

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Mia R. Ellis Senior Trial Counsel 845 South Figueroa Street, Los Angeles, CA 90017 213-765-1380 Bar # 228235	Case Number(s): 12-O-12569-RAH 12-O-14968 12-O-18210 13-O-11774 13-O-13181	For Court use only FILED APR 10 2014 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent Arthur Margolis Margolis & Margolis 2000 Riverside Drive Los Angeles, CA 90039 323-953-8996 Bar # 57703	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: VICTOR JACOBVITZ Bar # 66297 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.

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A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 18, 1975**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **15** 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."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline**
- (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 intentional, 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. **Please see page 12.**
- (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. **Please see page 12.**
- (8) ☐ **Restitution:** Respondent failed to make restitution.
- (9) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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:

No Prior Discipline - Please see page 13.

Pretrial Stipulation - Please see page 13.

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 1.2(c)(1) 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 **thirty (30) 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 1.2(c)(1), 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 1.2(c)(1), 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:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" 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:**

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In the Matter of: VICTOR JACOBVITZ	Case Number(s): 12-O-12569 12-O-14968 12-O-18210 13-O-11774 13-O-13181
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Financial Conditions

a. Restitution

- ☐ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- ☐ 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.

c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. **Client Trust Accounting School**

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: VICTOR JACOBVITZ

CASE NUMBERS: 12-O-12569, 12-O-14968, 12-O-18210
 13-O-11774, 13-O-13181

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-12569 (State Bar Investigation)

FACTS:

1. At all relevant times herein, Respondent maintained a client trust account at Bank of America (CTA).
2. Between December 6, 2011 and January 5, 2012, Respondent issued checks from his CTA against insufficient funds in the account. The checks, which were paid, are as follows:

<u>Presentment</u> <u>Date</u>	<u>Check No.</u>	<u>Check Amount</u>	<u>Balance</u> <u>On Date Presented</u>
12/6/11	6476	\$200	\$-1569.95
12/6/11	6479	\$1,600	\$-1569.95
12/9/11	6474	\$1,300	\$-89.95
1/4/12	6497	\$363	\$-278.29
1/5/12	6488	\$880	\$-1193.29

3. At the time, Respondent issued the checks from the CTA, he was grossly negligent in not knowing that there were insufficient funds in the CTA to pay them.

CONCLUSIONS OF LAW:

4. By issuing CTA checks numbers 6476, 6479, 6474, 6497, and 6488 when he was grossly negligent in not knowing that there were insufficient funds in the CTA to cover the checks, Respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

Case No. 12-O-14968 (State Bar Investigation)

FACTS:

5. Between February 1, 2012 and February 25, 2012, Respondent issued checks from his CTA against insufficient funds in the account. The checks, which were paid, are as follows:

<u>Presentment</u> <u>Date</u>	<u>Check No.</u>	<u>Check Amount</u>	<u>Balance</u> <u>On Date Presented</u>
2/21/12	6606	\$1,333	\$-1362.69
2/21/12	6616	\$500	\$-1362.69
2/21/12	6618	\$500	\$-1362.69

6. At the time Respondent issued the checks from the CTA, he was grossly negligent in not knowing that there were insufficient funds in the CTA to cover the checks.

CONCLUSIONS OF LAW:

7. By issuing CTA checks numbers 6606, 6616, and 6618 when he was grossly negligent in not knowing that there were insufficient funds in the CTA to cover the checks, Respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

Case No. 12-O-18210 (Complainant: Samuel Jackson)

FACTS:

