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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		kwiktag® 152 141 628 
Counsel For The State Bar Kim Kasreliovich 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1378 Bar # 261766	Case Number(s): 12-O-12240 - - -	For Court use only <div style="text-align: center;"> PUBLIC MATTER FILED AUG 27 2012  STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Joseph James Olsen PO Box 5091 Beverly Hills, CA 90209 (310) 273-4001 Bar # 51276	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: Joseph James Olsen Bar # 51276 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 January 5, 1972.
- (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 10 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 06-O-14241
 - (b) ☒ Date prior discipline effective January 14, 2010
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: two violations of 4-100(A)
 - (d) ☒ Degree of prior discipline Respondent was suspended for one year, stayed, placed on two years of probation with 90-days actual suspension.
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (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.

- (13) ☒ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

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:
- (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 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:

- (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 12, 2010.
- (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:	JOSEPH JAMES OLSEN
CASE NUMBER(S):	12-O-12240

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-12240

FACTS:

1. On July 30, 2009, Respondent entered into a Stipulation Re Facts, Conclusions of Law and Disposition ("Stipulation") with the State Bar of California in Case No. 06-O-14241.
2. On August 17, 2009, the Hearing Department of the State Bar Court filed an Order Approving the Stipulation and recommending to the California Supreme Court the discipline set forth in the Stipulation.
3. On December 15, 2009, the California Supreme Court filed an Order in Case No. S177215 (State Bar Case No. 06-O-14241) imposing the recommended discipline that Respondent be suspended from the practice of law for one (1) year, that execution of the suspension be stayed, and that Respondent be placed on probation for two (2) years, including the condition that the Respondent be actually suspended for ninety (90) days ("Disciplinary Order").
4. Pursuant to the Disciplinary Order, Respondent was ordered to comply with the following terms and conditions of probation, among others:
 - a. to comply with the State Bar Act and the Rules of Professional Conduct during the period of probation;
 - b. to submit to the Office of Probation written quarterly reports each January 10, April 10, July 10, and October 10 of each year or part thereof during which the probation is in effect, certifying under penalty of perjury whether he has complied with all provisions of the State Bar Act and the Rules of Professional Conduct and all terms of probation during the preceding calendar quarter or part thereof covered by the report and to file a final report no earlier than twenty (20) days prior to the expiration of the probation period and no later than the last day of said period.
5. The Disciplinary Order became effective on January 14, 2010.

6. Respondent failed to submit timely quarterly reports as follows:

REPORTING PERIOD	DUE DATE	FILING DATE
January 14 to March 30, 2010	April 10, 2010	July 14, 2010
April 1 to June 30, 2010	July 10, 2010	July 14, 2010
April 1 to June 30, 2011	July 10, 2011	July 27, 2012
July 1 to September 30, 2011	October 10, 2011	July 27, 2012
October 1 to December 31, 2011	January 10, 2012	June 21, 2012
January 1 to January 14, 2012	January 14, 2011	June 21, 2012

CONCLUSIONS OF LAW:

7. By not timely filing with Probation six out of nine quarterly reports Respondent willfully failed to comply with all conditions attached to his probation in violation of Business and Professions code section 6068(K).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline: In case number 06-O-14241, effective January 14, 2010, Respondent was suspended for one year, stayed, placed on two years of probation with a 90-day actual suspension and was ordered to take the MPRE within one year and comply with rule 9.20 of the California Rules of Court.

Respondent stipulated to two violations of 4-100(A) for misusing his client trust account by commingling personal and client funds and using the account to pay personal expenses. In mitigation, Respondent had no prior discipline since his 1972 admission to the bar.

AUTHORITIES SUPPORTING DISCIPLINE.

