

(Do not write above this line.)

<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>William Todd</b> <b>Deputy Trial Counsel</b> <b>1149 Hill Street</b> <b>Los Angeles, CA 90015</b> <b>213-765-1491</b>  <b>Bar # 259194</b>	<b>Case Number(s):</b> <b>11-O-18669</b>	<b>For Court use only</b>  <div style="text-align: center;"> <b>PUBLIC MATTER</b>   <b>FILED</b>   <b>JUN 06 2012</b>   <b>STATE BAR COURT</b>  <b>CLERK'S OFFICE</b>  <b>LOS ANGELES</b> </div>
<b>Counsel For Respondent</b>  <b>Edward O. Lear</b> <b>Century Law Group</b> <b>5200 W Century Blvd #345</b> <b>Los Angeles, CA 90045</b> <b>310-642-6900</b>  <b>Bar # 132699</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> <b>Lori Smith</b>  <b>Bar # 196156</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>		

**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 26, 1998**.
- (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: two billing cycles following the effective date of the Supreme Court Order. (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 06-O-12517, 06-O-12518 and 06-O-14218
  - (b) ☒ Date prior discipline effective November 25, 2010
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct rules 3-110 (A), 3-700 (D) (2) and 4-100 (A); Business and Professions Code sections 6068 (i) and 6068 (j)
  - (d) ☒ Degree of prior discipline The discipline ordered included 1 year stayed suspension and 2 years probation with conditions including \$3,380.60 in restitution.
  - (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.
- (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.

- (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:**

Respondent has admitted her misconduct and has cooperated with the State Bar in preparing this stipulation.

**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:
- (b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **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 **30 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: Respondent completed Ethics School on June 9, 2011, and passed the test given at the end of the session.
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

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

- (1) ☐ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

**further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

☒ No MPRE recommended. Reason: Respondent passed the MPRE on November 5, 2011.

- (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:                      LORI SMITH, SBN #196156

CASE NUMBER(S):                      11-O-18669

**A.     FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that she is culpable of violations of the specified sections of the *Business and Professions Code* and/or *Rules of Professional Conduct*.

**FACTS:**

1. On March 24, 2011, Carter Stephens ("Stephens") retained Respondent to represent him in *Stevens(sic) vs. Overseas Brazil Inc, et al.* case no. BC447227, a case already pending before the Los Angeles Superior Court (the "State matter").
2. According to the retainer agreement signed by both Stephens and Respondent, Respondent agreed to represent Stephens in the State matter for a flat fee of \$8,500.00. As per the agreement, Respondent agreed to represent Stephens up to, but not through, trial preparation and trial.
3. On April 19, 2011, the defendant in the State matter filed for bankruptcy protection before the United States Bankruptcy Court, Central District of California, in Case No. 2:11-BK-26905-TD.
4. On June 15, 2011, Respondent filed an adversary action on Stephens' behalf in the same Bankruptcy Court against the defendant who filed for bankruptcy protection ("adversary matter").
5. Respondent filed a Unilateral Status Report with the court on Stephens behalf in the adversary matter on September 13, 2011.
6. On September 15, 2011, defense counsel in the adversary matter served a discovery request on Respondent. Respondent received the request.
7. Respondent failed to provide discovery responses on behalf of Stephens to defense counsel.

8. The parties in the adversary matter were required by the court to file a status report (joint, if possible) by January 5, 2012. Respondent failed to either collaborate with defense counsel on a joint status report or submit a unilateral status report on behalf of Stephens.

9. On January 13, 2012, defense counsel in the adversary matter filed a motion to dismiss the adversary matter, with prejudice, pursuant to *Federal Rules of Civil Procedure* rule 41(b). The legal basis for the motion was Plaintiff's failure to prosecute the adversary matter. The motion to dismiss was served upon Respondent by first class mail on January 14, 2012, and was to be heard on February 9, 2012. Respondent received the motion.

10. Respondent offered no written response or opposition to defense counsel's motion to dismiss prior to or during the February 2, 2012 continued status conference in the adversary matter. At that hearing, the court explained it would order the case dismissed "for lack of prosecution."

11. On February 8, 2012, the court filed and entered "Order Dismissing Adversary Proceeding for Lack of Prosecution," thereby dismissing the adversary matter.

