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| State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION | | | PUBLIC MATTER |
|--|--|---|----------------------|
| Counsel For The State Bar R. Kevin Bucher Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2299 (213)765-1630 Bar # 132003 | Case Number(s): 12-H-16290 - RAH 13-H-10477 | For Court use only <div style="text-align: center;"> FILED APR 16 2013 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div> | |
| In Pro Per Respondent Michael B. Stone P.O. Box 95633 Las Vegas, NV 89193-7500 (31)776-7500 Bar # 160177 | Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | | |
| In the Matter of: MICHAEL B. STONE Bar # 160177 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 December 1, 1992.
- (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 14 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."


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- (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: three billing cycles following the effective date of the Hearing 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 09-O-11950, 09-O-1582910-O-10835.
 - (b) ☒ Date prior discipline effective April 28, 2011
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct, rules 3-110(A) [failure to perform with competence, one count], 3-700(A)(2) [improper withdrawal from employment, one count], 3-700(D)(2) [failure to promptly return unearned advanced fees, two counts], and 4-100(B)(4) [failure to refund unused advanced costs, one count], and Business and Professions Code, sections 6068(m) [failure to respond to client inquiries, one count] and 6103 [failure to comply with court [sanction] order, one count].
 - (d) ☒ Degree of prior discipline One year private reproof.
 - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.

11-O-13253, 11-O-13280, effective November 27, 2011; Rules of Professional Conduct, rules 3-700(A)(2) [improper withdrawal from employment, one count], 4-100(A) [failure to deposit client funds in a Client Trust Account, one count], 4-100(B)(3) [failure to render appropriate accounts to client, one count], 4-100(B)(4) [failure to promptly return unearned advanced fees, one count]; two year public reproof.
- (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 attachment at page 11.
- (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. See attachment at page 11.
- (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.

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- (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:

See attachment at page 11.

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

- (2) ☒ **Probation:**

Respondent must be placed on probation for a period of two 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 90 days.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☒ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☒ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: .
- (5) ☒ **Other Conditions:** Respondent's attendance at State Bar Ethics School and at Ethics School Client Trust Accounting School, and passing of the tests given at the end, prior to the effective date of discipline in this matter shall be deemed to satisfy the relative conditions set forth in this stipulation.

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| In the Matter of: Michael B. Stone Member #: 160177 | Case Number(s): 12-H-16290; 13-H-10477 |
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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 |
|--------------------|------------------|-----------------------|
| Carney Tews Garcia | \$2,751.50 | January 12, 2011 |
| County of Orange | \$900.00 | December 19, 2008 |

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the end of the probation period.

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 (60) 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 certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent as 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";

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| In the Matter of: Michael B. Stone Member #: 160177 | Case Number(s): 12-H-16290; 13-H-10477 |
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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.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MICHAEL B. STONE

CASE NUMBER(S): 12-H-16290; 13-H-10477

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-H-16290

FACTS:

1. On April 8, 2011, the Hearing Department of the State Bar Court issued an order approving a stipulation in case numbers 09-O-11950, 09-O-15829, and 10-O-10835, and imposing a private reproof on Respondent with conditions in effect for one year.

2. The order was served on Respondent the day it was issued and Respondent received it.

3. On April 28, 2011, the private reproof became effective.

4. The reproof order required Respondent to submit written quarterly reports to the State Bar's Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof, and to submit a final report at the end of the condition period.

5. Respondent submitted his first two quarterly reports late, then failed to submit any other quarterly reports, and failed to submit a final report at the end of the condition period.

6. The reproof order required Respondent to provide to the Office of Probation satisfactory proof of attendance at a session of Ethics School, and proof of passage of the test given at the end, within one year of the effective date of the discipline.

7. Respondent did not submit proof he attended Ethics School and passed the test given at the end, which was to be completed by April 28, 2012. (Respondent is scheduled to attend Ethics School on March 21, 2013.)

8. The reproof order required Respondent to pay restitution to Carney Tews Garcia in the amount of \$2,751.50, plus 10 per cent interest accruing from January 12, 2011, and to the County of Orange in the amount of \$900, plus 10 per cent interest accruing from December 19, 2008, and to submit to the Office of Probation proof of payment.

9. Respondent did not fully pay restitution, and did not file proof of payment of restitution with the Office of Probation.

CONCLUSIONS OF LAW:

10. By failing to timely submit his first two quarterly reports, failing to submit any other quarterly reports, failing to submit a final report, failing to provide proof he attended Ethics School and passed the test given at the end, and by failing to pay restitution as required by the reproof order, and as later ordered by the Court, Respondent willfully violated Rules of Professional Conduct, rule 1-110.

Case No. 13-H-10477

FACTS:

11. On November 8, 2011, the Hearing Department of the State Bar Court issued an order approving a stipulation in case numbers 11-O-13253 and 11-O-13280, and imposing a public reproof on Respondent with conditions in effect for two years.

12. The order was served on Respondent the day it was issued and Respondent received it.

13. On December 7, 2011, the public reproof became effective.

14. The reproof order required Respondent to submit written quarterly reports to the State Bar's Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof, and to submit a final report at the end of the condition period.

15. Respondent did not provide any quarterly reports to the Office of Probation.

16. The reproof order required Respondent to send letters to two former clients within 30 days of the effective date of discipline, offering to participate in fee arbitration; to provide to the Office of Probation copies of those letters within 40 days of the effective date of discipline; to provide to the Office of Probation declarations from his former clients that they received the letters offering to participate in fee arbitration; to advise the Office of Probation of any requests by the former clients to participate in fee arbitration; to initiate fee arbitration within 14 days of any request; and to abide by any fee arbitration award.

