

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Ashod Mooradian Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1004</p> <p>Bar # 194283</p>	<p>Case Number(s): 10-J-02206 [Investigative Matters: 09-O-19233; 09-O-19348]</p>	<p>For Court use only</p> <p style="text-align: center;">PUBLIC MATTER</p> <p style="text-align: center;">FILED</p> <p style="text-align: center;">OCT 05 2011</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>STEVEN EARL SMITH, Jr. ATTORNEY AT LAW 6355 Topanga Canyon Blvd., Suite 301 Woodland Hills, CA 91367 (818) 347-1940</p> <p>Bar # 140031</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: STEVEN EARL SMITH, Jr.</p> <p>Bar # 140031</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 6, 1989.
- (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 19 pages, not including the order.



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- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2012. (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.

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

Additional aggravating circumstances:

None.

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 14, section "B", paragraph 1.
- (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 Attachment, page 14, section "B", paragraph 2.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct. See Stipulation Attachment, page 14, section "B", paragraph 3.
- (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.

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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.
- (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:

None.

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.

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- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National

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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: ADDITIONAL PROBATION CONDITION:** Respondent must comply with all conditions of probation imposed in the underlying United States Bankruptcy Court, Central District disciplinary matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: STEVEN EARL SMITH, Jr.

CASE NUMBER(S): 10-J-02206
 [Investigative Matters: 09-O-19233; 09-O-19348]

A. 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. 10-J-02206 (Discipline in Other Jurisdiction)

Facts:

1. Respondent was admitted to the practice of law in California on June 6, 1989, was a member at all times stated herein, and is currently a member of the State Bar of California.
2. Respondent was thereafter admitted to the practice before the United States Bankruptcy Court, Central District (“USBC”) and remained so admitted at all times stated herein.
3. On July 8, 2009, United States Bankruptcy Judge, Hon. Geraldine Mund, initiated a disciplinary proceeding against Respondent by filing a Statement of Cause.
4. In support of the Statement of Cause, Judge Mund submitted the response of the Office of United States Trustee (“OUST”) which asserted that Respondent failed to properly perform his duties and responsibilities as an attorney representing chapter 11 and chapter 13 debtors in numerous cases before the USBC during 2008 and 2009, including, but not limited to the following cases:¹
 - a. *In re Nelvine A. Ocampo*, Case No. 1:07-bk-14538-GM [chapter 11] – repeated continuances of chapter 11 plan disclosure statement hearing due to Respondent’s failure to submit approvable disclosure statement and USBC’s referral to attorney discipline panel for failure of Respondent to appear and prosecute case;
 - b. *In re Manuel and Carmen De La Cruz*, Case No. 1:08-bk-19836-KT [chapter 11] – USBC’s denial of Respondent’s employment as attorney for debtors-in-possession due to insufficient expertise, inadequate representation of the debtors, failure to disclose all persons working on the case and discrepancies in disclosures

¹ Respondent admits that OUST’s allegations contained in paragraphs 4a.- 4g. are true and admitted in this matter.

regarding the amount of retainer paid to him and dismissal of case based on failures to comport with requirements of USBC and OUST;

- c. *In re Ignacio Valdivia*, Case no. 1:08-bk-15843-GM [chapter 11] – case dismissed and most of Respondent’s fees ordered disgorged for failure to seek timely approval of his employment;
- d. *In re Noe Obando*, Case no. 1:08-bk-16243-GM [chapter 11] – most Respondent’s fees ordered disgorged for failure to seek timely approval of his employment;
- e. *In re Rosa Ibanez and Mario Hernandez-Ibanez*, Case No. 1:08-bk-15664-MT [chapter 13] – partial disgorgement of Smith’s fees ordered for his failure to adequately communicate with or advise the debtors in connection with their case;
- f. *In re Irene Nichole Velasquez*, Case No. 1:09-bk-10522-GM [chapter 13] and *In re Irene Nichole Velasquez*, Case No. 1:09-bk-10522-GM [chapter 13] – Respondent’s fees ordered disgorged for inadequate representation of debtor, including his failure to appear at a first meeting of creditors, resulting in dismissal of a case and the loss of her home, and his failure to answer the debtor’s questions;
- g. *In re Maria A. Fernandez-Izquierdo*, Case No. 1:08-bk-15172-MT [chapter 13] – Respondent disgorged fees for the case after admitting his failure to provide adequate legal representation to the debtor;

