

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION			PUBLIC MATTER
Counsel For The State Bar Lee Ann Kern Deputy Trial Counsel Anand Kumar Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 (213) 765-1272 Bar # Kern, No. 156623 Kumar, No. 261592	Case Number(s): 12-C-14048 12-O-11081	For Court use only FILED OCT 03 2012 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES	
Counsel For Respondent David A. Clare 444 West ocian Boulevard, Suite 800 Long Beach, California 90802 (562) 624-2837 Bar # 44971	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: Peter William Scalisi Bar # 90131 A Member of the State Bar of California (Respondent)			

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted November 29, 1979.
- (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 13 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):
 - ☐ 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: Costs are to be paid in equal amounts for the two billing cycles immediately following the effective date of the Supreme Court order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (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 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. See Stipulation Attachment, p. 4.
- (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.

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

Additional mitigating circumstances

See Stipulation Attachment, p. 4.

D. Discipline:

(1) ☒ **Stayed Suspension:**

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

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

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

iii. ☐ and until Respondent does the following:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is placed on probation for a period of three years, 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.

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- (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:**

Within 30 days of the effective date of discipline, Respondent shall provide the Probation Unit of the State Bar with proof of his successful completion of the SB 38 program ordered in the underlying criminal matter.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:	PETER WILLIAM SCALISI
CASE NUMBER(S):	12-C-14048 and 12-O-11081

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. 12-C-14048 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDINGS:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On November 19, 2010, a misdemeanor complaint was filed against Respondent in Riverside County Superior Court.
3. On April 5, 2011, Respondent pled guilty and was convicted of a misdemeanor for violating California Vehicle Code, section 23103, subdivision (a) pursuant to section 23103.5, subdivision (a) for alcohol related reckless driving (i.e., a "wet-reckless") on September 30, 2010 in Riverside County.
4. On July 20, 2012, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: For a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the misdemeanor violation of Vehicle Code, section 23103, pursuant to 23103.5 (alcohol related reckless driving), of which Respondent was convicted, involved moral turpitude or other misconduct warranting discipline.

FACTS:

5. At approximately 10:00 p.m. on September 30, 2010, a Riverside County Police officer was stopped on his motorcycle at a red light at the intersection of Lime Street and 14th Street in Riverside, California. Respondent's vehicle was stopped in the left turn lane. After the green light arrow appeared and stayed green for Respondent to proceed, Respondent failed to drive forward and make the left turn.
6. The officer attempted to get Respondent's attention to indicate that there was a green arrow. The officer observed Respondent looking straight ahead with a blank stare. Respondent then turned off the head lights of his vehicle.

7. The officer then pulled up beside Respondent's vehicle drive-side window and asked Respondent why he turned off his headlights and why he failed to proceed on the green left turn arrow. Respondent answered that there was no problem and that he was driving straight, not making a left turn. At the time the officer smelled a strong odor of alcohol emitting from Respondent's vehicle and breath.

8. The officer observed that Respondent had bloodshot watery eyes. The officer asked Respondent to perform several field sobriety tests and based on Respondent's performance of the tests and objective symptoms of intoxication, the officer determined that Respondent was driving under the influence of an alcoholic beverage.

9. The officer arrested Respondent and transported him to the Riverside Police Department for further investigation. At the police station, Respondent consented to a breath test and the officer took two breath samples from Respondent, which showed that at the time he had a blood alcohol content of .08% and .07% respectively.

10. At the time of the September 30, 2010 arrest, Respondent was on criminal probation from a prior driving under the influence misdemeanor conviction from March 2, 2008 in Orange County, California for violating California Vehicle Code, section 23152, subdivision (b).

11. On April 5, 2011, imposition of sentence was suspended and Respondent was placed on summary probation for 48 months (which expires on April 4, 2015) and ordered to be committed to custody of the Riverside County Sheriff's Department or serve 30 days of county jail. He was also ordered to attend 50 Alcoholics Anonymous ("AA") meetings before June 15, 2012 and pay all fines and fees, to enroll in a DWI second offenders program, not to drive with blood-alcohol content level exceeding a .00% and obey all laws. Respondent has subsequently served his jail sentence, attended 50 AA meetings, and has completed more than 12-months of in an 18-month second offender alcohol (SB38) program (scheduled to be completed by November 2012).

