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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
Counsel For The State Bar  Anand Kumar Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1714  Bar # 261592	Case Number(s): 12-O-15649-GES 13-O-11108	For Court use only  <div style="text-align: center;"> <p><b>FILED</b></p> <p><b>APR 25 2013</b></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> </div> <div style="text-align: right; font-size: 2em; font-family: cursive;"> <p><i>Vic</i></p> </div> <div style="text-align: center; font-size: 2em; font-weight: bold; margin-top: 20px;"> <p>PUBLIC MATTER</p> </div>
In Pro Per Respondent  John Joseph Leonard P.O. Box 3020 Sag Harbor, NY 11963 (310) 904-9108  Bar # 232040	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: John Joseph Leonard  Bar # 232040  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 September 20, 2004.
- (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 17 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: three (3) 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 09-O-10706, et al.
  - (b)  Date prior discipline effective August 21, 2011
  - (c)  Rules of Professional Conduct/ State Bar Act violations: In case numbers 09-O-10706, et al., Respondent stipulated to violations of Rules of Professional Conduct, rule 3-110(A) [failure to perform], Business and Professions Code, sections 6103 [violation of court order] and 6068(o)(3) [failure to promptly notify State Bar of judicial sanctions]. For further description of Respondent's prior discipline, see Stipulation, page 13.
  - (d)  Degree of prior discipline : In case numbers 09-O-10706, et al., the Supreme Court imposed discipline on Respondent consisting of a three (3) year stayed suspension, a three (3) year probation with conditions including an actual suspension of thirty (30) days.
  - (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.

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- (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.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Stipulation, page 13.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

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

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

- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

See stipulation, at page 14.

**D. Discipline:**

- (1)  **Stayed Suspension:**
  - (a)  Respondent must be suspended from the practice of law for a period of two (2) years.
    - 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 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:

### E. Additional Conditions of Probation:

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
  - No Ethics School recommended. Reason: Respondent attended Ethics School on March 21, 2013, and successfully passed the test given at the end of the session. Accordingly, the protection of the public and the interests of the Respondent do not require passage of Ethics School in this case. (See rule 5.135, Rules of Procedure of the State Bar of California.)
- (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.

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(10)  The following conditions are attached hereto and incorporated:

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|--|---|
| <input type="checkbox"/> Substance Abuse Conditions    | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" 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:**

MPRE:

With regard to the condition stated above in section (F)(1) that Respondent provide proof of successful passage of the MPRE, Respondent was ordered to pass the MPRE in connection with his prior discipline in case numbers 09-O-10706, et al. If Respondent successfully passes the MPRE and provides proof of passage to the Office of Probation prior to the effective date of an order of discipline imposed by the Supreme Court in this matter, then no further proof of passage of the MPRE will be necessary for the protection of the public and the interests of the Respondent in connection with the instant discipline. (See In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181, In the Matter of Trousil (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 229, 244.)

Medical Conditions:

Respondent was required to comply with specific medical conditions as part of his probation imposed in his prior discipline in case numbers 09-O-10706, et al. As part of the instant discipline, Respondent must comply with the same medical conditions as were previously imposed on him. Specifically, Respondent must continue therapy and treatment from a duly licensed psychiatrist, psychologist, or clinical social worker ("therapist") at Respondent's own expense at least two (2) times per month throughout his

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probationary period or until Respondent's treating therapist consents to a lesser frequency, or until a motion to modify this condition is granted and that ruling becomes final. Respondent must also comply with all recommendations of his treating therapist.

Respondent must provide to the Office of Probation with each quarterly probationary report a verification from his treating therapist that Respondent is continuing treatment and is complying with all recommendations of his treating therapist. The verification must specify the dates on which Respondent sought treatment during the quarterly period. Should Respondent not provide such a report or should the report indicate that Respondent is not complying with his treatment as recommended by his therapist, Respondent will be in violation of this condition.

Upon request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to Respondent's medical records relating to his treatment with his therapist throughout the duration of the probationary period for the purposes of determining compliance with this condition.

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In the Matter of: John Joseph Leonard	Case Number(s): 12-O-15649-GES, 13-O-11108
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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
Steven Wong	\$650.00	June 26, 2012

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than sixty (60) days from the effective date of Supreme Court order issued in this matter .

