

ORIGINAL

State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Lee Ann Kern Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 (213) 765-1272 Bar # 156623	Case Number(s): 12-O-12237	For Court use only FILED SEP 20 2012 <i>prc</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES PUBLIC MATTER
In Pro Per Respondent Glenn Ward Calsada P.O. Box 8222 4774 Park Granada, Suite 10 Calabasas, California 91302 (818) 477-0314 Bar # 134589	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: Glenn Ward Calsada Bar # 134589 A Member of the State Bar of California (Respondent)	STAYED SUSPENSION; NO 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 14, 1988.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 11 pages, not including the order.



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- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☒ Costs are added to membership fee for calendar year following effective date of discipline.
 - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

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

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☒ **No aggravating circumstances** are involved.

Additional aggravating circumstances

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

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

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

Additional mitigating circumstances

See Attachment to Stipulation, p. 2.

D. Discipline:

(1) ☒ **Stayed Suspension:**

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

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is 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.)

E. Additional Conditions of Probation:

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

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

- (5) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

- (6) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) ☐ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☐ **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Glenn Ward Calsada

CASE NUMBER(S): 12-O-12237

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-O-12237 (Complainant: Eileen Brandon)

FACTS:

1. On March 11, 2010, Eileen Brandon ("Brandon"), who resides in Spain, hired Respondent to represent her in a dispute with the Department of Justice ("DOJ") regarding outstanding student loans Brandon owed to the Department of Education ("DOE"). In March 2010, Respondent and Brandon agreed via email that Brandon would pay Respondent \$350 per hour. Brandon further agreed to pay Respondent \$3,500, based on Respondent's hourly rate and his request that she provide him with advance fees for 10 hours of legal services.

2. On June 14, 2010, Brandon was served with a lawsuit entitled *USA vs. Eileen Brandon*, United States District Court Case No. 2:10-CV-02257-GAF-JC, in which the DOE sought collection of the student loans. In June 2010, Brandon sent Respondent \$300 to prepare a homestead declaration for her. Respondent did not provide Brandon with a billing statement; instead, on June 14, 2010, Respondent sent Brandon an email and requested that she pay him a lump sum of \$3,200 to cover litigation fees and costs. In June 2010, Brandon paid Respondent \$3,200.

3. On November 1, 2010, Respondent sent an email to Brandon in which he informed her that the case had been set for trial in May 2011. Respondent did not provide Brandon with a billing statement; instead, Respondent asked that she pay him a lump sum of \$2,500. On November 3, 2010, Brandon paid Respondent \$2,500. As of November 2010, Brandon had paid Respondent \$9,500.

4. In early April 2011, Brandon gave Respondent authority to resolve her debt to the DOE for \$30,000. On April 23, 2011, Respondent sent Brandon an email in which he suggested that Brandon wire at least \$45,000 into his account to settle her debt to the DOE on the basis that \$45,000 was the DOE's last settlement demand.

5. On April 28, 2011, Respondent and Brandon had a telephone conversation in which they discussed settlement of Brandon's debt to the DOE. On April 28, 2011, following their telephone conversation, Brandon caused a check in the amount of \$45,000 to be issued to Respondent via electronic payment from Bank of America. Respondent received the funds.

6. On May 2, 2011, the DOE accepted Brandon's \$30,000 settlement offer. On that date, Respondent notified Brandon of the settlement.

7. On May 28, 2011, Brandon sent Respondent an email in which she provided him with her Bank of America account number in order for Respondent to disburse to Brandon the remaining \$15,000; the difference between the \$45,000 she had sent to Respondent and the \$30,000 for which the matter had settled. On that same date, Respondent replied to Brandon's email and informed her that "[u]nearned fees are paid out of my trust account. It is sent by check to you as the client."

8. In his May 28, 2011 email to Brandon, Respondent did not inform Brandon she would be receiving less than the full \$15,000 back from Respondent or that Brandon owed Respondent additional legal fees.

