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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>STAYED SUSPENSION</b>		
<b>Counsel For The State Bar</b>  Katherine Kinsey Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 213-765-1503  Bar # 183740	<b>Case Number(s):</b> 12-O-13322-DFM	For Court use only  <b>FILED</b> OCT 18 2012 <i>Y/C</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES  <b>PUBLIC MATTER</b>
<b>In Pro-Per Respondent</b>  Mitchell Berenson 12525 Havelock Avenue Los Angeles, CA 90066 310-306-8900  Bar # 183166	<b>Submitted to: Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  STAYED SUSPENSION; NO ACTUAL SUSPENSION  <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> Mitchell Berenson  Bar # 183166  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 June 11, 1996.
- (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 13 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."

(Effective January 1, 2011)

Stayed Suspension



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

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

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

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- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Page 11 of Attachment
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances**

See Page 11 of Attachment

**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.

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**Additional mitigating circumstances**

See Page 11 of Attachment

## D. Discipline:

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of one year.

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

The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent is placed on probation for a period of one year, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

## E. Additional Conditions of Probation:

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

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

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

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- (6)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input 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 within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason: .
- (2)  **Other Conditions:**

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In the Matter of: Mitchell Berenson	Case Number(s): 12-O-13322-DFM
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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
Bjoern Kommerell	\$1,500	May 17, 2010

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than within 60 days of the effective date of the discipline herein .

#### 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:
- a. 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";

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        Mitchell Berenson

CASE NUMBER(S):        12-O-13322

**FACTS AND CONCLUSIONS OF LAW:**

Respondent, Mitchell Berenson, 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-13322 (Complainant: Bjoern Kommerell)

**FACTS:**

1. On May 17, 2010, Bjoern Kommerell ("Kommerell") employed Respondent to obtain US citizenship on his behalf while also ensuring Kommerell could maintain his German citizenship ("immigration matter"). On or about May 17, 2010, Kommerell paid Respondent \$1,500 in advanced legal fees for the immigration matter.
2. On January 21, 2011, Kommerell sent an email to Respondent informing him that Kommerell wanted to proceed with his application for US citizenship. Respondent received the email.
3. On February 22, 2011, Respondent sent an email to Kommerell containing a two-prong test related to Kommerell retaining his German citizenship and asked Kommerell to address them. Later that day, Kommerell responded to Respondent's email with the requested information.
4. On March 4, 2011, Kommerell sent an email to Respondent inquiring about his immigration matter. Respondent received the email but did not respond.
5. On March 8, 2011, Kommerell emailed Respondent regarding his failure to respond to his earlier email and told Respondent he wanted his matter completed as soon as possible. Respondent received the email but did not respond.
6. On March 10, 2011, Kommerell sent Respondent another email asking when they would be able to discuss his immigration matter and stated that he counted on Respondent's integrity and professionalism to complete the matter soon. Respondent received the March 10, 2011 email but did not promptly respond.
7. On March 28, 2011, Respondent sent an email to Kommerell stating that he had a German client with a similar issue, and they were going to get that matter approved before addressing Kommerell's matter. In addition, on or about March 28, 2011, Respondent forwarded an email to Kommerell regarding what documents the German Consulate would need with an application to retain German citizenship. From on or about March 28, 2011 through on or about May 9, 2011, Kommerell waited to hear from Respondent.



8. On May 9, 2011, Kommerell emailed Respondent stating that he was going to Germany in two weeks and wanted to speak to Respondent before he left. Respondent received the email but did not respond.

9. On May 17, 2011, Kommerell emailed Respondent stating that he was leaving for Germany that Friday and asked if there was any documentation or preparation he should do regarding his immigration matter while he was in Germany. Respondent received the May 17, 2011 email but did not respond.

10. On June 8, 2011, Kommerell emailed Respondent asking why Respondent had not responded to Kommerell. In the email, Kommerell told Respondent he was in Germany and awaited Respondent's advice in order to prepare his immigration matter.

11. On June 9, 2011, Respondent emailed Kommerell once again stating that he was working on citizenship retention for another German client, and once it was resolved, he would know how to manage Kommerell's case. However, in the June 9, 2011 email, Respondent did not address the questions raised by Kommerell in his earlier emails.

12. From on or about June 9, 2011 through in or about December 2011, Kommerell waited to hear from Respondent regarding his immigration matter.