5. In further support of the Statement of Cause, Judge Mund also submitted the declaration of Melissa K. Besecker (“Besecker Declaration”), staff attorney for Chapter 13 Standing Trustee Elizabeth F. Rojas, which asserted that Respondent failed to properly perform his duties and responsibilities as an attorney representing chapter 13 debtors in numerous cases before the USBC during 2008 and 2009.

6. Specifically, the Besecker Declaration asserted that Respondent failed to appear at hearings, failed to comply with documentation requirements, and failed to perform other tasks necessary for confirmation of the chapter 13 plans of his clients, all resulting in multiple continuances of hearings and dismissals, in the following chapter 13 cases: *In re Mayra Reyes*, Case No. SV 08-19837-MT; *In re Maria Gutierrez*, Case No. SV 09-11809-MT; *In re Maria Farias*, Case No. SV-09-12780-GM; *In re Karla Lopez*, Case No. SV-08-20433-GM; *In re Roberto Luna*, Case No. SV 09-10359-GM; *In re Gabriela Guzman*, Case No. ND 08-13042-RR; *In re Vila Piedra*, Case No. SV 09-10002-RR; *In re Alberto Caceras*, Case No. ND 08-13209-RR; *In re Enrique Ortiz*, Case No. ND 09-10680-RR; *In re Juana Lima*, Case No. SV 08-20068-KT; and *In re Patricia Quijas*, Case No. SV 08-15363-MT.²

² Respondent admits that Besecker Declaration allegations stated in paragraphs 5 and 6 are true and admitted in this matter.

7. On July 22, 2009, the USBC served notice upon Respondent that the disciplinary hearing would be held before a panel of judges ("Disciplinary Panel").

8. On September 4, 2009, OUST served notice on Respondent that it intended to appear at the disciplinary hearing for purposes of supporting the recommendations of Judge Mund's referral.

9. On November 11, 2009, Respondent signed and filed a pleading entitled "Admissions, Representations, and Proposed Discipline of Steven E. Smith" ("11/11/09 Admissions"). In his Admissions, Respondent admitted, among several items, the following statements of fact and requested the Disciplinary Panel to enter findings of fact consistent with his admissions:³

- a. For the seven to eight year period preceding April, 2008 Respondent's office filed approximately 40 to 45 bankruptcy cases, predominantly in chapter 7.
- b. On or about April, 2008, after a recommendation from his friend and colleague, G. Helena Phillips, who was going on maternity leave, Respondent engaged Edison Castro, her Spanish-speaking legal assistant as his office manager, as well as Ms. Phillips' office staff.
- c. Starting in about April 2008 and continuing through May 15, 2009 ("Relevant Time Period"), Respondent's office received more than five hundred cases involving debtors, whose primary language and often exclusive language, was Spanish, which Respondent did not speak.
- d. Respondent became attorney of record for a large number of chapter 13 debtors.
- e. In order to make deal with the large volume, Respondent engaged contract lawyers for some appearances and permitted his office manager to increase staff to include many Spanish speaking assistants.
- f. Because the eligibility requirements for chapter 13 cases precluded some clients with excessive secured debt from filing under that chapter, Respondent also began handling a number of chapter 11 cases. Respondent himself lacked adequate experience and exposure to chapter 11 matters, having handled only one previous chapter 11 filing successfully to confirmation.
- g. During the Relevant Time Period, Respondent commenced taking each of the following "shortcuts" in order to accommodate his practice, which was essentially limited to bankruptcy matters:
 - (1) he delegated to Castro and the staff Castro engaged, most of the duties of intake, client communications and relations;

³ Respondent admits that the admissions listed in paragraphs 9.a.-9.o are true and admitted in this matter.