**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";

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 language (if any):

**ATTACHMENT TO**

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

IN THE MATTER OF:                      John Joseph Leonard

CASE NUMBERS:                         12-O-15649-GES, 13-O-11108

**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-15649 (Complainant: Steven Wong)

**FACTS:**

1. On May 16, 2012, Steven Wong (“Wong”) hired Respondent to draft and file an unlawful detainer complaint on behalf of Pacific Property Management (“PPM”) in Los Angeles County Superior Court to evict some tenants.
2. On May 16, 2012, Wong and Respondent entered into a flat fee agreement for \$500.00 for the legal services. In order to pay Respondent a \$500.00 flat fee, Wong provided Respondent with access to a prepaid refillable debit card and authorized Respondent to obtain \$500.00 from the debit card. Respondent received \$500.00 in advanced fees from the debit card.
3. On May 21, 2012, Wong also added another \$400.00 to the prepaid debit card and authorized Respondent to obtain the \$400.00 from the debit card, to be held in trust by Respondent and used exclusively for court filing fees. Respondent obtained the funds from the debit card and failed to deposit the \$400.00 in his client trust account.
4. Between May 22, 2012 and June 1, 2012, Respondent drafted and emailed Wong a three-day notice to pay rent or quit and an unlawful detainer complaint.
5. On June 4, 2012, Respondent attempted to file the unlawful detainer complaint by fax on PPM’s behalf with the Los Angeles County Superior Court in West Covina. The filing of the unlawful detainer complaint was a time-sensitive matter.
6. On June 13, 2012, a clerk from the Los Angeles County Superior Court sent Respondent a faxed copy of a notice of rejection of the fax filing, because Respondent’s attempted filing failed to meet the Los Angeles County Superior Court procedural requirements for a fax filing. On June 13, 2012, the fax copy of the Court’s notice of rejection was received by Respondent’s office; however, Respondent failed to discover the fax until June 23, 2012.

7. On June 23, 2012, when Respondent realized that the Court had rejected the June 4, 2012 attempted fax-filing, he informed Wong by phone that the unlawful detainer complaint had been rejected by the Court due to Respondent's failure to file the complaint according to the appropriate procedural guidelines.
8. On June 25, 2012, Wong terminated Respondent.
9. On June 26, 2012, Respondent mailed Wong his client file with an accounting in which Respondent indicated he earned \$2,135.00 and received "payment" for \$900.00 from Wong. Respondent's designation of the \$900.00 as payment contradicted the flat fee agreement, which stated Respondent was to be paid a flat fee of \$500.00.
10. Respondent unilaterally applied the \$400.00 that Wong had advanced to be used to pay the court filing fees to pay his legal fees without Wong's knowledge or consent.
11. By unilaterally applying the \$400.00 advanced for court filing fees towards his legal fees, Respondent dishonestly, or with gross negligence, misappropriated \$400.00 of Wong's funds.

#### CONCLUSIONS OF LAW:

12. By failing to correctly file the unlawful detainer complaint on PPM's behalf and by failing to discover that the Court had rejected the fax-filing until June 23, 2012, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A), Rules of Professional Conduct.
13. By failing to deposit the \$400.00 that Wong advanced to be used for court filing fees in his client trust account, Respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of rule 4-100(A), Rules of Professional Conduct.
14. By misappropriating \$400.00 of Wong's funds, Respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

#### Case No. 13-O-11108

#### FACTS:

15. On March 17, 2011, Respondent entered into a Stipulation re Facts, Conclusions of Law and Disposition ("Stipulation") with the State Bar of California in case numbers 09-O-10706, et al.
16. On April 1, 2011, the Hearing Department of the State Bar Court filed an Order approving the Stipulation and recommending the discipline set forth in the Stipulation to the California Supreme Court.

