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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>STAYED SUSPENSION</b>		
<b>Counsel For The State Bar</b>  Timothy G. Byer Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1325  Bar # 172472	Case Number(s): 11-O-15874-RAP	For Court use only  <div style="text-align: center;"> <b>FILED</b>  <b>NOV 26 2012</b>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
<b>In Pro Per Respondent</b>  Vincent V. Shulman 1801 Century Park East, Ste. 1430 Los Angeles, CA 90067 (310) 551-1550  Bar # 207105	<div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	
<b>In the Matter of:</b> Vincent Vadim Shulman  Bar # 207105  A Member of the State Bar of California (Respondent)	Submitted to: <del>Assigned Judge</del> <b>Settlement</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted June 5, 2000.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 10 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):
  - ☒ Costs are added to membership fee for calendar year following effective date of discipline.
  - ☐ 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 09-O-14679
  - (b) ☒ Date prior discipline effective December 2, 2011
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: RPC 3-110(A), B&P 6068(m). Respondent failed to appear at an Order to Show Cause hearing, leading to the dismissal of his client's matter, after which Respondent took no action to vacate the dismissal, and failed to advise his client about the dismissal of the case.
  - (d) ☒ Degree of prior discipline Private Reprimand
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances**

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$            on            in restitution to            without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (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.

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- (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 Attachment, page 8, "Mitigating Circumstances"

#### **D. Discipline:**

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of 1 year.

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

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

iii. ☐ and until Respondent does the following:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is placed on probation for a period of 1 year, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

#### **E. Additional Conditions of Probation:**

(1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(3) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(4) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

(5) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

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

**F. Other Conditions Negotiated by the Parties:**

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☐ **Other Conditions:**

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

IN THE MATTER OF:                      VINCENT VADIM SHULMAN

CASE NUMBER:                          11-O-15874

**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.

**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 July 17, 2012 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

**FACTS:**

1.        On September 4, 2008, Mariana Peris employed Respondent, substituting him into representation of her plaintiff's personal injury matter resulting from an automobile accident which had occurred on or about December 16, 2006.
2.        On March 22, 2011, Respondent faxed to Peris a general release for her to sign and return to him in order to facilitate the settlement of her matter, which she did the same day. After returning the signed release, Peris left six voice mail messages on Respondent's office phone between April 14, 2011 and May 21, 2011, all of which he received, requesting an update as to the status of her matter. Respondent returned none of those voice mail messages.
3.        Due to circumstances outside of Respondent's control, Respondent was unable to forward Peris's funds to her from her settlement proceeds until February 16, 2012, at which time Respondent paid Peris her funds in full.

**CONCLUSIONS OF LAW:**

4.        By not returning Peris's voice mail messages, 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 & Professions Code, section 6068(m).

## **MITIGATING CIRCUMSTANCES.**

Respondent stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings as efficiently as possible. (See *Silva-Vador v. State Bar* (1989) 49 Cal.3d 1071, 1079, where mitigative credit was accorded to the attorney for admitting facts and culpability in order to simplify the disciplinary proceedings against her.)

Respondent, whose practice consists of personal injury and business dispute matters, represents clients in family law and landlord-tenant disputes on a pro bono basis, and also provides his services pro bono to Russian language speaking individuals seeking legal advice on Social Security and SSI benefit matters. Civic service and charitable work can be mitigation as evidence of good character. (*In the Matter of Respondent K* (Rev. Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359. *Porter v. State Bar* (1990) 52 Cal.3d 518, 529.)

Respondent has recently implemented improvements to his voicemail system, message memoranda procedures, and employee supervision procedures to more efficiently memorialize and respond to client inquiries. Remedial steps can be considered as mitigation. (*In the Matter of Bouyer* (Rev. Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 416-417.)

Respondent took a reduced contingency fee of less than 15% for his work on Mariana Peris's matter, and expressed to Ms. Peris his apology for his lack of communication to her in writing, an apology which Ms. Peris also accepted in writing, demonstrating his recognition of and remorse for his misconduct. This is entitled to reduced weight in mitigation because the apology, given in May 2012, came approximately a year after the misconduct, and was, therefore, not an objective step promptly taken spontaneously demonstrating remorse. (*In the Matter of Spaith* (Rev. Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 519.)

## **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed 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." (*In re Morse* (1995) 11 Cal.4<sup>th</sup> 184, 205; std 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4<sup>th</sup> 81, 92, quoting *In re Brown* (1995) 12 Cal.4<sup>th</sup> 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Standards 1.7(a) and 2.6(a) are both applicable to Respondent's misconduct, 1.7(a) due to his record of one prior imposition of discipline, and 2.6(a) due to his violation of Business and Professions Code



section 6068(m). The more severe of these sanctions is standard 2.6(a) which provides that 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 1.3[.]” Those purposes of discipline 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.” *Id.* at *In re Morse*. The gravity of the offense in this case is low given that Respondent’s performance of services on the settlement had already been completed when the Respondent’s failure to respond to his client’s inquiries occurred.

A period of one year stayed suspension is within the range of discipline prescribed by Standard 2.6(a) and will serve the purposes of discipline under the circumstances of this case.

#### **EXCLUSION FROM MCLE CREDIT.**

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School and State Bar Client Trust Accounting School, which have been ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was November 19, 2012.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

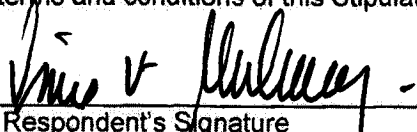
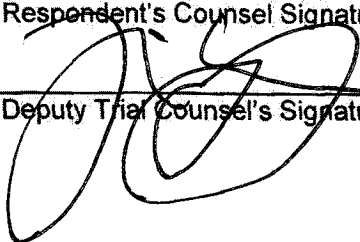
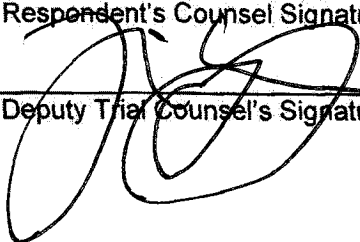
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of November 19, 2012, the prosecution costs in this matter are approximately \$6,779. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of: Vincent Vadim Shulman	Case number(s): 11-O-15874
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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.

<u>11/19/12</u> Date	<u></u> Respondent's Signature	<u>Vincent V. Shulman</u> Print Name
<u>11.19.12</u> Date	<u></u> Respondent's Counsel Signature	<u>N/A</u> Print Name
<u>11.19.12</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Timothy G. Byer</u> Print Name

(Do not write above this line.)

In the Matter of: Vincent Vadim Shulman	Case Number(s): 11-O-15874
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### STAYED 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.)**

Date

11/20/12

  
**DONALD F. MILES**  
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 November 26, 2012, 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:

VINCENT V. SHULMAN  
1801 CENTURY PARK E #1430  
LOS ANGELES, CA 90067

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

Timothy G. Byer, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 26, 2012.

  
Johnnie Lee Smith  
Case Administrator  
State Bar Court