- (2) he delegated to Castro most of the duties of management, fee collection and setting, pre-filing document review, etc.;
 - (3) Respondent gave Maria Abril and Vicki Castrellon, who were non-attorney members of his staff hired by Castro, authority to electronically file debtors' bankruptcy documents in Respondent's name;
 - (4) Respondent did not monitor which of his clients he had personally spoken to, which of his clients had spoken to G. Helena Phillips, and which of his clients had not spoken to any lawyer in his office, prior to the filing of bankruptcies.
- h. During the Relevant Time Period, Respondent's supervision of all staff, including Castro was minimal and Respondent discontinued pre and post-petition duties mandated by the Rights and Responsibilities Agreement ("RARA").
 - i. During the Relevant Time Period, Respondent failed to fully and properly perform many of the duties mandated by the RARA, which he nonetheless executed as a commitment to fulfill and has paid multiple fee disgorgements as a consequence thereof.
 - j. During the Relevant Time Period, Respondent did not personally have any pre-petition communications with many of his debtor clients.
 - k. During the Relevant Time Period, Respondent did not personally review documents, including bankruptcy petitions, schedules, statements of financial affairs, forms 22C, chapter 13 plans, and other similar documents before those documents were filed with the court.
 - l. During the Relevant Time Period, Respondent did not review his daily Summary of ECF Activity issued by the USBC.
 - m. During the Relevant Time Period, Respondent did not know the exact amount of money collected from his clients in cases where he was the attorney of record. But, Respondent did know that all the monies collected from his clients during the Relevant Time Period were not deposited in his bank accounts."
 - n. From April 25, 2009 to May 15, 2009, Respondent was on vacation out of the country. During that period, seven cases were filed by his office, of which one, Case No. LA09-21486AA, *In re Manuel Urbano Linares-Campa*, Respondent did not personally authorize the filing to be made.
 - o. Respondent did not keep adequate financial records or reconcile client payments with his bank statements during the Relevant Time Period.

10. In addition to the above admissions of fact, Respondent, among several representations, also made the following representations in the 11/11/09 Admissions:⁴

- a. Castro, while employed at Smith's office, was engaged in the unauthorized practice of law from May, 2008 to April, 2009.
- b. That monies collected from Respondent's clients prior to filing the case, including filing fees, were "client trust funds."

11. On November 13, 2009, Respondent appeared on his own behalf at the disciplinary hearing. The Disciplinary Panel heard testimony from Respondent and from OUST. The Disciplinary Panel also received evidence into the record from both parties including the OUST response, the Besecker Declaration, the 11/11/09 Admissions and the record of various pleadings and orders that Judge Mund caused to be filed with the USBC.

12. On February 12, 2010, the Disciplinary Panel filed its "Memorandum Decision on Disciplinary Proceeding of Steven E. Smith" ("Decision"). In its Decision, the Disciplinary Panel found that between April 2008 and May 15, 2009, Respondent had failed to adequately represent clients, to adequately communicate with client and other parties in interest, and to comply with the Bankruptcy Code, Bankruptcy Rules, Local Bankruptcy Rules, California Rules of Professional Conduct or California Business and Professions Code.

13. Specifically, the Disciplinary Panel found that that between April 2008 and May 15, 2009, Respondent had represented 500 bankruptcy clients as counsel in primarily Chapter 13 bankruptcy cases before the USBC. Specifically, for the cases identified above in paragraphs 4.a.-4.g. and 6 cases, the Disciplinary Panel stated that:

- (a) Respondent failed to perform the duties mandated by the Rights and Responsibilities Agreements he filed;
- (b) Respondent lacked the competence to handle Chapter 11 cases;
- (c) Respondent did not personally have any pre-petition communications with his debtor clients;
- (d) Respondent did not personally review documents such as petitions, schedules, statements of financial affairs, form B22C, chapter 13 plans and other documents before those documents were filed under Respondent's name in court;
- (e) Respondent failed to properly supervise his office staff, including Edison Castro;
- (f) Respondent failed to keep adequate financial records of client funds or reconcile client payments with his bank statements;
- (g) Respondent failed to review his daily "Summary of ECF Activity" to monitor his filings with the USBC;

⁴ Respondent admits that the representations listed in paragraph 9a.-9.b. are true.

