

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Melissa R. Marshall Contract Attorney Office of the Chief Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017-2515 Telephone: (213) 765-1277 Bar # 192625	Case Number(s): 12-O-16830-LMA	For Court use only PUBLIC MATTER FILED ✓ MAR - 5 2014 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Marisol Ocampo CENTURY LAW GROUP LLP 5200 West Century Blvd., Suite 345 Los Angeles, CA 90045 Telephone: (310) 642-6900 Bar # 198087	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: WILLIAM ARTHUR HUSTWIT Bar # 43439 A Member of the State Bar of California (Respondent)	STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **January 9, 1969**.
- (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, 2014)



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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):
 - ☒ 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: (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 or a separate attachment entitled "Prior Discipline."
- (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. **See Attachment to Stipulation, at page 10.**
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment to Stipulation, at page 10.**
- (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. **See Attachment to Stipulation, at page 10.**
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.

(Do not write above this line.)

(13) ☐ No mitigating circumstances are involved.

Additional mitigating circumstances

Pretrial Stipulation - See Attachment to Stipulation, at page 10.

No Prior Discipline - See Attachment to Stipulation, at page 10.

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 1.2(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:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is 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.)

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.

- (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 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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: WILLIAM ARTHUR HUSTWIT

CASE NUMBER: 12-O-16830

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-16830 (Complainant: Betsy Jackson)

FACTS:

1. In July 2011, Betsy Jackson ("Jackson") employed Respondent and paid him \$10,000 in advanced attorney's fees to file a lawsuit against a mortgage lender for predatory lending.
2. On or before May 8, 2012, Respondent determined he could not file a lawsuit for predatory lending on behalf of Jackson, and he withdrew as her attorney.
3. On May 8, 2012, Respondent provided Jackson with an invoice for \$6,125 for legal services performed and a refund of \$3,000 of the unearned advanced fees paid. The invoice Respondent provided to Jackson indicated that the client was due a balance of \$875.
4. On August 31, 2011, Jackson employed Respondent to form two limited liability companies on her behalf. Respondent sent Jackson an email indicating that the fees and costs for his legal services, which included initial and subsequent filings, would be \$3,855. Jackson paid the quoted amount.
5. On September 6, 2011, Respondent filed the initial documentation with the Nevada Secretary of State to form the two limited liability companies and listed himself as the registered agent of service for the companies. The Nevada Secretary of State imposed a deadline of October 31, 2011, for Respondent to file an initial annual list of managers, a state business license, and a \$325 fee for each company. Respondent received notice of the deadline, but he did not inform Jackson of the deadline. Respondent did not file an initial annual list of managers, a state business license, or a \$325 fee for either company.
6. On December 1, 2011, the Nevada Secretary of State sent a letter to Respondent, notifying him that both companies were in default status. Respondent received the letter, but he did not inform Jackson that the companies were in default. Respondent took no steps to correct the default status of either company.
7. On November 1, 2012, the Nevada Secretary of State sent a letter to Respondent, notifying him that both companies were in revoked status for failing to file an annual list of managers for the filing period September 2011 to September 2012 and to pay the filing fee and penalty thereon. Respondent received the letter, but he did not inform Jackson that the limited liability status for each

company had been revoked on October 1, 2012. Respondent took no steps to correct the revoked status of either company.

8. Jackson also hired Respondent in August 2011 and December 2011 to represent her in two separate personal injury cases resulting from automobile accidents. While Respondent was still representing Jackson in the personal injury cases and the predatory lending case, he entered into two business transactions with Jackson. Respondent sent Jackson an email on February 1, 2012, in which he indicated, "I have approx [sic] \$200,000 coming to me before the end of February, I am looking for a 25,000 loan now and I will agree to pay \$30,000.00 within 30 days. If you are interested let me know and I will send you a Promissory Note. I have to advise you that if you want to make the loan you should seek legal advice from another attorney." Jackson did not consult another attorney, because she trusted Respondent. There were no other written disclosures made, and Jackson did not sign any agreement. Instead, Jackson deposited a check for \$25,000 into Respondent's business account on February 3, 2012, and Respondent provided her with a promissory note for the principal sum of \$30,000 payable in one installment on or before March 3, 2012. The promissory note was issued on behalf of Respondent's limited liability company (Whitestar International Holdings, Ltd.), but Respondent signed the note as managing member. The loan was not secured by any form of collateral.

9. Respondent did not repay the loan on or before March 3, 2012. Instead, Respondent told Jackson his funds were delayed, and he asked her for an additional loan of \$10,000, which Jackson agreed to lend him.

10. On March 8, 2012, Respondent sent Jackson an email containing a promissory note for \$12,500 payable in one installment on or before March 20, 2012. In the email, Respondent requested that Jackson deposit the \$10,000 into his company's bank account and provide him with a copy of the check. Jackson deposited the money as instructed that same day and emailed Respondent a receipt from the bank. Respondent again signed a promissory note on behalf of his limited liability company as managing member, but also personally guaranteed this loan. The loan was not secured by any form of collateral.

11. Respondent did not repay either loan on or before March 20, 2012. Respondent provided various excuses for the delay of the funds and made many promises to obtain the funds to repay Jackson from other sources. Finally, in August 2012, Respondent admitted that the money he had been expecting was from an investment he had entered into, but the securities had been stolen and the money was gone.