9. On June 10, 2011, Respondent caused Brandon's case file to be delivered to her, along with an accounting and a check payable to Brandon in the amount of \$5,720.18. The check represented the difference between \$9,279.82 in additional legal fees that Respondent charged Brandon and the \$15,000 that remained from the \$45,000 Brandon provided Respondent to settle her debt. Brandon negotiated the \$5,720.18 check.

10. On June 23, 2011, Brandon sent Respondent an email objecting to the additional charges as set forth in the accounting and again asked Respondent to return the full \$15,000 to her. On September 6, 2011, Brandon sent Respondent another email in which she asked him to return her money. Respondent received the emails, but did not return any portion of the \$9,279.82 to Brandon. Instead, Respondent maintained the funds in his client trust account and treated the dispute over the funds as a fee dispute.

CONCLUSION OF LAW:

11. By failing to promptly disburse \$9,279.82 to Brandon as she requested, Respondent, failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive.

OTHER MITIGATING CIRCUMSTANCES.

Respondent has no prior record of discipline in 24 years of practice. Although the misconduct in the instant matter is serious, the Supreme Court has nonetheless considered the absence of a prior record of discipline in mitigation. (See *Edwards vs. State Bar* (1990) 52 Cal.3d 28, 31-32, 36, 39, where mitigative credit was given for almost 12 years of discipline-free practice despite intentional misappropriation and commingling.)

On August 14, 2012, Respondent disbursed a total of \$10,439.82 to Brandon. The amount distributed to Brandon represents \$9,279.82 of Brandon's funds that Respondent held in trust from May 2011 through August 2012, in addition to 10% interest for 15 months in the amount of \$1,160.

Respondent stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings as efficiently as possible. (See *Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071, 1079, where mitigative credit was accorded to the attorney for admitting facts and culpability in order to simply the disciplinary proceedings against her.)

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 2.2(b) provides that culpability of a member of violating rule 4-100, Rules of Professional Conduct, shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

Although the standard requires a minimum three-month actual suspension, the mitigation in this case warrants a lesser sanction. Respondent has 24 years of discipline-free practice, maintained the disputed funds in trust, and eventually corrected the misconduct by paying interest when he disbursed the client’s funds. These facts show that his misconduct aberrational and unlikely to recur.

The Supreme Court has deviated from standard 2.2(b) where the misconduct was aberrational and unlikely to recur. (*Dudugjian v. State Bar* (1991) 52 Cal.3d 1092 [public reproof imposed where attorneys deposited clients’ settlement check into their general account instead of a trust account and refused to pay the funds over on request].)

In the instant matter, deviation from standard 2.2(b) is supported by the mitigating circumstances and comparable Supreme Court case law. One year stayed suspension and two years probation is the appropriate sanction for Respondent’s misconduct. The recommended discipline is adequate to protect the public, the courts, and the legal profession.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A (7), was August 31, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 31, 2012, the prosecution costs in this matter are \$2,865. 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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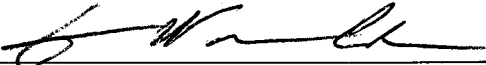

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In the Matter of: Glenn Ward Calsada	Case number(s): 12-O-12237
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>9-12-12</u> Date	<u></u> Respondent's Signature	<u>Glenn Ward Calsada</u> Print Name
<u>9/17/12</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Lee Ann Kern</u> Print Name

(Do not write above this line.)

In the Matter of:
Glenn Ward Calsada

Case Number(s):
12-O-12237

STAYED SUSPENSION ORDER

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

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

On page 8 of the stipulation, paragraph 11, "which the client is entitled to receive" is deleted, and in its place is inserted "which the client is entitled to receive, in willful violation of rule 4-100(B)(4) of the California Rules of Professional Conduct."

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

9/20/12



DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 20, 2012, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND
ORDER APPROVING STAYED SUSPENSION; NO 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:

**GLENN W. CALSADA
LAW OFFICE OF GLENN WARD CALSADA, PC
PO BOX 8222
4774 PARK GRANADA STE 10
CALABASAS, CA 91302**

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

LEE ANN KERN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 20, 2012.



Tammy Cleaver
Case Administrator
State Bar Court