14. Based on the above findings, the Disciplinary Panel found that Respondent had violated Bankruptcy rule 3015-1(v)(2), Bankruptcy rule 3015-1(v)(4), Local Bankruptcy Rule 2090-2, California Rules of Professional Conduct, rules 1-120, 1-300, 3-110, 3-500 and 4-100.

15. The Disciplinary Panel concurrently filed its "Order on Disciplinary Proceeding Against Steven E. Smith" ("Order") ordering that Respondent be suspended for two years from practicing before the USBC of the Central District, but may apply for reinstatement to practice after 90 days of suspension. Further, among other terms, Respondent was placed on probation for balance of the two-year period following the entry of the Order after the period of actual suspension including other specified restrictions on Respondent's ability to practice before the USBC, Central District as a condition of that probation.

16. In addition, Respondent was ordered, as a condition of reinstatement, to complete continuing education in legal ethics and undertake other specific measures to remedy deficiencies in the operation of his law office, the accounting of client funds, the supervision of non-attorney staff and the prevention of the unauthorized practice of law.

Conclusions of Law:

17. The disciplinary proceeding in the United States Bankruptcy Court, Central District, provided Respondent with fundamental constitutional protection.

18. Respondent's culpability determined in the disciplinary proceeding in the United States Bankruptcy Court, Central District would warrant the imposition of discipline in the State of California under the laws or rules in effect in this State at the time the misconduct was committed.

19. By failing to submit an approvable disclosure statement resulting in repeated continuances of a chapter 11 plan disclosure statement hearing, by failing to associate competent counsel for chapter 11 cases where Respondent admitted he was not competent to represent chapter 11 debtors, by failing to seek timely approval of his employment in several chapter 11 case resulting in fee disgorgement orders and by failing to perform legal services of value for Respondent's bankruptcy clients listed in paragraphs 4.a-4.g and 6 above, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

20. By failing to keep and maintain adequate financial records regarding funds received, held and/or disbursed by Respondent on behalf of clients, Respondent improperly maintained and used his client trust account in willful violation of Rules of Professional Conduct, rule 4-100(A).

21. By failing to communicate with his clients and respond to communications from his clients listed in paragraphs 4.a-4.g and 6 above, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Rules of Professional Conduct, rule 3-500(A).

22. By delegating to Castro and the staff Castro engaged, the duties of intake, client communications and relations, by delegating to Castro the duties of office management, fee collection and fee setting, pre-filing document review, etc., by giving Maria Abril and Vicki Castellon, who were non-attorneys, the authority to electronically file debtors' bankruptcy documents in Respondent's name, by not personally having any pre-petition communications with many of his debtor clients, by not personally reviewing documents, including bankruptcy petitions, schedules, statements of financial affairs, forms 22C, chapter 13 plans, and other similar documents before those documents were filed with the USBC in his name, by not reviewing his daily Summary of ECF Activity issued by the USBC and by failing to supervise his staff, including Castro, Respondent aided a person or entity in the unauthorized practice of law in wilful violation of Rules of Professional Conduct, rule 1-300(A).

Case No. 09-O-19233 (Complainant: Russell Taylor)

Facts:

23. On October 7, 2008, Russell Taylor ("Taylor") signed a fee agreement to employ Respondent for loan modification services on two properties and paid a total of \$5,000 in legal fees.

24. On December 16, 2008, a staff person at the office in Downey where Taylor had employed Respondent sent a loan modification request to Taylor's lender. Respondent did not supervise the work to ensure that the loan modification request was appropriate. Thereafter, the lender denied the request because the property was investment property.

25. When Taylor requested a refund of the fees he had paid, the office sent Taylor a letter bearing Respondent's electronic signature claiming that the fees were earned. Thereafter, Taylor filed a small claims action against Respondent, and on July 15, 2010, he obtained a judgment for \$1,200 principal and \$320 in costs. The court found that the services provided were mostly clerical and there was little evidence of work by an attorney.