8. On March 25, 2010, Samuel A. Jackson ("Jackson") hired Respondent to represent him in a lawsuit against the Baltimore Hotel for breach of warranty of habitability.
9. On February 16, 2011, Respondent filed a complaint for damages and injunctive relief on behalf of twenty-eight (28) tenants of the Baltimore Hotel in Los Angeles County Superior Court (the "lawsuit"). Jackson was included as a plaintiff.
10. In August 2011, Jackson contacted Respondent regarding the status of the case. Respondent's staff told Jackson that Respondent was working on the case.
11. On May 26, 2012, Christopher Rudzinski ("Rudzinski"), another plaintiff in the lawsuit, met with Jackson. Rudzinski told Jackson that Respondent sent him to meet with Jackson. Rudzinski asked Jackson for a copy of his identification and Social Security number. Jackson gave it to him but then became concerned about disclosing this information to Rudzinski and asked for the documents back. Jackson wanted to speak with Respondent directly.
12. On May 29, 2012, Jackson went to Respondent's office to see Respondent. Respondent's secretary told Jackson that Respondent was not in and that he would get back in touch with Jackson. Respondent received the message but did not contact Jackson.

13. In June 2012, Jackson called and left messages for Respondent inquiring about the status of the case. Respondent received the messages but did not respond.
14. On July 10, 2012, the parties to the lawsuit proceeded to mediation. Respondent did not notify Jackson that the case was going to mediation. The case settled at mediation for a monetary sum, but Jackson was not included as part of the mediation or the settlement. Respondent did not advise Jackson that he was not included in the mediation or the settlement.
15. On July 13, 2012, Jackson learned that the case was resolved.
16. Between July 16, 2012 and July 23, 2012, Jackson went to Respondent's office to speak with Respondent. Respondent's staff told Jackson that his case had been dropped and Respondent did not want to speak with him.
17. On July 20, 2012, Respondent filed a request for dismissal of the lawsuit with prejudice on behalf of Jackson. The request for dismissal was granted. Respondent did not advise Jackson that he would be filing a request for dismissal, that he had filed a request for dismissal, and that it was granted.

CONCLUSIONS OF LAW:

18. By failing to include Jackson in the settlement achieved at the mediation and dismissing the lawsuit with prejudice on behalf of Jackson without his knowledge or consent, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).
19. By failing to give Jackson notice that the case was going to mediation and that he would not be included in the mediation, failing to include Jackson in the settlement achieved at the mediation, failing to give notice that he intended to and in fact did dismiss the lawsuit on behalf of Jackson, and failing to give Jackson notice of his termination of employment with Jackson, Respondent improperly withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to his client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
20. By failing to inform Jackson that the case was going to mediation and that he would not be part of the mediation, by failing to inform Jackson that he would be filing a request for dismissal of the lawsuit on behalf of Jackson, and by failing to inform Jackson that he did in fact file a request for dismissal of the lawsuit on behalf of Jackson and that it was granted, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).
21. By failing to respond to Jackson's inquiries about the status of the lawsuit, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

Case Nos. 13-O-11774 and 13-O-13181 (State Bar Investigation)

FACTS:

22. Between March 4, 2013 and May 17, 2013, Respondent issued checks from his CTA against insufficient funds in the account. The checks, which were paid, are as follows:

<u>Presentment Date</u>	<u>Check No.</u>	<u>Check Amount</u>	<u>Balance On Date Presented</u>
3/04/13	7230	\$2,700.00	- \$1,569.38
3/04/13	7239	\$2,000.00	- \$1,569.38
3/04/13	7243	\$100.00	- \$1,569.38
3/27/13	7257	\$500.00	- \$300.44
3/27/13	7266	\$1,700.00	- \$300.44
5/17/13	7341	\$600.00	- \$1,886.69
5/17/13	7348	\$1,600.00	- \$1,886.69
5/17/13	7350	\$200.00	- \$1,886.69

23. At the time Respondent issued the checks from the CTA, he was grossly negligent in not knowing that there were insufficient funds in the CTA to pay them.

CONCLUSIONS OF LAW:

24. By issuing CTA check numbers 7230, 7239, 7243, 7257, 7266, 7341, 7348, and 7350 when he was grossly negligent in not knowing that there were insufficient funds in the CTA to cover the checks, Respondent committed acts involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code section 6106.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent stipulated to seven violations of the Rules of Professional Conduct and/or Business and Professions Code in the present case. The scope of the misconduct included issuing multiple NSF checks and one client matter. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631,646-7.)

