ORIGINAL

(Do not write above this line.)

PUBLIC MATTER

State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

Counsel For The State Bar	Case Number(s):	For Court use only
Larry DeSha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1336 Bar # 117910	10-J-02194-RAP	FILED MAR 29 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent John Ralph Maynard 705 E. Silver Spring Dr.; Second Fl. Whitefish Bay, WI 53217 (414) 426-4070 Bar # 55169	Submitted to: **Assigned Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of: JOHN RALPH MAYNARD Bar # 55169 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 March 1, 1973.

(2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.

(3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 11 pages, not including the order.

(4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

(7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- ☒ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 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

(b) ☐ Date prior discipline effective

(c) ☐ Rules of Professional Conduct/ State Bar Act violations:

(d) ☐ Degree of prior discipline

(e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.

(2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) ☒ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

(1) ☒ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious. See Stipulation Attachment, page 9.

(2) ☒ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct. See Stipulation Attachment, page 9.

(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 Attachment, page 9.

(4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.

(5) ☐ **Restitution:** Respondent paid $ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.

(6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.

(7) ☐ **Good Faith:** Respondent acted in good faith.

(8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.

(9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

(10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.

(11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

(12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

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:

(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 ninety (90) days.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

(1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in 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 ☐ Law Office Management Conditions

☐ Medical Conditions ☐ 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:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JOHN RALPH MAYNARD
CASE NO.: 10-J-02194-RAP

FACTS:

1. Respondent was admitted to the practice of law in Wisconsin on August 28, 1970, and was admitted to the practice of law in California on March 1, 1973. All events described herein occurred in the state of Wisconsin.

2. On August 1, 2005, Respondent joined with three other attorneys to create a law firm, which they incorporated with themselves as the sole shareholders. All incoming revenue went into the firm's general account or its one client trust account. All employees, including the attorneys, were paid from the firm's general account.

3. On May 21, 2006, Respondent left the firm. He remained physically in place and sublet his office space from the firm. He took several clients from the firm. No determination was made of his rights or responsibilities as a shareholder in the firm's corporation.

4. On July 27, 2006, Respondent rented a mail box from the U.S. Postal Service (the "P.O. box"), using the firm's name as holder, himself as "principal" of the firm, and his residence address as the firm's street address.

5. By October 31, 2006, Respondent had sent three invoices to clients he had taken from the firm, using the firm's stationery. The invoices were for a combination of services Respondent had provided before and after he left the firm. Each invoice directed the client to submit payment to the firm in an enclosed envelope addressed to the firm at the P.O. box.

6. One invoice was for $3,712.50, which was for $3,161.34 for services Respondent provided while in the firm, and $551.16 for services provided after Respondent left the firm. The client mailed his check for $3,712.50 to the P.O. box. Respondent kept the money without notifying the firm.

7. Another invoice was for $10,345.00, which was for $1,462.50 for services Respondent provided while in the firm, and $8,882.50 was for services provided after Respondent left the firm. The client mailed his check for $10,345.00 to the P.O. box. Respondent kept the money without notifying the firm.

8. Another invoice was for $5,850.00, which was for $3,150.00 for services Respondent provided while in the firm, and $2,700.00 was for services provided after Respondent left the firm. The client mailed his check for $5,989.10 to the P.O. box. The client's reason for making the check larger than the invoice is unknown. Respondent kept the money without notifying the firm.

9. As of October 31, 2006, Respondent had collected a total of $7,773.84 of funds which would have been paid to the firm if Respondent had not sent his own billings in the firm's name.

10. During the period from November 1, 2006 through January 31, 2007, Respondent sent 10 additional invoices to former clients of the firm, but none of them sent him money.

11. Sometime in February 2007, the firm learned of Respondent's billings and collections. On February 22, 2007, the firm sent Respondent a letter terminating his office sublease and demanding payment of all monies received on behalf of the firm. Respondent vacated his office, but he did not pay anything to the firm.

12. The firm contacted the attorney disciplinary authorities in Wisconsin, complaining of Respondent's misappropriation of their funds. Respondent cooperated in the resulting investigation, and admitted the facts set forth above.

13. On December 29, 2009, the Supreme Court of Wisconsin issued its disciplinary order no. 2009 WI 106 for In the Matter of Disciplinary Proceedings Against John R. Maynard, Attorney at Law. The order found Respondent culpable of violating three of the Wisconsin Supreme Court Rules ("SCR") governing the professional conduct of attorneys in Wisconsin, which rules have counterparts under California law. SCR 20:7.1(a)(1), which prohibits false statements concerning the lawyer or his services, was violated by Respondent's 13 invoices which falsely indicated that he was still in the firm after his departure. SCR 20:7.5(a), which prohibits use of a firm name in a misleading manner, was also violated by Respondent's 13 invoices and by the return envelopes he prepared and sent with a false address for the firm. SCR 20:8.4(c), which prohibits conduct involving dishonesty, fraud, deceit or misrepresentation, was also violated by Respondent's sending the 13 invoices and return envelopes, and misleading three clients into sending funds to him rather than to the firm.

14. The Supreme Court of Wisconsin found mitigating factors of no prior discipline, no harm to a client, and no threat to the administration of justice. It declined to find that Respondent owed any of the diverted funds to the firm, holding that the evidence of such a debt was not clear and convincing.

15. The Supreme Court of Wisconsin imposed discipline of an actual suspension from the practice of law for 90 days and until payment of costs of $11,313.75 to the Wisconsin Office of Lawyer Regulation. The suspension was ordered to begin on February 1, 2010. Under Wisconsin law, a suspension continues until the court issues an order for reinstatement. Respondent did not obtain his order for reinstatement until January 31, 2011.