17. Respondent did not comply with any of the fee arbitration conditions set forth in the stipulation and as ordered by the court.

18. The reproof order required Respondent to provide to the Office of Probation satisfactory proof of passage of the Multistate Professional Responsibility Examination within one year of the effective date of the discipline.

19. Respondent did not provide to the Office of Probation proof of passage of the Multistate Professional Responsibility Examination within one year of the effective date of the reproof order.

20. The reproof order required Respondent to provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, and proof of passage of the test given at the end, within one year of the effective date of the discipline.

21. Respondent did not provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, and proof of passage of the test given at the end, which was to be completed by December 7, 2012.

CONCLUSIONS OF LAW:

22. By not submitting to the Office of Probation any quarterly reports, by not complying with fee arbitration conditions of his reproof, by failing to provide proof of passage of the Multistate Professional Responsibility Examination, and by failing to provide proof he attended Ethics School Client Trust Accounting School and passed the test given at the end, Respondent willfully violated Rules of Professional Conduct, rule 1-110.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline: Respondent has a prior record of two disciplines, as set forth on page 2 of this stipulation, in which he received private reproof and public reproof, respectively.

Harm: By failing to make full restitution to his former clients, and by failing to participate in fee arbitration, Respondent caused significant harm to those former clients. (See *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404.)

Multiple Acts of Misconduct: The misconduct stipulated to herein constitutes multiple acts, although not constituting a pattern. (See *Bledsoe v State Bar* (Review Dept. 2006) Cal. State Bar Ct. Rptr. 980.)

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Pre-Trial Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to trial in case 12-H-16290, and prior to the filing of formal charges in case 13-H-10477, thereby saving State Bar Court time and resources. (See *In re Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993-994.)

Financial Difficulties: At all times relevant hereto Respondent has suffered extreme financial hardship that was not reasonably foreseeable and that was beyond his control. (See *Grim v. State Bar* (53 Cal.3d 21, 13; *In the Matter of Laden* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678 [actual suspension for 90 days and until restitution].)

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.)

Standard 2.9 provides that culpability of a member of a willful violation of rule 1-110, Rules of Professional Conduct, shall result in suspension.

Standard 1.7(a) provides if a member has a prior record of discipline, the discipline in the present proceeding shall be greater than that imposed in the prior proceeding.

Standard 1.7(b) provides if a member has a record of two prior impositions of discipline, the discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate. In the present matter, although Respondent does have prior discipline, and although mitigating circumstances do not predominate, the two prior matters concern misconduct during the same time period, could have been resolved by a single disciplinary stipulation, and the violations of the separate reproof orders were contemporaneous in time. Strict imposition of standard 1.7(b) would not serve justice. (See, e.g., *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619. [Since part of the rationale for considering prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney's inability to conform his or her conduct to ethical norms (citation) it is therefore appropriate to consider the fact that the misconduct involved here was contemporaneous with the misconduct in the prior case.])

The stipulated level of discipline herein is consistent with the standards. Respondent's misconduct is serious in that it involves multiple reproof violations arising from two reproof orders in two separate matters. Applying Standard 1.7(a), discipline shall be greater than the prior discipline of public reproof. The aggravating factors in this matter, particularly the multiple acts of misconduct and the prior discipline, outweigh mitigation. Ninety days actual suspension is the appropriate sanction for Respondent's misconduct.

The level of discipline is supported by case law. Attorneys who violate reproof conditions have received discipline as lenient as another reproof and as severe as a 90-day actual suspension. (See *Conroy v. State Bar* (1990) 51 Cal.3d 799 [an attorney who violated a single private-reproof condition received a 60-day actual suspension].)

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was March 14, 2013.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 27, 2013, the prosecution costs in this matter are \$2,343.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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| <p>In the Matter of Michael B. Stone</p> | <p>Case number(s): 12-H-16290; 13-H-10477</p> |
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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 Fact, Conclusions of Law and Disposition.

Date 3/25/13

Michael B. Stone
Respondent's Signature

Michael B. Stone
Print Name

R. Kevin Bucher
Deputy Trial Counsel's Signature

R. Kevin Bucher
Print Name

(Do not write above this line.)

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| In the Matter of Michael B. Stone Member # 160177 | Case number(s): 12-H-16290; 13-H-10477 |
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ACTUAL SUSPENSION ORDER

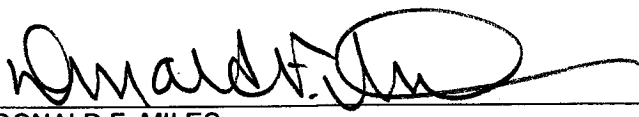
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ 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.)**

Date

4/16/13


DONALD F. MILES
Judge of the State Bar Court

(Effective January 1, 2011)

Actual Suspension Order

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 April 16, 2013, 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:

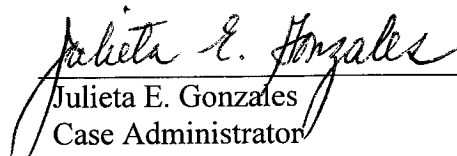
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL B STONE ESQ
PO BOX 95633
LAS VEGAS, NV 89193

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

Ronald K. Bucher, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 16, 2013.



Julieta E. Gonzales
Case Administrator
State Bar Court