#### **CONCLUSION OF LAW:**

12. By failing to provide discovery responses, failing to file a January 2012 status report with the court and failing to oppose the defendant's motion to dismiss, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of *Rules of Professional Conduct* rule 3-110 (A).

#### **B. PENDING PROCEEDINGS.**

The disclosure date referred to on page 2, paragraph A(7), was April 17, 2012.

#### **C. AUTHORITIES SUPPORTING DISCIPLINE.**

The analysis of what is the appropriate level of discipline begins with the Standards for Attorney Sanctions as reaffirmed by *In Re Silvertown* (2005) 36 Cal. 4<sup>th</sup> 81. Though they are not binding on the Supreme Court and are not a "fixed formula," the standards do promote consistent and uniform application of discipline as well as the purpose of discipline, enunciated in standard 1.3: the protection



of the public, the courts and the legal profession as well as the maintenance of high professional standards.

Several standards apply in this instance. Respondent has an instance of prior discipline, which included a 1-year-stayed suspension and 2 years of probation. As described in standard 1.7(a), "the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding." This case presents no reason to deviate from standard 1.7 (a).

Standard 1.2(b) provides for a greater degree of sanction than set forth in the standards where aggravating circumstances exist. In this matter there are two (2) aggravating circumstances.

First, as discussed above, Respondent has a prior record of discipline that is not remote in time and which involved serious misconduct such as a failure to perform legal services competently and a failure to return unearned fees.

Second, Respondent's current misconduct evidences a pattern of misconduct, with two prior admitted *Rules of Professional Conduct* rule 3-110 (A) failures to perform, a charge which is repeated in the current matter.

Standard 2.4 (b) provides that "[c]ulpability of a member of willfully 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."

The stipulated discipline herein falls within the range of discipline suggested by the standards. In addition, the parties believe that the stipulated discipline herein is adequate to protect the public, courts and the legal profession.

#### **D. COSTS**

Respondent acknowledges that the Office of Chief Trial Counsel has informed her that as of April 17, 2012, the estimated prosecution costs in this matter are approximately \$2,817.40. 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.



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In the Matter of:  
**LORI SMITH, SBN # 196156**

Case number(s):  
**11-O-18669**

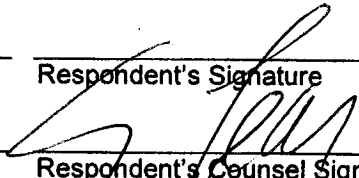
### SIGNATURE OF THE PARTIES

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.

Date

5/3/12

Respondent's Signature



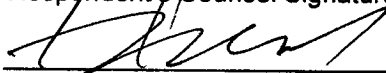
Lori Smith

Print Name

Date

May 18, 2012

Respondent's Counsel Signature



Edward O. Lear

Print Name

Date

Deputy Trial Counsel's Signature



William Todd

Print Name

(Do not write above this line.)

In the Matter of: <b>LORI SMITH, SBN #196156</b>	Case Number(s): <b>11-O-18669</b>
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### ACTUAL SUSPENSION ORDER

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

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

On page 9 of the Stipulation, the fourth full paragraph regarding a pattern of misconduct is deleted in its entirety.

On page 8, the disclosure date of April 17, 2012 is more than 30 days prior to the date the stipulation was submitted to this court for consideration. (Cf. Rules Proc. of State Bar, rule 5.57, subd. (D).) As a result, the disclosure date is amended to read "May 31, 2012." If there are now any pending matters that were not previously disclosed in writing to Respondent, within five (5) days of the filing of this order this court must be notified in writing of that fact and such matters must be disclosed by the State Bar to Respondent.

The page number on the bottom of what should be page 7 of the Stipulation, which has the heading "Attachment to Stipulation re Facts, Conclusions of Law and Disposition" is changed from "1" to "7."

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

6/5/12

  
**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 June 6, 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:

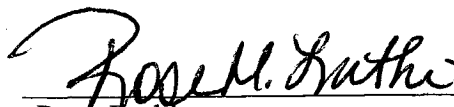
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

EDWARD O. LEAR  
CENTURY LAW GROUP LLP  
5200 W CENTURY BLVD #345  
LOS ANGELES, CA 90045

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

WILLIAM TODD, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 6, 2012.



Rose Luthi  
Case Administrator  
State Bar Court