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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar R. Kevin Bucher Derputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 213/765-1630 Bar # 132003	Case Number(s): 12-N-16646	For Court use only <div style="text-align: center;"> FILED JAN -4 2013 <i>Yrc</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent David Kyle 3941 South Bristol Street, Suite D520 Santa Ana, CA 92704 714/444-2522 Bar # 55821	<div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	
In the Matter of: David Kyle Bar # 55821 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 29, 1973.
- (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 12 pages, not including the order.



- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☒ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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 95-O-11454
 - (b) ☒ Date prior discipline effective February 7, 2001
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Respondent failed to promptly provide an accounting of client funds, in violation of rule 4-100(B)(3) of the Rules of Professional Conduct, and failed to pay out funds to which his client was entitled, in violation of rule 4-100(B)(4) of the Rules of Professional Conduct.
 - (d) ☒ Degree of prior discipline Private reproof
 - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.

State Bar Court case no. 10-O-04546; effective May 23, 2012.

Respondent failed to properly maintain client trust fund balances and failed to maintain a written client ledger, in violation of Rules of Professional Conduct, rule 4-100(A), 4-100(B)(3), and 4-100(C). Respondent was given a one year stayed suspension, probation and 90 days actual suspension. He was ordered to comply with the provisions of rule 9.20 of the Rules of court, and to file a 9.20 (c) affidavit by August 1, 2012.

- (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.

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- (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:

Respondent's misconduct was followed by other violations of the State Bar Act. See page 8.

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

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

- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See Page 9.

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of two (2) 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 (2) year, 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 six (6) 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: Respondent completed Ethics School on August 23, 2012. See rule 5.135 of the Rules of Procedure of the State Bar of California.
- (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:
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: David Kyle

CASE NUMBER(S): 12-N-16646

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 Rules of Professional Conduct.

Case No. 12-N-16646

1. On May 23, 2012, the California Supreme Court filed Order No. S200333 (hereinafter "9.20 Order"). The 9.20 Order included a requirement that Respondent comply with Rule 9.20, California Rules of Court, by performing the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively, after the effective date of the 9.20 Order
2. On May 23, 2012, the Clerk of the Supreme Court of the State of California properly served upon Respondent a copy of the 9.20 Order. Respondent received the 9.20 Order.
3. The Supreme Court Order became effective on June 22, 2012, thirty days after the 9.20 Order was filed. Thus Respondent was ordered to comply with subdivision (a) and (b) of rule 9.20 of the California Rules of Court no later than on July 22, 2012, and was ordered to comply with subdivision (c) of Rule 9.20 no later than on August 1, 2012.
4. Respondent attempted to file his rule 9.20 compliance declaration (hereinafter "declaration") on July 27, 2012. He sent the declaration to the Office of Probation, with copies of certified mail receipts evidencing notice to his clients of his suspension, but the declaration was rejected due to Respondent's failure to check the appropriate boxes on the declaration form. Respondent was notified that his declaration was rejected by a letter from the Office of Probation dated August 2, 2012.
5. Respondent made a second attempt to file his declaration on August 7, 2012. However, that declaration was also rejected as Respondent did not check boxes for two items on the form. Respondent was notified that his declaration was rejected by a letter from the Office of Probation dated August 10, 2012.
6. A second letter was sent to Respondent from the Office of Probation on September 11, 2012 advising Respondent that his declaration was defective and not accepted for filing. Upon receipt of this

letter, Respondent filed a third 9.20 declaration on September 19, 2012, which was approved by the Office of Probation. In the approved rule 9.20 declaration, Respondent declared that he had timely notified all parties, did not retain any client files, and had earned all fees, as required by rule 9.20 subsections (a) and (b).

CONCLUSION OF LAW

By not timely filing a declaration of compliance with Rule 9.20 in conformity with the requirements of Rule 9.20(c), Respondent failed to comply with the provisions of Supreme Court Order No. S200333 requiring compliance with Rule 9.20, California Rules of Court. By the foregoing conduct, Respondent willfully violated rule 9.20, California Rules of Court.

AGGRAVATING CIRCUMSTANCES

Standard 1.2(b)(i) PRIORS: Respondent has two prior records of discipline (See page 2).