17. On April 1, 2011, the Hearing Department's Order approving the Stipulation was properly served by mail upon Respondent. Respondent received the Hearing Department's Order approving the Stipulation.
18. On July 22, 2011, the California Supreme Court filed Order number S193067 (hereinafter "Order") (State Bar Court case nos. 09-O-10706, et al.). Pursuant to the Order, Respondent was suspended from the practice of law for three (3) years, execution of suspension was stayed, and Respondent was placed on probation for three (3) years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its April 1, 2011 Order regarding the Stipulation, including the condition that Respondent be actually suspended for the first thirty (30) days of probation.
19. On July 22, 2011, the Clerk of the Supreme Court of the State of California properly served upon Respondent a copy of the Order. Respondent received the Order.
20. The Order became effective on August 21, 2011, thirty days after it was filed.
21. The Order required Respondent to comply with the following terms and conditions of probation, among others:
  - a. to submit to the State Bar's Office of Probation ("Office of Probation") written quarterly reports each January 10, April 10, July 10 and October 10 of the three-year probationary period, certifying under penalty of perjury whether he has complied with all provisions of the State Bar Act and the Rules of Professional Conduct and all probationary conditions during the preceding calendar quarter or part thereof covered by the report;
  - b. to continue therapy and treatment from a licensed psychologist or clinical social worker at his own expense at least two times per month throughout the three-year probationary period until Respondent's treating therapist consents to a lesser frequency or until a motion to modify the condition is granted by the State Bar Court and that ruling becomes final;
  - c. to report compliance with such treatment with each quarterly report by providing a verification form from the treating therapist to the Office of Probation; and
  - d. to attend and complete State Bar Ethics School, to take and pass the test given at the end of the session, and provide satisfactory proof thereof to the Office of Probation within one year of the effective date of the discipline, or by on or before August 21, 2012.
22. On August 5, 2011, a Probation Deputy from the Office of Probation sent a letter to Respondent in which he reminded Respondent of the terms and conditions of his probation imposed pursuant to the Order. In the August 5, 2011 letter, the Probation Deputy specifically reminded Respondent regarding his obligations as stated in paragraph 20 above. Enclosed with the August 5, 2011 letter to Respondent were, among other things, copies of

the Order, the relevant portion of the Stipulation setting forth the conditions of Respondent's probation, a Quarterly Report Instructions sheet, a Quarterly Report form specially tailored for Respondent to use in submitting his quarterly reports, a schedule of the upcoming Ethics School sessions and an information sheet about registration for Ethics School. Respondent received the August 5, 2011 letter.

23. Respondent failed to timely submit his quarterly report due by October 10, 2012. Instead, Respondent belatedly submitted the quarterly report to the Office of Probation on October 30, 2012.
24. Between February 2012 and December 2012, Respondent failed to receive therapy and treatment from a licensed psychologist or clinical social worker, and failed to provide reports to the Office of Probation of his compliance with the treatment condition of his probation. On April 25, 2012, Respondent filed a Motion for Relief from the Mental Health Conditions from February 2012 through April 2012 attached to his discipline, but Respondent's motion was denied by the State Bar Court on May 7, 2012.
25. Respondent failed to attend and complete State Bar Ethics School by August 21, 2012. However, he belatedly attended State Bar Ethics School on March 21, 2013 and passed the test given at the end of the session and provided proof of such passage to the Office of Probation.

#### CONCLUSION OF LAW:

26. By failing to timely submit his October 2012 quarterly report, failing to comply with his medical condition and failing to timely attend and complete State Bar Ethics School, Respondent failed to comply with all conditions attached to any disciplinary probation in willful violation of Business and Professions Code, section 6068(k).

#### ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline:** Respondent has one prior record of State Bar discipline. Case numbers 09-O-10706 et al. resulted in Supreme Court Order number S193067 wherein Respondent was suspended from the practice of law for three (3) years, placed on probation for three (3) years with conditions including an actual suspension of thirty (30) days. The discipline stemmed from recent misconduct—all occurring since December 2008—in three client matters, in which Respondent stipulated to two failures to perform in violation of rule 3-110(A), failing to pay court-ordered sanctions in violation of Business and Professions Code, section 6103 and failing to report the imposition of the sanction to the State Bar within 30 days in violation of section 6068(o)(3).

**Multiple Acts:** Respondent's misconduct evidences multiple acts of misconduct under standard 1.2(b)(ii) vis-à-vis committing two CTA violations in Wong's matter amongst other violations and several probation violations.

## ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

**Candor and Cooperation with the State Bar:** Respondent has cooperated with the State Bar by entering into a stipulated settlement at an early stage without the need of a trial to resolve this matter. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [mitigative credit given where attorney admitted facts and culpability in order to simplify the disciplinary proceedings].) Additionally, despite his claim that he earned \$2,135.00, Respondent has agreed to make partial restitution to Wong in the amount of \$250.00 of the original \$500.00 advanced fees along with the misappropriated \$400.00 court filing fees.

## 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 Silvertown* (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 four separate violations of the Rules of Professional Conduct and/or the State Bar Act. 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 instant misconduct is found in standard 2.2(a), which applies to Respondent’s misappropriation of funds in violation of Business and Professions Code, section 6106.

