteen of the NDC, Respondent admits that by failing respond to the State Bar Investigator's letter, Respondent willfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent.

Case No. 10-O-08535 (State Bar Investigation)

FACTS (Count 16 of the Notice of Disciplinary Charges):

67. On or about February 9, 2010, Respondent entered into a Stipulation Re: Facts, Conclusions of Law, and Discipline with the State Bar of California in case number 07-O-14858 (the "Stipulation").

68. On or about February 24, 2010, the State Bar Court filed an order approving the Stipulation, and the State Bar Court recommended the discipline set forth in the Stipulation to the Supreme Court.

69. On or about June 25, 2010, in case number S182467, the Supreme Court of California issued an order (the "Disciplinary Order") imposing on Respondent the discipline recommended by the State Bar Court in its order approving the Stipulation. Respondent was properly served with the Disciplinary Order. On or about July 25, 2010, the Disciplinary Order became effective.

70. In the Disciplinary Order, the Court ordered that Respondent be suspended from the practice of law for one year, that imposition of the suspension be stayed, and that he be placed on probation for one year subject to the conditions of probation recommended by the State Bar Court in its Order Approving the Stipulation for case no. 07-O-14858.

71. On or about July 20, 2010, a Probation Deputy with the Office of Probation mailed a letter to Respondent enclosing, *inter alia*, a copy of the Disciplinary Order, and the conditions of probation. Respondent received the July 20, 2010 letter and its enclosures.

72. One of the conditions of the Disciplinary Order was that within thirty (30) days of July 25, 2010, or on or about August 24, 2010, Respondent was required to contact the Office of Probation of the State Bar of California (the "Office of Probation") and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation. To date, Respondent has neither contacted nor met with his assigned probation deputy.

73. Another condition of the Disciplinary Order was that Respondent was required to submit quarterly reports to the Office of Probation showing his compliance with the conditions of his probation. To date, Respondent has not submitted any quarterly reports to the Office of Probation.

74. Another condition of the Disciplinary Order was that Respondent was required to pay \$2,500 in sanctions and all accrued interest, if any, to the Orange County Superior Court by no later than thirty (30) days after the effective date of the Supreme Court's Disciplinary Order, or on or about August 24, 2010. A further condition of the Disciplinary Order was that Respondent was required to provide the Office of Probation with satisfactory proof of the payment of the sanction by no later than or about September 3, 2010. At no time has Respondent provided the Office of Probation with proof that he has paid any portion of the \$2,500 sanction to the Orange County Superior Court.

CONCLUSIONS OF LAW:

75. In Count Sixteen of the NDC, Respondent admits that by failing to contact the Office Of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation, by failing to submit quarterly reports to the Office of Probation, and by failing to pay \$2,500 in sanctions and all accrued interest to the Orange County Superior Court, Respondent willfully violated Business and Professions Code, section 6068(k), by failing to comply with all conditions attached to any disciplinary probation.

Case No. 10-O-02105 (Complainant: George P. Sepulveda)

FACTS

76. On June 26, 2009, George P. Sepulveda ("Sepulveda") retained Respondent to file a lawsuit against Resurrection Customs. Respondent and Sepulveda signed an attorney-client fee agreement, and Sepulveda paid Respondent \$3,000 in advanced fees.

77. Respondent drafted a complaint in the Resurrection Customs matter, but before the complaint was filed, Resurrection Customs filed for bankruptcy.

78. On October 10, 2009, Respondent sent Sepulveda an invoice showing a charge of \$406.25 for drafting the complaint, and a credit balance of \$2,593.75.

79. Respondent did no additional work for Sepulveda after October 10, 2011.

80. On November 11, 2009, Sepulveda sent Respondent a letter acknowledging Respondent's October 10, 2009 invoice and requesting a refund of the \$2,593.75 credit balance.

81. Respondent never refunded the \$2,593.75 to Sepulveda.

82. On January 7, 2010, Sepulveda filed a complaint against Respondent with the State Bar of California.

83. On or about March 15, 2010, and on or about May 3, 2010, a State Bar investigator mailed letters to Respondent regarding Sepulveda's complaint. The letters were mailed to Respondent's official membership records address. The letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Sepulveda's complaint.

Respondent received the letters. Respondent did not respond to them or otherwise cooperate in the investigation.

CONCLUSIONS OF LAW:

84. Respondent admits that by failing to refund the credit balance of \$2,593.75 to Sepulveda, Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to promptly refund any part of a fee paid in advance that has not been earned.

85. Respondent admits that by failing respond to the State Bar Investigator's letters, Respondent willfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent.