CONCLUSION OF LAW:

12. Respondent's misdemeanor conviction for violating Vehicle Code, section 23103, subdivision (a) pursuant to section 23103.5, subdivision (a) for alcohol related reckless driving did not involve moral turpitude but constitutes other misconduct warranting discipline.

Case No. 12-O-11081 (Complainant: Albert Flores)

FACTS:

13. In 1984, A. Flores ("Flores") was convicted of a felony offense that required him to register his address with local law enforcement. In April 1996, Flores's prior counsel filed a petition to expunge Flores's criminal conviction pursuant to California Penal Code section 1203.4. The petition was granted on April 25, 1996.

14. On March 24, 2006, so that Flores would have a greater chance of obtaining relief from the registration requirement, Flores hired Respondent to correct or modify the 1996 court order by having the court reduce the conviction to a misdemeanor. On March 24, 2006, Flores also hired Respondent to attempt to petition the governor of the State of California for a criminal pardon and/or a certificate of rehabilitation ("criminal pardon"). Flores paid Respondent a \$15,000 flat fee for those services.

15. In August 2006, Respondent filed a motion to reduce Flores's criminal matter to a misdemeanor and to then dismiss the criminal matter effective April 25, 1996. Prior to the hearing on the motion in September 2006, Flores elected to withdraw his motion and to not otherwise challenge the registration requirement on the basis that if he did so, the District Attorney's Office could seek to reinstate his criminal conviction. In September 2006, Respondent told Flores that Respondent would continue to explore whether Flores could successfully obtain a criminal pardon.

16. From in or about January 2007 through in or about May 2007, Flores left three telephone messages on Respondent's cell phone and one message at Respondent's office in order to discuss the criminal pardon. Respondent received the messages but did not communicate with Flores in response to them until on or about May 16, 2007, when Respondent mailed Flores a letter in which Respondent apologized for the lack of communication. In his letter, Respondent told Flores he had had rotator cuff surgery on May 14, 2007, would be off work until mid-June 2007, and would do as much as he could on Flores's matter during his convalescence. Flores received no further communications from Respondent in 2007.

17. From January 2008 through April 2008, Flores left four telephone messages on Respondent's cell phone in order to discuss the criminal pardon. Respondent received Flores's telephone messages, but did not communicate with Flores in response to them until late April 2008, when Respondent met Flores and Flores's wife in Respondent's office. At the meeting, Respondent told Flores that Flores was not likely to receive a criminal pardon and that Respondent would not prepare and submit such an application on Flores's behalf.

18. Respondent considered his fees to be earned when he filed a motion to reduce Flores's criminal matter to a misdemeanor and when he assessed the probable success of Flores's application for a criminal pardon. However, Respondent did not earn all of the legal fees paid to him by Flores because Respondent did not attempt to obtain the criminal pardon, as called for in the legal services agreement.

19. Respondent did not refund to Flores any portion of the fees that Respondent did not earn until September 19, 2012, when Respondent refunded \$15,000 to Flores.

CONCLUSIONS OF LAW:

20. By failing to respond to Flores's calls in which he requested the progress in his legal matter, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

21. By not promptly refunding any portion of the \$15,000 in fees received from Flores, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2), Rules of Professional Conduct.

FACTS RE AGGRAVATING CIRCUMSTANCES.

Harm: Standard 1.2(b)(iv) – Flores was deprived of the use of the unearned fees from April 2008, when the attorney-client relationship terminated, to September 19, 2012. (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993 [deprivation of client funds constitutes significant harm].)

FACTS RE MITIGATING CIRCUMSTANCES.