Effective February 2001, the State Bar Court imposed a private reproof on Respondent for his failure to provide an accounting of client funds (rule 4-100(B)(3)); and his failure to promptly pay his client funds to which he was entitled (rule 4-100(B)(4)).

Effective May 2012, the Supreme Court imposed discipline on Respondent that included, among other things, one year suspension, stayed; 90 days actual suspension; and probation with conditions that included timely submission of quarterly reports. Respondent was also ordered to comply with the provisions of Rules of Court, rule 9.20, including filing a rule 9.20 compliance declaration on or before August 1, 2012.

Standard 1.2(b)(iii) OTHER VIOLATIONS OF THE STATE BAR ACT: Respondent's misconduct was followed by other violations of the State Bar Act.

State Bar Act section 6068(k) provides that it is the duty of an attorney to comply with all conditions attached to any disciplinary probation. The California Supreme Court Order filed May 23, 2012 in case no. S200333, effective June 22, 2012, imposed certain conditions of probation on Respondent, including among others, that Respondent timely submit Quarterly Reports to the Office of Probation. Respondent's first Quarterly Report was due by October 10, 2012. Respondent failed to submit this report by October 10 and did not submit it until October 16, 2012. Respondent's failure to timely file

his first Quarterly Report and submitting it six days after it was due was a failure to comply with the conditions attached to his disciplinary probation and a willful violation of Business and Professions Code section 6068(k) following Respondent's misconduct. Although evidence of uncharged misconduct may not be used as an independent ground of discipline, it may be considered for other purposes relevant to the proceeding, including aggravation. *Edwards v State Bar* (1990) 52 Cal. 3d 25, 35-36. See also *In re Morse* (1995) 11 Cal. 4th 184, 197 [Uncharged misconduct is an aggravating factor under Standard 1.2(b)(iii)].

• ADDITIONAL MITIGATING CIRCUMSTANCES

Since being contacted by the State Bar regarding this matter, Respondent has timely and appropriately communicated with the State Bar. He immediately acknowledged his misconduct, provided information, and responded to inquiries. Respondent's candor and cooperation resulted in this full stipulation as to all facts, conclusions of law and level of discipline, being reached prior to the filing of charges. Respondent is entitled to mitigation for his candor and cooperation though his misconduct would have been easy to prove in formal proceedings (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Court Rptr. 41), decreasing the weight given for mitigation (See *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Court Rptr. 511).

AUTHORITIES SUPPORTING DISCIPLINE.

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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 Silvertown* (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.)

Rule 9.20(d) provides that a suspended member's willful failure to comply with the provisions of rule 9.20 of the California Rules of Court is cause for disbarment or suspension and for revocation of any pending probation. Respondent's failure to timely file a compliant 9.20 declaration was a willful failure to comply with the provisions of 9.20(c) as ordered by the Supreme Court.

Standard 1.7(b) states that if a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by Standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.

Deviation from the Standards, however, may be appropriate where there exists grave doubts as to the propriety of applying them in a particular case. (*Silverton, supra*, 36 Cal. 4th at 92.) For example, deviation from the Standards may be appropriate where extraordinary circumstances exist or where the imposition of discipline called for by the Standards would be manifestly unjust. (*Sternlieb v. State Bar* (1990) 52 Cal. 3d 317, 321 [30 day actual suspension for misappropriation and failure to properly account for trust funds. Attorney had no prior discipline, expressed remorse and established office procedures to avoid future mismanagement]; *In the Matter of Fonte* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752 [60 day actual suspension for failing to provide accounting, obtaining adverse interests in client property, representing clients with conflicting interests, aggravated by overreaching, and uncharged misconduct. Attorney had 25 years of practice without discipline and extensive public service]; *In the Matter of Respondent F* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17, 36-39 [deviation from Standard 2.2(b) requirement of at least three months actual suspension for a trust account violation].

Here strict application of Standard 1.7(b) would be manifestly unjust.

The facts in this matter are that Respondent declares he timely complied with the notice of suspension, return of client files and retention of only earned fees provisions of subsections (a) and (b) of rule 9.20.