Case No. 10-O-05958 (Complainant: Kendrick Ellis)

FACTS

86. Beginning in March 2005, Kendrick Ellis ("Ellis") hired Respondent to represent his business, Control Air Conditioning Corporation ("CACC").

87. On February 15, 2008, while Respondent represented CACC, Respondent and Ellis entered into a business transaction. Respondent asked Ellis to loan him \$31,000 (the "Loan") so Respondent could avoid foreclosure on his home. Ellis gave Respondent a cashier's check for \$31,000.

88. Respondent never advised Ellis in writing of his right to seek the advice of an independent lawyer of Ellis' choice, never gave Ellis a reasonable opportunity to seek that advice, and never obtained Ellis's consent in writing to the terms of the transaction.

89. On March 26, 2009, Respondent paid Ellis \$2,000 toward the Loan.

90. On May 18, 2009, Respondent paid Ellis \$2,000 toward the Loan.

91. On June 30, 2009, Ellis applied \$967.50 in legal work performed by Respondent to the Loan.

92. On January 20, 2010, Respondent paid Ellis \$1,500 toward the Loan.

93. On February 2, 2010, Ellis applied \$1,901.25 in legal work performed by Respondent to the Loan. This was the last payment made by Respondent on the Loan.

94. March 24, 2010, Ellis filed a complaint against Respondent with the State Bar of California.

95. On July 13, 2010, and on July 30, 2010, a State Bar investigator mailed letters to Respondent regarding Ellis's complaint. The letters were mailed to Respondent's official membership records address. The letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Ellis's complaint. Respondent received the letters. Respondent did not respond to them or otherwise cooperate in the investigation.

CONCLUSIONS OF LAW:

96. Respondent admits that by failing to advise Ellis in writing of Ellis's right to seek the advice of an independent lawyer of Ellis's choice, by failing to give Ellis a reasonable opportunity to seek that advice before taking a loan from Ellis, and by failing to obtain Ellis's consent in writing to the terms of the transaction, Respondent willfully violated Rules of Professional Conduct, rule 3-300 by entering into a business transaction with a client without advising the client in writing that the client may seek the advice of an independent lawyer of the client's choice, giving the client a reasonable opportunity to seek that advice, and obtaining the client's written consent to the terms of the transaction.

97. Respondent admits that by failing respond to the State Bar Investigator's letters, Respondent willfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent.

CIRCUMSTANCES IN AGGRAVATION.

1. Harm

Respondent's misconduct significantly harmed Shuman, the Hafens, Carton, Accettura, Sepulveda, and Ellis (Standard 1.2(b) (iv)). Respondent's misconduct harmed Shuman because he gave her incorrect legal advice about at what point she would owe the other party costs if she dismissed her case, and did not inform her of the \$31,752.86 the court eventually awarded the other party.

Respondent's misconduct harmed the Hafens because Respondent was suspended from the practice of law, and not entitled to practice, when he appeared at the Mandatory Settlement Conference.

Respondent's misconduct harmed Carton because Respondent did not keep him informed of the developments in his case. Respondent's misconduct harmed Accettura because Respondent allowed the statute of limitation to expire on Accettura's case, causing Accettura to lose the right to recover in his personal injury case. Respondent's misconduct harmed Sepulveda because Respondent failed to return the unused portion of Sepulveda's advanced fee. Respondent's misconduct harmed Ellis because Respondent failed to comply with RPC, rule 3-300 including failing to advise Ellis in writing that Ellis had the right to speak with an attorney before loaning Respondent \$31,000 and obtaining from Ellis written consent to the terms of the loan.

2. Multiple Acts Of Wrongdoing

Respondent's current misconduct evidences multiple acts of wrongdoing. Respondent committed misconduct in seven (7) separate client matters identified above (Standard 1.2 (b) (ii)).

CIRCUMSTANCES IN MITIGATION.

1. Candor/Cooperation

Respondent demonstrated spontaneous candor and cooperation to the State Bar in the present disciplinary proceeding. Respondent cooperated in the present discipline proceeding including entering into the present Stipulation resolving all of the allegations against him in the Notice of Disciplinary Charges (Standard 1.2 (e) (v)).

2. Family Problems

Respondent's significant other had been employed full time. At the time of this misconduct, she stopped working because of mental health issues. This caused significant financial stress on Respondent. Respondent was also raising six (6) children, including a child with a serious handicap. Respondent was taking time from his law practice to raise his children.