26. As of the date of this document, Respondent has paid \$900 of the judgment amount to Taylor.

Conclusions of Law:

27. By not paying the \$1,200 to Taylor, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 09-O-19348 (Complainant: Maria Meza)

Facts:

28. On October 18, 2008, Maria Meza ("Meza") signed a fee agreement to employ R for a loan modification and agreed to pay an hourly fee with a partial retainer of \$2,000. Thereafter, Meza paid \$2,000 for the legal services.

29. Respondent did not provide adequate supervision of the staff assisting the clients with loan modification requests. Although Respondent's office contacted Meza's lender seeking information about Meza's loan in October 2008 and made a demand on behalf of Meza to reinstate Meza's loan, no one followed through to make a request for loan modification on behalf of Meza. In March 2009, Meza terminated Respondent's services and requested a refund.

30. In April 2009, Respondent's staff sent Meza a letter claiming that they had performed eight hours of work and were owed an additional \$800. Thereafter, Meza filed a small claims action against Respondent, and on September 21, 2010, she obtained a judgment against Respondent for \$2,000 principal and \$80 costs for a total of \$2,080.

31. Respondent has not paid the judgment amount to Meza.

Conclusions of Law:

32. By not paying the \$2,000 to Meza, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

B. FACTS SUPPORTING MITIGATION.

1. Respondent has no prior record of discipline and had been admitted to the practice of law in California for nearly twenty (20) years when the misconduct in the foreign jurisdiction occurred.⁵

2. Respondent has exhibited candor and significant cooperation with the State Bar of California.⁶ During the pendency of this matter, Respondent cooperated with the State Bar, informally providing information that assisted the State Bar in its understanding of Respondent's misconduct herein. Finally, Respondent also cooperated in that he has stipulated to facts, conclusions of law and level of discipline, including in several additional investigative matters.

3. Respondent has expressed remorse to the State Bar for his misconduct and acknowledged his wrongdoing.⁷ The State Bar is satisfied that Respondent's remorse is genuine and demonstrates that Respondent has taken a significant and meaningful step towards ensuring that ethical misconduct will not recur in the future.

C. AUTHORITIES SUPPORTING DISCIPLINE.

Applicable Standards:

Standard 1.3 provides that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession; the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

⁵ Standard 1.2(e)(i).

⁶ Standard 1.2(e)(v).

⁷ Standard 1.2(e)(vii).

Standard 1.6(a) provides that if two or more acts of misconduct are found in the same proceeding, the sanction imposed shall be the more or most severe of the different applicable sanctions. Standard 1.6(b) provides that a greater or lesser degree of discipline than the appropriate sanction prescribed by these standards shall be imposed or recommended, depending on the net effect of the aggravating and mitigating circumstances, if any.

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

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

Standard 2.6 provides that culpability of a member of a violation of any of the following provisions of the Business and Professions Code 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 1.3:...(a) Sections 6067 and 6068....

Standard 2.10 provides that the culpability of a member for violation of any provision of the Business and Professions Code or any Rule of Professional Conduct not specified in the Standards shall result in reproof or suspension, according to the gravity of the offense or harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in Standard 1.3.

Aggravating & Mitigating Circumstances:

Standard 1.2(b) provides for a greater degree of sanction set forth in the standards where aggravating circumstances exist. In this matter there are no aggravating circumstances.

Standard 1.2(e) provides for a more lenient degree of sanction than set forth in the standards where mitigating circumstances exist.

In this case, pursuant to Standard 1.2(e)(i), Respondent has no prior record of discipline and had been admitted to the practice of law in California for nearly twenty (20) years when the misconduct in the foreign jurisdiction occurred.

Also, pursuant to Standard 1.2(e)(v), Respondent has exhibited candor and cooperation with the State Bar of California. During the pendency of this matter, Respondent cooperated with the State Bar, informally providing information that assisted the State Bar in its understanding of Respondent's misconduct herein. Finally, Respondent also cooperated in that

he has stipulated to facts, conclusions of law and level of discipline, including in several additional investigative matters.