Additionally, he submitted a rule 9.20 compliance declaration within the prescribed filing period but it was rejected due to his failure to check the appropriate boxes on the form. Upon being notified of the deficiency, he submitted a revised rule 9.20 compliance declaration for filing. It too was rejected for failure to check the appropriate boxes. On his third attempt, Respondent's revised rule 9.20 compliance declaration was accepted for filing but it was now 49 days after the deadline.

This is significantly different than cases such as *Bercovich v. State Bar* (1990) 50 Cal. 3d 116, in which the Supreme Court disbarred an attorney for willfully violating its order he comply with the provisions of rule 955 (the predecessor of rule 9.20). The Supreme Court in *Bercovich* held that a willful failure to notify clients and a failure to file a declaration warrants disbarment. Here, Respondent declared he did notify clients and he did make timely attempts to file his declaration. His noncompliance was in filing his declaration 49 days late, but after apparent compliance with the client notification and attempts at timely filing, significantly different than *Bercovich*.

Respondent's discipline in the present matter is also determined in part by his aggravating and mitigating circumstances. In aggravation, he has two prior impositions of discipline, a 2001 public reproof and a May 2012 ninety day actual suspension, both involving irregularities with his duties regarding client funds. He also followed his most recent misconduct with another violation of the State Bar Act by submitting his first quarterly probation report six days late. His mitigation consists of his admissions of his misconduct and stipulating here without the necessity of further proceedings.

In consideration of the facts and circumstances here, a significant period of actual suspension is warranted. The parties submit that the intent and goals of Standard 1.3 are met in this matter by the imposition of a two year suspension, stayed, and two years probation, including six months actual suspension.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was November 26, 2012.

(Do not write above this line.)

In the Matter of
DAVID KYLE

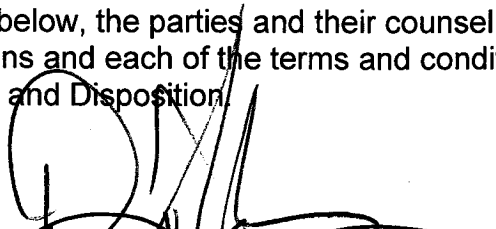
Case number(s):
12-N-16646

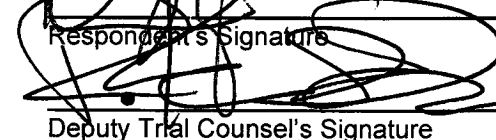
SIGNATURE OF THE PARTIES

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 Fact, Conclusions of Law and Disposition.

12/5/12
Date

12/13/12
Date


Respondent's Signature


Deputy Trial Counsel's Signature

David Kyle, In Pro Per
Print Name

R. Kevin Bucher
Print Name

(Do not write above this line.)

In the Matter of:
David Kyle

Case Number(s):
12-N-16646

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 6 of the stipulation, the "X" in first box in paragraph F(1) is DELETED to remove the requirement that respondent take and pass the Multistate Professional Responsibility Examination. In addition, an "X" is INSERTED in the second box in paragraph F(1), and following the pre-printed text "No MPRE recommended. Reason:," the following text is INSERTED:

Under the Supreme Court's May 23, 2012 order in *In re David Kyle on Discipline*, case number S200333 (State Bar Court case number 10-O-04546), respondent must to take and pass the MPRE no later than June 22, 2013. Accordingly, it is unnecessary to recommend that respondent be again ordered to take and pass the MPRE in the present proceeding.

On page 11 of the stipulation, the following text is inserted at the end of the fourth paragraph, which begins "In consideration of the facts":

(See *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192 [nine months' actual suspension imposed on an attorney who had no clients to notify under former rule 955(a) and who unsuccessfully attempted to file his former rule 955(c) compliance affidavit within two weeks after it was due]; *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527 [30 days' actual suspension imposed on an attorney who complied with the notice requirements in former rule 955(a), but filed his former rule 955(c) compliance affidavit two weeks' late].)

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

1/2/13


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 January 4, 2013, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

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 KYLE
LAW OFC DAVID KYLE
3941 S BRISTOL ST STE D520
SANTA ANA, CA 92704**

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

KEVIN BUCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 4, 2013.



Tammy Cleaver
Case Administrator
State Bar Court