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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Hugh G. Radigan Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 213-765-1206</p> <p>Bar # 94251</p>	<p>Case Number(s): 12-O-12246</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</p> <p style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</p> <p style="text-align: center; font-size: 1.2em; font-weight: bold;">MAY 09 2013</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Arthur L. Margolis 2000 Riverside Drive Los Angeles, California 90039-8996 323-953-8996</p> <p>Bar # 57703</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: DAVID ANDREW MANS</p> <p>Bar # 133052</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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 31, 1987.
- (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.

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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):
 - 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: the two billing cycles immediately following the effective date of the Supreme Court order in this matter. (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.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See attachment, page 9.

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- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See attachment page 9.
- (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.

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- (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 is entitled to significant mitigation as a result of his twenty-five(25) plus years of discipline-free practice under Standard 1.2(e)(i). See attachment, page 9.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of one (1) 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 (2) 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 sixty (60) days.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

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

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

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

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:** If Respondent provides the Office of Probation with proof of passage of the MPRE during the period from the approval of this stipulation by the State Bar Court to the effective date of the Supreme Court's order imposing the discipline recommended herein, then that passage of the MPRE will serve to meet the requirement that he pass the MPRE within one year of the effective date of the Supreme Court's order.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: David Andrew Mans

CASE NUMBER: 12-O-12246

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-12246 (Complainant: William M. Papanian, Esq.)

FACTS:

1. On May 30, 2007, Ann Marie Villicana (hereinafter "Villicana"), employed Respondent to represent her and Robin Salzer (hereinafter "Salzer"), in a plaintiff capacity in an action filed on October 15, 2005, in Los Angeles Superior Court, Northeast District, Case No. GC036126, titled *Villicana v. Zoff* (hereinafter "Villicana action"). Villicana sought to recover damages arising out of a slope failure which occurred at her and Salzer's residence during a severe rainstorm in February 2005. The rainstorm caused land movement damages to Villicana's property and to the property of the adjacent landowner. Respondent substituted into the Villicana action on behalf of Villicana and Salzer on June 5, 2007.

2. On February 4, 2008, a partial settlement agreement was entered in the Villicana action between Villicana and Salzer with H. Graham Zoff and Willa A. Zoff, the owners of the adjacent property affected by the slope failure, whereby settlement proceeds from the parties' common homeowners insurance carrier, were to be deposited into a client trust account for the benefit of all parties to the agreement. This agreement was intended by the parties to act as a partial settlement of the Villicana action. The parties agreed that the funds were solely intended to be utilized by the respective parties to repair the slope failure and remove this issue as an item of damages to be resolved in the pending litigation. In this partial settlement agreement, the parties also agreed that no payment of these repair funds would be made to either party for damages suffered as a result of the slope failure or to reimburse past costs. At the direction of each party's common homeowner's insurance policy carrier, State Farm Insurance, the settlement fund proceeds of \$202,149 were split with each party's attorney retaining \$101,000 within their respective client trust accounts to fund the repair work. Respondent did not sign the partial settlement agreement but was aware of the terms and conditions set forth therein. The partial settlement agreement originally contemplated the entire settlement fund be deposited into defense counsel's client trust account.

3. The remaining issues presented within the complaint proceeded to trial in February of 2009. That trial date was secured after a trial continuance was obtained premised in significant part upon the distraction and physical discomfort experienced by Villicana associated with a pregnancy which resulted in the birth of twins in August 2008.

4. In conjunction with executing the partial settlement agreement, the parties on January 19, 2008, entered into a Proposal/Contract Agreement with the contractor tasked with the slope repair work, KCD Hillside Constructors, Inc., (hereinafter "KCD").

5. On July 15, 2008, Respondent deposited into his client trust account (hereinafter "CTA"), the \$101,000 of the settlement fund earmarked for funding the slope repair work.

6. Between September 3, 2008 and March 27, 2009, Respondent properly paid from the CTA settlement fund payable to the contractor, KCD, totaling \$38,430 for services performed in effectuating the slope repair.

7. Contrary to the express terms of the partial settlement agreement, between December 29, 2008, and April 1, 2010, Respondent disbursed to himself from the CTA settlement funds received in the Villicana action a total of \$45,807.50 in compensation for attorney's fees and paralegal charges incurred during that same period of time in litigating the slope failure action to conclusion for his representation of Villicana. During this same period of time, billing statements were provided to Villicana reflecting a progressive reduction in outstanding fees while no payments were forthcoming from Villicana.