Further, pursuant to Standard 1.2(e)(vii), Respondent has expressed remorse to the State Bar for his misconduct and acknowledged his wrongdoing. The State Bar is satisfied that Respondent's remorse is genuine and demonstrates that Respondent has taken a significant and meaningful step towards ensuring that ethical misconduct will not recur in the future.

Caselaw:

In *Matter of Nelson*,⁸ Nelson stipulated to facts showing he had formed a partnership with a non-lawyer, divided fees with a non-lawyer, and used the non-lawyer as a runner and capper. Nelson also stipulated that his misconduct involved moral turpitude, because of evidence of misappropriation and other dishonest conduct. The Court recommended six months actual suspension.

In this matter, Respondent did not form a partnership with a non-attorney, but rather negligently allowed non-attorney Castro to take advantage of his trust and friendship. Respondent delegated too many core attorney functions to Castro and thereafter failed to supervise. However, Respondent's misconduct did not involve moral turpitude or misappropriation of client funds. In addition, Respondent has significant mitigation, including nearly 20 years with no prior record of discipline, candor and cooperation and remorse. Further, Respondent has agreed to financial conditions in the two investigative matters. For these reasons, Respondent's discipline should be less than that recommended by the Review Department in *Matter of Nelson*.

E. PENDING PROCEEDINGS.

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

F. COSTS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed him that as of September 7, 2011, the estimated prosecution costs in this matter are approximately \$4,071.00. Respondent acknowledges that this figure is an estimate only. 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.

⁸ (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 178

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In the Matter of: STEVEN EARL SMITH, Jr.	Case Number(s): 10-J-02206 [Investigative Matters: 09-O-19233; 09-O-19348]
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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
Russell Taylor	\$300.00	07/15/2010
Maria Meza	\$2,000.00	09/21/2010

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 30 days prior to the expiration of the period of probation.

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

- 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.

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:
- 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.

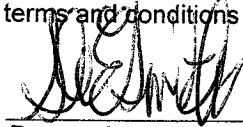
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In the Matter of: STEVEN EARL SMITH, Jr.	Case number(s): 10-J-02206 [Investigative Matters: 09-O-19233; 09-O-19348]
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

September 7, 2011
Date



Respondent's Signature

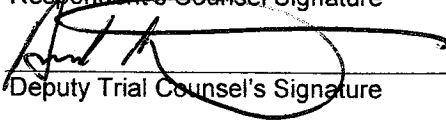
Steven Earl Smith, Jr.
Print Name

Date

Respondent's Counsel Signature

Print Name

September 7, 2011
Date



Deputy Trial Counsel's Signature

Ashod Mooradian
Print Name

(Do not write above this line.)

In the Matter of: STEVEN EARL SMITH, Jr.	Case Number(s): 10-J-02206 [Investigative Matters: 09-O-19233; 09-O-19348]
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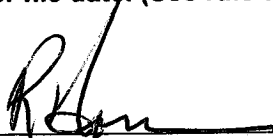
ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

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.)**

9-30-11
Date


RICHARD A. HONN
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 San Francisco, on October 5, 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 San Francisco, California, addressed as follows:

STEVEN E. SMITH JR
STEVEN E. SMITH, ATTORNEY AT LAW
6355 TOPANGA CANYON BLVD
STE 301
WOODLAND HILLS, CA 91367

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

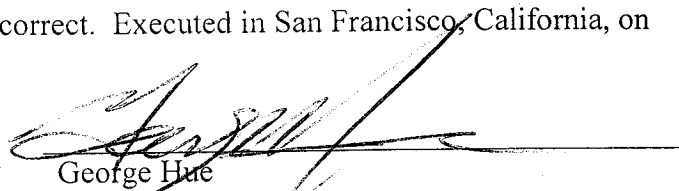
- by overnight mail at _____, California, addressed as follows:

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

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

Ashod Mooradian, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 5, 2011.


George Hue
Case Administrator
State Bar Court