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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Donald R. Steedman 180 Howard Street, 7th Floor San Francisco, CA 94105 Bar # 104927	Case Number(s): 12-N-10129	For Court use only PUBLIC MATTER FILED <i>VB</i> APR - 4 2012 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Philip S. Ward Hassard Bonnington LLP Two Embarcadero Center Suite 1800 San Francisco, CA 94111 Bar # 51768	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: Mark L. Webb Bar # 67959 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 18, 1975.
- (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 9 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."

(Effective January 1, 2011)



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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: (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 10-O-6542
 - (b) ☒ Date prior discipline effective November 18, 2011
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Bus. & Prof. Code sections 6068(b), 6068(c), 6068(g) and 6106.
 - (d) ☒ Degree of prior discipline Four years suspension, stayed, on conditions including one year of actual suspension.
 - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.

Case number 96-O-860. Private reproof effective October 11, 2000 for violations of Rules of Professional Conduct 4-100(A), 4-100(B)(1) and 4-100(B)(4).

Case number 06-O-13454. One year stayed suspension, no actual suspension, effective October 16, 2008, for violations of Business and Professions Code section 6068(a) and Rule of Professional Conduct 3-110(A).

- (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. Respondent has fully cooperated this matter and admitted his faults.
- (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. As an expression of remorse, respondent has agreed to pay restitution in advance of the date required by his prior disciplinary matter.
- (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.

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- (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 agreed to complete restitution as ordered in the prior disciplinary proceeding and has agreed to pay such restitution earlier than required by his prior disciplinary order. That restitution has now been completed.

D. Discipline:

(1) ☐ **Stayed Suspension:**

(a) ☐ Respondent must be suspended from the practice of law for a period of

- 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 _____, 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 nine months.

- 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:

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- (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: see below.
- (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: see below.
- (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:** Note: Respondent is already serving a five-year probation in case number 10-O-06542, with all appropriate conditions of probation. Therefore, the parties omitted the usual probation conditions from this stipulation (see *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527 (imposing additional suspension without additional probation conditions)).

Attachment language (if any):

DISCLOSURE OF PENDING INVESTIGATIONS

The disclosure mentioned in paragraph A.7 of this stipulation was made by letter dated February 14, 2012.

STATEMENT OF FACTS AND CONCLUSIONS OF LAW

1. Respondent violated Business and Professions Code section 6103 by wilfully disobeying and violating an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, specifically, an order requiring respondent to comply with Rule 9.20 of the California Rules of Court, as follows:
- 2.. Respondent also violated rule 9.20(c), California Rules of Court, as follows:
3. On or about October 19, 2011, the California Supreme Court filed a disciplinary order in State Bar Court 10-O-6542 (Supreme Court Case Number S195349). A true and correct copy of the order is attached hereto as Exhibit "1," and is incorporated by this reference.
4. The disciplinary order provided in relevant part as follows:
"Mark Lopert Webb must comply with California Rules of Court, rule 9.20, 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 this order. Failure to do so may result in disbarment or suspension."
5. The order became effective thirty days after it was filed (California Rules of Court, rule 9.18(a)), i.e., on or about November 18, 2011, and at all times subsequent has remained in full force and effect.
6. Notice of the rule 9.20 order was properly served upon respondent in the manner prescribed by California Rule of Court 9.18(b) at the address respondent maintained with the State Bar in accordance with Business and Professions Code section 6002.1, subdivision (a). Respondent indicates that he did not receive timely notice of the order because he had moved away from his mailing address without informing the State Bar's Office of Membership Records.
7. The deadline for compliance with Rule 9.20(c) expired on or before December 28, 2011.
8. Respondent failed to timely submit the compliance declaration required by rule 9.20(c).
9. Upon receiving notice that the State Bar intended to file these disciplinary charges, and no later than January 30, 2012, respondent retained counsel and filed with the State Bar his rule 9.20 compliance declaration and his first due quarterly probation report and contacted the Office of Probation. In his declaration, respondent reported that he had no clients at the time of his suspension order was filed, had no active matters, possessed no client files and retained no unearned fees.

AUTHORITY SUPPORTING DISCIPLINE

Disbarment has been imposed for some violations of rule 9.20 (Bercovich v. State Bar (1990) 50 Cal.3d 115, 131). However, lesser discipline is sometimes imposed (see In the Matter of Friedman, supra, and cases there cited). The State Bar has agreed to this lower level of discipline in light of respondent's willingness to comply with his disciplinary sanction, agree to this early resolution of charges, and his early payment of the restitution owed in the prior disciplinary case.

OCT 19 2011

(State Bar Court No. 10-O-06542)

Frederick K. Church Clerk

S195349

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re MARK LOPERT WEBB on Discipline

The court orders that Mark Lopert Webb, State Bar Number 67959, is suspended from the practice of law in California for four years, execution of that period of suspension is stayed, and he is placed on probation for five years subject to the following conditions:

1. Mark Lopert Webb is suspended from the practice of law for a minimum of the first year of probation, and he will remain suspended until the following requirements are satisfied:
 - i. He makes restitution to Julie A. Follansbee in the amount of \$24,964.66 plus 10 percent interest per year from June 15, 2011 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Julie A. Follansbee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
 - ii. If he remains suspended for two years or more as a result of not satisfying the preceding condition, he must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)
2. Mark Lopert Webb must also comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on June 9, 2011.
3. At the expiration of the period of probation, if Mark Lopert Webb has complied with all conditions of probation, the four-year period of stayed suspension will be satisfied and that suspension will be terminated.

EXHIBIT

Mark Lopert Webb must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order, or during the period of his suspension, whichever is longer and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Mark Lopert Webb must also comply with California Rules of Court, rule 9.20, 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 this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

I, Frederick K. Ohlrich, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office

Witness my hand and the seal of the Court this

day of OCT 19 2011 20

Clerk
By [Signature]
Deputy

CANTIL-SAKAUYE
Chief Justice

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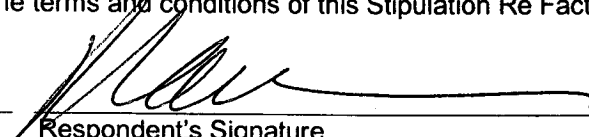
In the Matter of:
Mark L. Webb

Case number(s):
12-N-10129

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.

Feb. 24, 2012
Date


Respondent's Signature


Mark L. Webb
Print Name

Feb. 24, 2012
Date


Respondent's Counsel Signature

Philip S. Ward
Print Name

March 9, 2012
Date


Deputy Trial Counsel's Signature

Donald R. Steedman
Print Name

(Do not write above this line.)

In the Matter of:
MARK L. WEBB
SBN 67959

Case Number(s):
12-N-10129

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 2, B. (1) Prior record of discipline, the complete degree of prior discipline is:

(d) In case No. 10-O-06542 – Four years' stayed suspension, five years' probation and one year's actual suspension and until he makes restitution; and

(e) In case No. 06-O-13454 – One-year stayed suspension and two-year probation with no actual suspension.

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

April 4, 2012


LUCY ARGENDARIZ
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on April 4, 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:

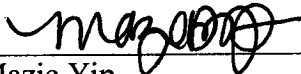
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

PHILIP STEPHEN WARD
HASSARD BONNINGTON
2 EMBARCADERO CTR FL 18
SAN FRANCISCO, CA 94111

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

DONALD R. STEEDMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 4, 2012.



Mazie Yip
Case Administrator
State Bar Court