13. On December 22, 2011, Kommerell sent Respondent an email complaining that no work had been done. In the email, Kommerell stated that he had made attempts to contact Respondent, and Respondent had not called him throughout 2011. Kommerell told Respondent that he either needed to complete the immigration matter as agreed or refund the \$1,500 in legal fees. Respondent received the December 22, 2011 email but did not respond.

14. On January 25, 2012, attorney Premjit Panicker emailed Respondent on Kommerell's behalf. In the email, Panicker outlined Respondent's failure to perform and failure to communicate with Kommerell and requested a refund of the \$1,500 in legal fees on Kommerell's behalf. Respondent received the email but did not respond.

15. Respondent did not submit an application on Kommerell's behalf and otherwise failed to pursue Kommerell's immigration matter.

16. Respondent provided no services of value to Kommerell. Respondent did not earn any of the \$1,500 paid by Kommerell and has not refunded any of the fees.

17. According to Kommerell, his immigration was not significantly affected by Respondent's failure to perform because his green card does not expire until 2016. However, Kommerell was denied the use of the \$1,500 in advanced fees paid to Respondent in May 2010.

18. On May 3, 2012, the State Bar opened an investigation, case no. 12-O-13322, pursuant to a complaint made against Respondent by Bjoern Kommerell ("Kommerell matter").

19. On May 9, 2012, a State Bar investigator mailed a letter to Respondent at his membership records address regarding the Kommerell matter. The May 9, 2012 letter requested that Respondent

respond in writing by May 23, 2012 to specific allegations of misconduct being investigated by the State Bar in the Kommerell matter. Respondent received the May 9, 2012 letter but did not respond.

20. On May 10, 2012, the State Bar investigator sent an email to Respondent at the email address provided by Respondent to the State Bar and to Kommerell. In the May 10, 2012 email, the State Bar investigator outlined the allegations in the Kommerell matter and attached a copy of the May 9, 2012 letter. The State Bar investigator provided his telephone number and told Respondent he would like to speak to him regarding the Kommerell matter. Respondent received the May 10, 2012 email with the attached letter but did not respond.

21. As of May 24, 2012, Respondent had not provided a response to the investigator's May 9, 2012 letter or May 10, 2012 email. Therefore, on or about May 24, 2012, the State Bar investigator mailed a letter to Respondent's home address regarding the Kommerell matter. The May 24, 2012 letter requested that Respondent respond in writing by June 7, 2012 to specific allegations of misconduct being investigated by the State Bar in the Kommerell matter. Respondent received the May 24, 2012 letter but did not respond.

22. On May 24, 2012, the State Bar investigator was able to obtain the personal email address for Respondent and sent an email to Respondent's personal email address asking Respondent to contact the investigator regarding the Kommerell matter. The State Bar investigator provided his telephone number and attached a copy of the May 24, 2012 letter. Respondent received the May 24, 2012 email with the attached letter but did not respond.

23. On June 1, 2012, a State Bar investigator spoke to Respondent in person regarding the Kommerell matter. During the June 1, 2012 conversation, Respondent acknowledged receiving the State Bar letters regarding the Kommerell matter and told the investigator that he did plan on providing a response. During the June 1, 2012, conversation, the State Bar investigator, once again, provided Respondent with copies of the May 9, 2012 and May 24, 2012 letters regarding the Kommerell matter.

24. At no time did Respondent provide a written response to the allegations in the Kommerell matter.

#### CONCLUSIONS OF LAW:

25. By failing to perform on Kommerell's immigration matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

26. By failing to respond to Kommerell's inquiries regarding his immigration matter, 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).

27. By not refunding any of the \$1,500 in advanced legal fee to Kommerell, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct rule 3-700(D)(2).

28. By not providing a written response to the allegations in the Kommerell matter or otherwise cooperating in the investigation of the Kommerell matter, Respondent failed to cooperate and participate

in a disciplinary investigation pending against Respondent in willful violation of Business and Professions Code, section 6068(i).

### **AGGRAVATING CIRCUMSTANCES.**

Multiple Acts: Respondent's four acts of misconduct in one client matter evidences multiple acts of misconduct.

### **ADDITIONAL AGGRAVATING CIRCUMSTANCES:**

Harm: Respondent failure to refund unearned fees to his client caused harm to his client. (*See Matthew v. State Bar* (1989) 49 Cal.3d 784, 791 [Finding respondent's failure to return unearned fees caused clients financial and other harm and is an aggravating factor.])

### **ADDITIONAL MITIGATING CIRCUMSTANCES:**

Stipulation: While Respondent did not cooperate in the investigation of this matter, Respondent is entitled to some mitigation in agreeing to enter into a stipulation to facts and conclusions of law prior to trial. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50; *In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156.)