Harm (Std. 1.5(f)): The current misconduct caused significant harm to Jackson because he lost his right to pursue his civil claim when Respondent dismissed the lawsuit with prejudice.

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Discipline: Although the misconduct is serious, Respondent had practiced law for 36 years without misconduct at the time the misconduct herein commenced. Thirty-six years of practice without discipline is worthy of significant mitigation. *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn 13 [noting that the Supreme Court has repeatedly found mitigation under Standard 1.2(e)(1) for lack of a prior record of discipline in cases involving serious misconduct] and citing *Rodgers v. State Bar* (1989) 48 Cal.3d 300, 317; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029; see also *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Pretrial Stipulation: Respondent has entered into a stipulation to facts, conclusions of law, and level of discipline and therefore is entitled to mitigation, in that his cooperation has saved the State Bar resources, and his acceptance of responsibility for his misconduct also begins to show rehabilitation efforts. (*In the Matter of Silver* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902, 906; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50; *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, Respondent admits to committing seven acts of professional misconduct. Standard 1.7(a) requires that where an attorney "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to Respondent's misconduct is found in standard 2.7, which provides that disbarment or actual suspension is appropriate for acts of moral turpitude. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member's practice of law.

Here, the gravamen of Respondent's conduct is the issuance of checks from his CTA against insufficient funds. His misconduct, while serious, occurred sporadically, for a total of sixteen checks, all of which were paid. There was no evidence of misappropriation. While there was client harm in the Jackson matter and Respondent committed multiple acts of misconduct, these aggravating circumstances are outweighed by the significant mitigation afforded by the fact that Respondent had been in practice for thirty-six years with no prior record of discipline when the misconduct commenced and he has accepted responsibility for his misconduct and saved State Bar resources by entering into this stipulation to fully resolve the matter. In light of the facts of this matter, including the mitigation and aggravation, discipline at the low end of the range of discipline suggested by Standard 2.7 is appropriate. A one-year stayed suspension, with a two-year period of probation with conditions including a 30-day actual suspension will protect the public, the courts and the legal profession, help maintain high professional standards by attorneys, and preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 20, 2014, the prosecution costs in this matter are estimated to be \$8,954. 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

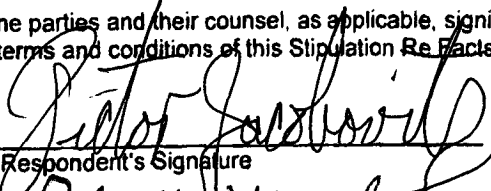


Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School and State Bar Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: VICTOR JACOBVITZ	Case number(s): 12-O-12569-RAH 12-O-14968 12-O-18210 13-O-11774 13-O-13181
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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.

March 28, 2014		Victor Jacobovitz
Date	Respondent's Signature	Print Name
3/28/14		Arthur Margolis
Date	Respondent's Counsel Signature	Print Name
4/1/14		Mia Ellis
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

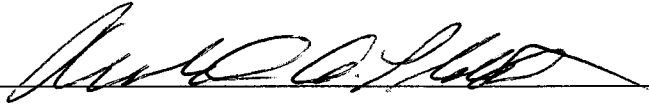
In the Matter of: VICTOR JACOBVITZ	Case Number(s): 12-O-12569-RAH 12-O-14968 12-O-18210 13-O-11774 13-O-13181
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ACTUAL SUSPENSION ORDER

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.)**

04-09-2014 
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 April 10, 2014, 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:

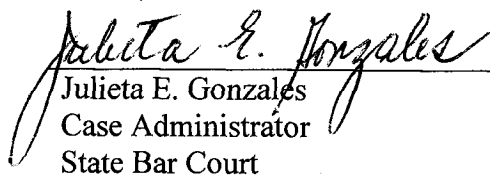
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

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:

Mia R. Ellis, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 10, 2014.


Julieta E. Gonzales
Case Administrator
State Bar Court