8. Respondent disbursed the settlement funds in the Villicana action to satisfy his outstanding attorney's fees with the incorrect understanding that the settlement fund proceeds were Villicana's which she could temporarily use for any and all purposes in her discretion, including satisfaction of outstanding attorney's fees, and that ultimately, she would be required to replace the funds to pay for the slope repairs. In this regard, Respondent was mistaken since Villicana had signed the partial settlement agreement that the funds would be used only for the slope repairs. Villicana never consented or acquiesced to utilizing the settlement fund proceeds to satisfy outstanding attorney's fees, but Respondent believed that he had discussed this matter with Villicana and had secured Villicana's consent to so proceed. Respondent generated no memorializing instrument that would confirm his understanding.

9. The trial of the remaining issues not addressed by the partial settlement agreement resulted in a defense verdict.

10. As a result of the depletion of the settlement fund proceeds by Respondent to satisfy his outstanding attorney's fees, the contractor, KCD, was not fully compensated for the services performed in repairing the slope failure and brought suit against Ms. Villicana and Mr. Salzer seeking damages in the amount of \$57,645 plus interest. The action was filed on September 23, 2011, in the Los Angeles Superior Court, Northeast District, Case No. GC048126.

11. On April 16, 2013, Respondent returned to Villicana the sum of \$45,807.50 which he had disbursed from the CTA to pay his attorney's fees.

CONCLUSIONS OF LAW:

12. By using the settlement fund proceeds to satisfy his outstanding attorneys fees, by not timely compensating the retained contractor for those services rendered in repairing the slope failure, and by failing to advise his client that the settlement fund cannot be used for any purpose other than compensating the contractor for services rendered in performing the slope repair, Respondent exposed his client to a subsequent lawsuit by the contractor and in so doing, Respondent recklessly or repeatedly

failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

13. By failing to maintain the settlement funds earmarked for the contractor who was to perform the slope repair within his client trust account, by paying the settlement proceeds over a continuous period of time to satisfy his outstanding attorneys fees instead of paying the retained contractor for services rendered in repairing the slope failure, Respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES

No Prior Discipline: Although his misconduct is serious, Respondent is entitled to significant mitigation by virtue of his twenty-five plus years of discipline free practice. *Hawes v. State Bar* (1990) 51 Cal. 3rd 587, 596. See also *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn. 13, citing *Rodgers v. State Bar* (1989) 48 Cal. 3rd 300, 317; *Cooper v. State Bar* (1987) 43 Cal. 3rd 1016, 1029 and noting that, standard 1.2(e)(i), the Supreme Court has repeatedly given mitigation for no prior record of discipline in cases in which the misconduct was serious.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES

Multiple Acts of Misconduct (Standard 1.2 (b)(ii)): Respondent committed multiple acts of misconduct, specifically violations of Rules of Professional Conduct, rule 3-110(A) and 4-100(A). *In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93.

Significant Harm to the Client (Standard 1.2(b)(iv)): By virtue of Respondent depleting the Client Trust Account settlement fund to satisfy his attorney's fees, Villicana was sued by the contractor, KCD, requiring that she expend additional resources to retain counsel to defend that action. *In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117, 126.

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.)

Respondent admits to committing two acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent's misconduct is found in standard 2.2(b), which applies to Respondent's violation of Rule of Professional Conduct, rule 4-100(A). Standard 2.2(b) provides that culpability of a member of the commission of a violation of rule 4-100, which offense does not result in the willful misappropriation of entrusted funds or property, shall result in at least a three month actual suspension from the practice of law irrespective of mitigating circumstances.

In aggravation, Respondent's conduct harmed his client by exposing her to the contractor's prospective litigation to secure compensation for the slope repair activities, requiring that she retain new counsel and defend that action on the merits at additional cost and expense. The imprudence of advising her that the settlement funds were hers to do with temporarily as she saw fit, including the satisfaction of his accruing attorney's fees, coupled with his failure to maintain the settlement fund for the contractor's payment, constituted multiple acts of misconduct. Although the misconduct is serious, Respondent's lack of a prior record over many years of practice warrants significant weight in mitigation. This period of discipline-free practice, as well as the facts of this case, suggest that the misconduct herein was aberrational and will not likely be repeated. This conclusion is further supported by the fact that the misconduct was triggered by Respondent's failure to confirm his understanding as opposed to calculated intent to deprive the client of the settlement fund. As set forth in the stipulated facts, Respondent has returned the amount he disbursed to himself from the settlement fund to the client and Respondent cooperated with the State Bar in arriving at this resolution.