In determining the appropriate level of discipline, the Standards are entitled to great weight. (*In re Silverton* (2005) 36 Cal. 4th 81, 89-94 and *In re Brown* (1995) 12 Cal. 4th 205, 220.) But the Standards are not applied in a talismanic fashion, and the Court tempers its analysis of the proper level of discipline by considerations peculiar to the offense and the offender. (*In the Matter of Van Sicklle* (Review Dept. 2006) 4 Cal State Bar Ct. Rptr. 980, 994.) In the instant case the discipline is within the applicable range based upon the Standards and case law and deviation is not appropriate.

Standard 1.3 states that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession; the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 2.6 provides that a member's culpability of violating Business and Professions Code, section 6068 shall result in disbarment or suspension depending on the gravity of the offense or harm to the victim with due regard to the purposes of imposing discipline set forth in standard 1.3.

Standard 1.7(a) states that if a member has a prior discipline, the degree of discipline in the current proceeding shall be greater than the discipline imposed in the prior proceeding unless the prior

discipline was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

In *In the Matter of Tiernan* (1993) 3 Cal. State Bar Ct. Rptr. 523, the Respondent failed to file quarterly reports and comply with his probation monitor. The Respondent had four priors plus a probation revocation case for failing to file quarterly reports. The court specifically stated that "...respondent's continued unwillingness or inability to comply with the conditions of probation imposed on him by a Supreme Court order 'demonstrates a lapse of character and disrespect for the legal system that directly relate to an attorney's fitness to practice law and serve as an officer of the court.'" (Quoting *In re Kelley* (1990) 52 Cal. 3d 487, 495.) The Review Department found no mitigation but found aggravation for Respondent's priors and multiple acts of misconduct. The Review Department imposed eleven months of actual suspension.

The importance of complying with probation cannot be overstated. As the court noted, failure to comply with probation reflects directly on an attorney's fitness to practice law. In *Tiernan*, the Respondent had multiple priors, at least one of which was for identical probation violations. In the instant case, unlike *Tiernan*, Respondent did not wholly fail to comply with probation. Rather, Respondent complied belatedly. In addition, this is Respondent's second disciplinary action, unlike *Tiernan* where the Respondent had four prior disciplinary actions. Under the Standards, progressive discipline, including actual suspension, is appropriate. Since Respondent's conduct here was less egregious than that in *Tiernan*, a six month actual suspension is an appropriate level of discipline.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was August 1, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 31, 2012, the prosecution costs in this matter are \$\$3,349. 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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In the Matter of JOSEPH JAMES OLSEN Member # 51276	Case number(s): 12-O-12240
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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>8-2</u> , 2012 Date	<u>Joseph J. Olsen</u> Respondent's Signature	<u>Joseph J. Olsen</u> Print Name
<u> </u> , 2012 Date	<u> </u> Respondent's Counsel Signature	<u>N / A</u> Print Name
<u>August 6</u> , 2012 Date	<u>Ki / Ki</u> Deputy Trial Counsel's Signature	<u>Kim G. Kasrelievich</u> Print Name

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In the Matter of JOSEPH JAMES OLSEN Member # 51276	Case number(s): 12-O-12240
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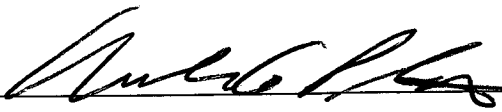
ACTUAL SUSPENSION ORDER

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.

PAGE 5- SECTION E (4) - DELETE "X" FROM BOX.

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.)**

08-23-2012 
Date Judge of the State Bar Court

RICHARD A. PLATEL

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 August 27, 2012, I deposited a true copy of the following document(s):

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

in a sealed envelope for collection and mailing on that date as follows:

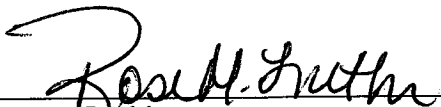
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOSEPH JAMES OLSEN
PO BOX 5091
BEVERLY HILLS, CA 90209

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

KIMBERLY KASRELIOVICH, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 27, 2012.



Rose Luthi
Case Administrator
State Bar Court