Respondent has no prior discipline in 33 years of practice. Although the misconduct in the instant matter is serious, the Supreme Court has nonetheless considered the absence of a prior record of discipline in mitigation. (See *Edwards vs. State Bar* (1990) 52 Cal.3d 28, 31-32, 36, 39, where mitigative credit was given for almost 12 years of discipline-free practice despite intentional misappropriation and commingling.)

Respondent stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings as efficiently as possible. (*Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071, 1079 [mitigative credit given where attorney admitted facts and culpability in order to simplify the disciplinary proceedings].)

Respondent has served as a member, vice chair or chair of the Criminal Law Advisory Commission of the State Bar of California Board of Legal Specialization from 1985 to 2007. (*Porter v. State Bar* (1990) 52 Cal.3d 518, 529 [Attorney's participation in civic service and pro bono activities may be evidence of mitigation].)

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.4th 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.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 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.)

Respondent admits to committing three acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The two Standards applicable here provide for the same range of sanction – reproof or suspension. (Standards 2.4 and 2.10.) Standard 2.10, the standard applicable to Respondent’s violation of rule 3-700(D)(2), affords a better analysis to reach the appropriate discipline.

Standard 2.10 provides that a willful violation of any provision of the Business and Professions Code or Rule of Professional Conduct not specified in the Standards shall result in reproof 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 for the Standard 1.3. Respondent’s conviction did not involve a crime involving moral turpitude, but did occur while he was on probation for a prior conviction. Also, Respondent’s delay in refunding unearned fees deprived his client of the use of those funds; however, he eventually addressed his misconduct by refunding all fees paid by the client, including fees that were earned. Although Respondent’s failure to communicate with his client resulted in the delay of information to the client, it did not cause the client significant harm and did not result in the loss of the client’s legal rights.

The criminal conducts supports discipline in the lower range of standard 2.10, while the misconduct caused in the client matter warrants greater discipline. Respondent’s misconduct is mitigated by his 33 years of discipline-free practice, his willingness to enter into this stipulation, and his lengthy participation with the Criminal Law Advisory Commission. Application of the Standards to the facts of this case demonstrates that stayed suspension is the appropriate sanction for Respondent’s misconduct.

The stipulated disposition is consistent with case law. In *Bach v. State Bar* (1991) 52 Cal. 3d 1201, 30-days actual suspension was imposed when an attorney, in a single client matter, failed to perform legal services competently, improperly withdrew from representation, failed to refund unearned fees, and failed to cooperate with the State Bar investigation. In mitigation, Bach had no prior record of discipline in over 20 years of practice. In aggravation, the attorney denied any responsibility for the delay, cost, anxiety, and inconvenience imposed on the client, and refused to participate in mandatory fee arbitration proceedings.

A lesser sanction than that imposed in *Bach* is warranted in the instant matter since Respondent’s ethical violations are less extensive. The recommended discipline of two years’ stayed suspension and three years’ probation is adequate to protect the public, the courts, and the legal profession.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was September 14, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 14, 2012, the prosecution costs in this matter are \$5,208. 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.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of PETER WILLIAM SCALISI Member #90131	Case number(s): 12-C-14048 12-O-11081
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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>9-19-</u> , 2012 Date	 Respondent's Signature	<u>Peter W. Scalisi</u> Print Name
<u>9-19</u> , 2012 Date	 Respondent's Counsel Signature	<u>David A. Clare</u> Print Name
<u>9/19</u> , 2012 Date	 Deputy Trial Counsel's Signature	<u>Lee Ann Kern</u> Print Name
<u>9/19/2012</u> Date	 Deputy Trial Counsel	Anand Kumar

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In the Matter of: PETER WILLIAM SCALISI Member #90131	Case number(s): 12-C-14048 12-O-11081
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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.)**

10/1/12
Date


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 October 3, 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:

DAVID ALAN CLARE ESQ.
DAVID A CLARE, ATTORNEY AT LAW
444 W OCEAN BLVD STE 800
LONG BEACH, CA 90802

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

Anand Kumar and Lee A. Kern, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 3, 2012.



Paul Barona
Case Administrator
State Bar Court