The standards can be tempered by "considerations peculiar to the offense and the offender." (*Howard v. State Bar* (1990) 51 Cal. 3rd 215, 221-222.) The peculiar circumstances here involve an experienced attorney who misconstrued his client's intent and directive with respect to the settlement funds held within the client trust account. It was Respondent's mistaken impression that he had the permission and consent of the client to access the settlement fund to satisfy accruing attorney's fees associated with the slope failure litigation through trial. The client's personal distraction associated with the birth of twins during this same operative period of time contributed to the misunderstanding, inasmuch as detailed billing statements from Respondent reflected that the attorney's fees had been satisfied while the client made no payments towards those bills. Respondent has consistently maintained that he explained to the client that the settlement fund was her money which she could temporarily utilize as she saw fit, and in this regard he was mistaken. Moreover, Respondent construed that the client fully appreciated that the money was hers to be temporarily utilized as she saw fit and, as such, that he was acting in full compliance with her consent in depleting the settlement fund to address his outstanding attorney's fees. This confusion, while not absolving the misconduct, justifies a deviation from the strict application of Standard 2.2(b), inasmuch as Respondent honestly believed he was acting in compliance with his client's directive and consent.

Therefore, a one year suspension, stayed, with an actual suspension of sixty days, together with a two year probationary period is appropriate to meet the goals of discipline. Respondent will also be required

to attend State Bar Ethics School, pass the Multistate Professional Responsibility Exam as well as pay the required disciplinary costs associated with this matter.

In this case, the violation is a failure to maintain the entrusted funds, which standard 2.2(b) was intended to address. However, deviation from the Standards may be appropriate where there exist well founded doubts as to the propriety of applying them in a particular case. (*Silverton, supra*, 36 Cal. 4th at 92.) In *Dudugjian v. State Bar* (1991) 52 Cal. 3rd 1092, the Supreme Court imposed a public reproof conditioned upon restitution where respondent mistakenly assumed he had his client's consent to apply settlement funds of \$5,356 towards outstanding attorney's fees. Believing he had the client's consent, respondent deposited the settlement funds into his general account without the client's endorsement and applied them to attorney's fees. Thereafter respondent failed to deliver the funds to the client upon demand.

The Review Department had determined that a ninety day actual suspension was appropriate strictly applying standard 2.2(b). The Supreme Court found that while more than sufficient support in the record existed to determine that a violation of rule 8-101 [present rule 4-100] had occurred, nevertheless, significant mitigation was awarded respondent for his honest belief that the client had given permission to so utilize the subject funds, holding that a strict application of standard 2.2(b) would be excessive and that a public reproof was appropriate.

PENDING PROCEEDINGS

The disclosure date referred to, on page 2, paragraph A(7), was April 4, 2013.

DISMISSALS

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
12-O-12246	Two	Business and Professions Code section 6106

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 2, 2013, the prosecution costs in this matter are approximately \$5,308. 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.

EXCLUSION FROM MCLE CREDIT

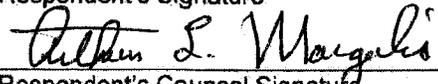
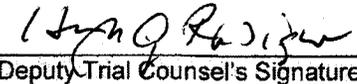
The probation conditions requiring respondent to attend and successfully complete Ethics School is separate and apart from respondent's Minimum Continuing Legal Education ("MCLE") requirements. Accordingly, respondent is not to claim any MCLE credit for attending or completing Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: DAVID ANDREW MANS	Case number(s): 12-O-12246
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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>4/18/13</u> Date	<u></u> Respondent's Signature	<u>David A. Mans</u> Print Name
<u>4/20/13</u> Date	<u></u> Respondent's Counsel Signature	<u>ARTHUR L. MARGOLIS</u> Print Name
<u>April 23 '13</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>HOVAK G. RASMIAN</u> Print Name

(Do not write above this line.)

In the Matter of: DAVID ANDREW MANS	Case Number(s): 12-O-12246
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ACTUAL SUSPENSION ORDER

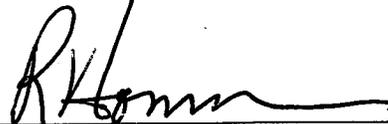
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date.** (See rule 9.18(a), California Rules of Court.)

5/6/13

Date



RICHARD A. HONN
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 <select city>, on May 9, 2013, I deposited a true copy of the following document(s):

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

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

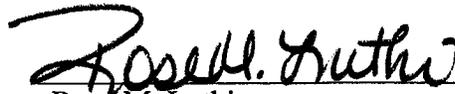
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARTHUR LEWIS MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039

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

HUGH RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 9, 2013.



Rose M. Luthi
Case Administrator
State Bar Court