No Prior Discipline: Respondent was admitted to the practice of law on June 11, 1996 and has no prior record of discipline. Respondent's sixteen years of discipline free practice is a significant mitigating factor. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596.)

### **DISCUSSION OF 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.4<sup>th</sup> 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.4<sup>th</sup> 81, 92, quoting *In re Brown* (1995) 12 Cal.4<sup>th</sup> 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 four 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.

In the present matter, the more serious charges fall under Standard 2.6 (a), which calls for disbarment or suspension depending upon the gravity of the offense and the degree of harm to the client. The applicable violations under Standard 2.6 are Business and Professions Code sections 6068(i) and 6068(m). Respondent's failure to perform and his failure to respond to Kommerell's repeated inquiries regarding his case delayed the underlying immigration matter. However, the delay did not cause significant harm to the client since Kommerell's green card does not expire until 2016, and he did not view his matter as urgent. In addition, Respondent's failure to refund the \$1,500 in advanced fees despite Kommerell's requests caused some harm to Kommerell in that he was deprived the use of his funds. While Respondent's agreement to enter into a stipulation resolving this matter is a mitigating factor, it is offset to some degree by his failure to cooperate with the State Bar investigation. However, considering the nature of the misconduct, the lack of significant harm to the client and Respondent's sixteen years of practice without any prior discipline, this matter does not require a period of actual suspension.

In *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, the Court found that a respondent committed three acts of misconduct in a client matter in that he failed to perform, failed to communicate and abandoned his client's dissolution matter. Specifically, the Court found that respondent failed to respond to the client's repeated telephone calls, failed to complete the client's dissolution matter and altogether ceased working on the matter without taking steps to properly withdraw from the case. The client subsequently hired new counsel to complete the dissolution. The respondent in *Van Sloten* had no prior record of discipline, but had been practicing for less than six years at the time of the misconduct. In light of the lack of significant harm to the client in *Van Sloten*, the Supreme Court ordered respondent suspended for six months, stayed and that he be placed one-year probation. In the present matter, Respondent engaged in four acts of misconduct in one client matter and has no prior record discipline over sixteen years of practice. However, in addition to failing to perform and failing to communicate with his client, Respondent also failed to refund unearned fees, causing some harm to the client. On balance and considering the Standards, the aggravating and mitigating circumstances, one-year stayed suspension serves the purposes of attorney discipline in the present matter.

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was September 11, 2012.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

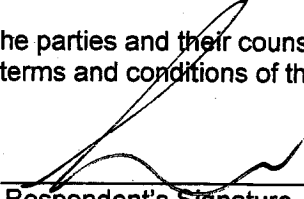
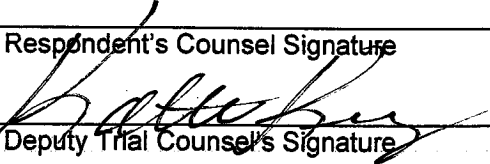
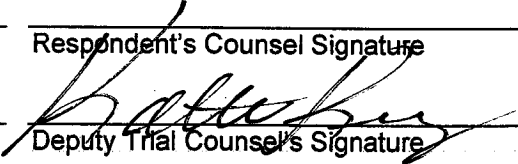
The Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 20, 2012, the prosecution estimated costs in this matter are \$3,689. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceeding.

(Do not write above this line.)

In the Matter of: Mitchell Berenson	Case number(s): 12-O-13322-DFM
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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>10/4/2012</u> Date	 Respondent's Signature	<u>Mitchell Berenson</u> Print Name
<u>10/4/2012</u> Date	 Respondent's Counsel Signature	<u>Katherine Kinsey</u> Print Name
<u>10/4/2012</u> Date	 Deputy Trial Counsel's Signature	<u>Katherine Kinsey</u> Print Name

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In the Matter of: Mitchell Berenson	Case Number(s): 12-O-13322
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### STAYED SUSPENSION ORDER

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

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

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.)**

10/15/12

Date



Judge of the State Bar Court **DONALD F. MILES**

**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 October 18, 2012, I deposited a true copy of the following document(s):

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

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

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

**MITCHELL BERENSON  
LAW OFFICES OF MITCH BERENSON  
12525 HAVELOCK AVE  
LOS ANGELES, CA 90066**

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

**KATHERINE KINSEY, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 18, 2012.



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Tammy Cleaver  
Case Administrator  
State Bar Court