3. Good Character

Respondent was prepared to call at trial good character witnesses from a wide range of references in the legal and general communities who are aware of the full extent of Respondent's misconduct (Standard 1.2 (e) (vi).)

4. Additional Mitigating Circumstances.

Respondent has reduced the balance of the loan to Ellis by \$8,368.75.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3

Standard 1.3 provides that the primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct 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. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

Standard 1.6(a)

Standard 1.6(a) provides that the appropriate sanction for an act of professional misconduct shall be that set forth in the following standards for the particular act of misconduct found or acknowledged. If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding,

and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.

Standard 1.7(a)

Standard 1.7(a) provides that if a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

Standard 2.4 (b)

Standard 2.4 (b) provides that culpability of a member of willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of willfully failing to communicate with a client shall result in reproof or suspension depending on the extent of the misconduct and the degree of harm to the client.

Standard 2.6

Standard 2.6 provides that culpability of a member of a violation of Business and Professions Code section 6068 shall result in disbarment or suspension depending on 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

Standard 2.8

Standard 2.8 provides that culpability of a member of a wilful violation of rule 3-300, Rules of Professional Conduct, shall result in suspension unless the extent of the member's misconduct and the harm to the client are minimal, in which case, the degree of discipline shall be reproof.

Standard 2.10

Standard 2.10 provides that culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or of a willful violation of any Rule 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.

Argument

In the present proceeding, the stipulated discipline of two (2) years stayed suspension, two (2) years actual suspension with the requirement of a Standard 1.4 (c) (ii) hearing, and three (3) years probation with conditions including restitution conditions, Ethics School, and passage of the MPRE is consistent with the above cited standards for discipline. Respondent's cooperation in entering into this Stipulation of Facts, Conclusions of Law, and Disposition, and his evidence of good character are important mitigating circumstances.

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 November 18, 2010 and the facts 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 Notice of Disciplinary Charges.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

| <u>Case No.</u> | <u>Count</u> | <u>Alleged Violation</u> |
|-----------------|--------------|-------------------------------------------------|
| 09-O-15673 | Ten | Rules of Professional Conduct, rule 3-700(D)(2) |

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 25, 2011, the prosecution costs in this matter are \$3,269. 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.

PAYMENT OF SANCTIONS

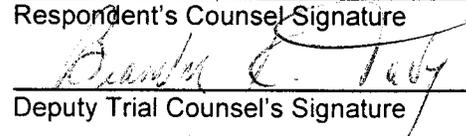
As a condition of Respondent's disciplinary probation, Respondent is required to pay \$2,500 in sanctions owed to the Orange County Superior Court within sixty (60) days of the effective date of the discipline, and to provide proof of payment to the Office of Probation with his first Quarterly Report.

(Do not write above this line.)

| | |
|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| In the Matter of Marc Russell Levine | Case number(s): 09-O-12032 09-O-16041 09-O-15673 10-O-05168 10-O-08535 10-O-02105 10-O-05958 |
|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------|

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>5/10/11</u> Date |  Respondent's Signature | <u>Marc R. Levine</u> Print Name |
| _____ Date |  Respondent's Counsel Signature | _____ Print Name |
| <u>5/10/11</u> Date |  Deputy Trial Counsel's Signature | <u>Brandon C. Tracy</u> Print Name |

(Do not write above this line.)

| | |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| In the Matter of: Marc Russell Levine | Case Number(s): 09-O-12032 09-O-16041 09-O-15673 10-O-05168 10-O-08535 10-O-02105 10-O-05958 |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------|

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.
 1. On page 4 of the stipulation, the "X" in the box next to paragraph D.(1)(a)(i) is deleted;
 2. On page 4 of the stipulation, the "X" in the box next to paragraph E.(1) is deleted;
 3. On page 15 of the stipulation, numbered paragraph 34, line 3, "that represented" is deleted, and in its place is inserted "that Respondent represented";
 4. On page 15 of the stipulation, numbered paragraph 36, lines 3-4, "Respondent, as follows:" is deleted, and in its place is inserted "Respondent."; and
 5. On page 26 of the stipulation, under the Standard 2.6 heading, line 3, "standard" is deleted, and in its place is inserted "standard 1.3."

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.)**

5/19/11
Date


Judge of the State Bar Court

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 May 19, 2011, I deposited a true copy of the following document(s):

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

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:

**MARC RUSSELL LEVINE
LAW OFC OF MARC R LEVINE
16485 LAGUNA CANYON RD STE 250
IRVINE, CA 92616**

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

BRANDON TADY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 19, 2011.



Tammy Cleaver
Case Administrator
State Bar Court