16. Respondent has cooperated fully with the State Bar of California in its investigation of this matter, has readily admitted all of the facts set forth in this stipulation, and has agreed that his misconduct in Wisconsin is appropriate for discipline in California.

CONCLUSIONS OF LAW:

17. Respondent willfully committed acts of moral turpitude, dishonesty and corruption by his misleading use of the firm's name on the 13 invoices and 13 return envelopes he sent to clients of the firm, by his retention of funds sent to him by clients whom he misled into believing they were paying the firm, and by his failure to notify the firm that he had collected and retained firm funds in the amount of $7,773.84. Respondent thereby violated section 6106 of the Business and Professions Code.

MITIGATING CIRCUMSTANCES:

1. **No Prior Discipline**

At the time of the first offense on July 27, 2006, Respondent had been a member of the State Bar of California for more than 33 years without an imposition of discipline, and he had been licensed to practice law in Wisconsin for more than 36 years without an imposition of discipline. [Standard 1.2(e)(i).]

2. **No Harm**

The Supreme Court of Wisconsin held that Respondent's misconduct caused no harm to clients, the courts, or the administration of justice. [Standard 1.2(e)(iii).]

3. **Candor/Cooperation**

The Supreme Court of Wisconsin held that Respondent fully cooperated with and made full disclosure to the Wisconsin Office of Lawyer Regulation during the disciplinary proceeding. Respondent has similarly cooperated fully with the State Bar of California in this separate proceeding, and has stipulated to the facts, conclusions of law, and recommended discipline for this case. [Standard 1.2(e)(v).]

SUPPORTING AUTHORITY:

Statute

"A certified copy of a final order made by any court ... authorized by law ... to conduct disciplinary proceedings against attorneys, of ... any state ... of the United States, ... determining that a member of the State Bar of California committed professional misconduct in such other jurisdiction shall be conclusive evidence that the member is culpable of professional misconduct in this state, subject only to the exceptions of [an issue as to whether the misconduct warrants discipline under California law and rules, and an issue as to whether the proceedings lacked fundamental constitutional protection]."
Business & Professions Code, section 6049.1

Standards

Standard 2.3 requires an actual suspension or disbarment for an act of moral turpitude, fraud, or intentional dishonesty toward any person, or concealment of a material fact to any person, depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's practice of law. Respondent's intentional dishonesty was directed to 13 clients of his former firm.

Case Law

"In a proceeding under section 6049.1, the appropriate degree of discipline is not presumed by the other state's discipline, but is open to determination in this state. (Citation.)"
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213, 217

In *Levin v. State Bar* (1989) 47 Cal.3d 1140, a property owner sued a corporation for breach of a commercial lease and default on two promissory notes. Levin was a guarantor for the two notes. He falsely informed the plaintiff's attorney that he was authorized by the corporation to stipulate to a judgment and surrender of the premises. The plaintiff's attorney learned of Levin's lack of authority before any harm was done. Levin then made an unsuccessful attempt to have the plaintiff's attorney's supervisor recognize Levin as attorney for the defendant, so that the unauthorized stipulation for judgment could still be filed. In another matter, Levin forged a client's signature to a release for a personal injury claim. He concealed this act by failing to notify the client of the settlement, and failing to pay her share of the settlement funds. He did not give an accounting and make full payment until after the client complained to the State Bar.

The California Supreme Court found these acts of creating false documents to be moral turpitude in violation of section 6106 of the Business and Professions Code. It found mitigating factors of 18 years of practice with no prior discipline, prejudice due to delay in prosecution, and cooperation with the State Bar. In aggravation, it found deliberate attempts to conceal the misconduct in both cases, and multiple acts of wrongdoing. The California Supreme Court imposed discipline of an actual suspension for six months, stayed suspension for three years, and probation for three years.

A lesser suspension of three months is justified here because (1) Respondent has 33 years without prior discipline, compared to Levin's 18 years, (2) Respondent has the additional mitigating factor of no harm to any person or a court, (3) Respondent does not have the aggravating factor of bad faith or dishonesty following his original misconduct, and (4) Respondent's misconduct occurred in Wisconsin and a lesser degree of discipline is required for protection of the public and courts of California.

ETHICS SCHOOL:

In lieu of attending the Ethics School of the California State Bar, Respondent may satisfy this requirement by attending 6.0 hours of instruction in ethics courses approved by the State Bar of Wisconsin. This is not to be counted for satisfying the continuing education requirements of the State Bar of Wisconsin.

PENDING PROCEEDINGS:

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

COSTS:

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 1, 2011, the costs in this matter are $1,636.00. 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.

(The remainder of this page is intentionally blank.)

In the Matter of:	Case number(s):
JOHN RALPH MAYNARD	10-J-02194-RAP

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 12, 2011 Date	Respondent's Signature	John Ralph Maynard Print Name
Date	Respondent's Counsel Signature	Print Name
March 14, 2011 Date	Larry DeSha Deputy Trial Counsel's Signature	Larry DeSha Print Name

11

(Do not write above this line.)

In the Matter of:	Case Number(s):
JOHN RALPH MAYNARD	10-J-02194-RAP

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.

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.)**

03-28-11
Date

Judge of the State Bar Court

RICHARD A. PLATEL

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:

JOHN MAYNARD
705 E SILVER SPRING DR
MILWAUKEE, WI 53217

☒ 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