Standard 2.2(a) provides that culpability of a member of willful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate shall disbarment not be imposed. In those latter cases, the discipline shall not be less than one-year actual suspension, irrespective of mitigating circumstances.

There are two steps in the analysis to apply standard 2.2(a). First is showing that funds were misappropriated and second is determining the extent or amount of the misappropriation or whether compelling mitigation exists. “[A]n attorney’s failure to use entrusted funds for the purpose for which they were entrusted constitutes misappropriation.” (*Baca v. State Bar* (1990) 52 Cal.3d 294, 304 [an

attorney who received \$120.00 in filing fees from a client and did not use them for filing fees was held to have misappropriated the filing fees].) Here, Respondent has admitted to misappropriating \$400.00 from Wong by using the funds for his own use and purposes. With regard to determining whether the misappropriation of Wong's funds was "insignificantly small," there is no bright-line rule or test used by courts. A misappropriation of filing fees totaling \$153.00 constituted a misappropriation of a "small" amount of funds (*In the Matter of Boyne* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 389, 397-398, 407), as did a misappropriation of approximately \$1,300.00 in settlement funds (see *Howard v. State Bar* (1990) 51 Cal.3d 215, 218, 223). Similarly, a misappropriation of \$400.00 should be deemed to constitute an insignificantly small amount of funds for purposes of standard 2.2(a) in the instant matter. Accordingly, pursuant to standard 2.2(a), the appropriate level of discipline should be no less than a one-year actual suspension irrespective of mitigating circumstances.

In *Howard*, the Supreme Court determined that a six-month actual suspension was the appropriate level of discipline for an attorney who misappropriated approximately \$1,300.00 in settlement funds in a single client matter, but had various mitigating circumstances. In particular, the Court found that attorney Howard committed a "single act" of misappropriation involving a "relatively small sum," that she had made restitution to the client prior to the disciplinary proceedings, and that she had made a "substantial showing in mitigation" by demonstrating a successful recovery from a lifelong chemical dependency on alcohol and drugs which caused her misconduct. (*Id.* at pp. 218, 222-223.)

Here, unlike *Howard*, Respondent's misconduct involves multiple acts and Respondent has a prior record of discipline. Additionally, Respondent's prior discipline involved failures to perform for clients, similar to the instant misconduct. Respondent's misconduct also occurred during a period when he was on probation, the terms of which he violated. However, he has belatedly come into compliance indicating a willingness to comply with the conditions of his probation. And Respondent has failed to make restitution to Wong yet further distinguishing his misconduct from that in *Howard*. Furthermore, Respondent's mitigation is less by comparison to Howard's "substantial showing" of mitigation, in so far as Respondent's mitigation is limited to his candor and cooperation with the State Bar by stipulating to discipline at an early stage in the disciplinary proceedings and his agreement to repay some of the advanced fees he claims to have earned in addition to the misappropriated funds.

Accordingly, consistent with both the standards and case law defining a misappropriation of funds in the context of filing fees as "small," Respondent's misconduct here warrants a two (2) year stayed suspension and a two (2) year probation with conditions including a one (1) year actual suspension, restitution to Wong, and a requirement that he continue to seek and receive treatment twice a month from his treating therapist. This sanction is appropriate to protect the public, the courts, and the legal profession, to maintain high professional standards by attorneys, and to preserve public confidence in the legal profession.

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was March 19, 2013.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 26, 2013, the prosecution costs in this matter are approximately \$3,779.00. 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, ordered as a condition of suspension here. (Rules Proc. of State Bar, rule 3201.)



(Do not write above this line.)

In the Matter of: John Joseph Leonard	Case Number(s): 12-O-15649 (13-O-11108)
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### ACTUAL SUSPENSION ORDER

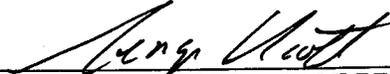
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

1. On page 4 of the stipulation under part D(2), the period of probation is increased to three (3) years.

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.)**

4-24-13  
Date

  
GEORGE E. SCOTT, JUDGE PRO TEM  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on April 25, 2013, I deposited a true copy of the following document(s):

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

**JOHN J. LEONARD  
THE LAW OFFICE OF JOHN J LEONARD  
PO BOX 3020  
SAG HARBOR, NY 11963**

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

**ANAND KUMAR, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 25, 2013.



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Tammy Cleaver  
Case Administrator  
State Bar Court