12. In September 2012, Jackson hired subsequent counsel to collect on the outstanding loans and recover damages she suffered as a result of Respondent's delinquency in repaying the loans. Respondent represented to Jackson's new attorney that he had been unable to repay the loans because his company had securities valued at \$660,000 stolen by an individual from an intermediary who had given control of the securities to the individual. Jackson's new attorney was able to confirm this information with an agent of the Federal Bureau of Investigation who had investigated the matter. On September 7, 2012, Jackson's new attorney file a civil lawsuit on behalf of Jackson against Respondent for breach of the promissory notes and breach of fiduciary duty.

13. On September 25, 2012, the State Bar received a complaint against Respondent from Jackson.

14. On October 22, 2012, Respondent made an offer to settle the civil lawsuit with Jackson. In the settlement offer, Respondent sought Jackson's withdrawal of her State Bar complaint. This settlement agreement was never executed, and Respondent removed this term of the settlement offer when a State Bar investigator informed him that it violated Business and Professions Code section 6090.5.

15. On April 9, 2013, Respondent and Jackson entered into a settlement agreement. The agreement contemplated that Respondent would pay Jackson a total of \$75,000 in two installments, on or before April 30, 2013. Respondent paid \$50,000 on April 9, 2013; however, he was late in paying the remaining \$25,000. As a result, when Respondent paid the balance of \$25,000 on September 7, 2012, he also paid an additional \$10,000 to compensate for the late payment. Although Respondent originally borrowed \$35,000 with a promise to repay \$42,500, Respondent ultimately paid \$85,000 to compensate Jackson for the delay in payment and to resolve the lawsuit and any other disputes existing between Respondent and Jackson at the time.

CONCLUSIONS OF LAW:

16. By failing to refund to Jackson the \$875 in unearned advanced fees paid in July 2011 until April 2013, Respondent failed to refund promptly, upon Respondent's termination of employment on May 8, 2012, an unearned fee in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

17. By failing to file an initial annual list of managers, a state business license, and a \$325 fee with the Nevada Secretary of State for each of the limited liability companies by October 31, 2011, by failing to file an annual list of managers with the Nevada Secretary of State for each of the limited liability companies by September 30, 2012, and by failing to take any action to correct the revoked status of the two companies after October 1, 2012, Respondent intentionally, recklessly, or repeatedly failed to perform with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

18. By failing to inform Jackson of the need to file an initial annual list of managers, a state business license, and a \$325 fee with the Nevada Secretary of State for each company by October 31, 2011; the need to file an annual list of managers with the Nevada Secretary of State for each company by September 30, 2012; the fact that both companies were in default for not submitting the filings due to the Nevada Secretary of State on October 31, 2011 and September 30, 2012; and the fact that the limited liability status for each company had been revoked on October 1, 2012, for failure to submit the filings due on October 31, 2011 and September 30, 2012; Respondent failed to keep his 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).

19. By accepting a loan of \$25,000 from Jackson which was not secured by collateral, not disclosing the terms of the loan in writing, and not obtaining Jackson's consent to the terms of the loan in writing, Respondent improperly entered into a business transaction with a client, the terms of which were not fair and reasonable to the client, in willful violation of Rules of Professional Conduct, rule 3-300.

20. By accepting a loan of \$10,000 from Jackson which was not secured by collateral, not disclosing the terms of the loan in writing, and not obtaining Jackson's consent to the terms of the loan in writing, Respondent improperly entered into a business transaction with a client, the terms of which were not fair and reasonable to the client, in willful violation of Rules of Professional Conduct, rule 3-300.

21. By presenting the settlement offer dated October 22, 2012 to Jackson, Respondent sought, while acting as a party, as a term of a civil settlement with plaintiff Jackson, agreement from Jackson that she would withdraw her disciplinary complaint against Respondent with the State Bar in willful violation of Business and Professions Code section 6090.5(a)(2).

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): Respondent's misconduct caused harm to Jackson. Jackson loaned money to Respondent in February and March of 2012, due to the fact that she did not have immediate need for the money. Jackson agreed to the loans only because she trusted Respondent, and he promised to pay her back in one month. When Respondent defaulted on the loans, Jackson lost business opportunities and had to hire another attorney to represent her in a civil action for collections against Respondent.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed at least six separate acts of misconduct in a single client matter during a period of over one year. Respondent's multiple acts of misconduct constitute an aggravating factor pursuant to standard 1.5(b).

MITIGATING CIRCUMSTANCES.

Good Character (Std. 1.6(f)): Respondent has provided five character letters from people attesting to his moral character, honesty, and professionalism. The character references include an attorney, a retired attorney and businessman, a real estate investor, and two former clients, including an individual retired from biomedical engineering consulting and a businessman and real estate builder. Each character reference acknowledged being aware of Respondent's misconduct, and each was able to point to specific reasons for his or her high opinion of Respondent's moral character in spite of the misconduct.

Additional Mitigating Circumstances:

Pretrial Stipulation: Respondent has now acknowledged his misconduct and stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings as efficiently as possible, thereby avoiding the necessity of a trial and saving State Bar time and resources. (*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].)

No Prior Discipline: Respondent has been practicing law since 1969 with no prior record of discipline. He is entitled to mitigating credit for no prior discipline in over forty years of practice at the time the misconduct commenced even though the misconduct is serious. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn.13.) The California Supreme Court has found an attorney's practice of law for more than twenty years with an unblemished record to be a "highly significant" fact. (*Friedman v. State Bar* (1990) 50 Cal.3d 235, 245.)

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 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.) 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 six 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 2.4, which applies to Respondent's violations of Rules of Professional Conduct, rule 3-300 (Business Transaction with a Client). Standard 2.4 provides that "[s]uspension is appropriate for improperly entering into a business transaction with a client or knowingly acquiring a pecuniary interest adverse to a client, unless the extent of the misconduct and any harm it caused to the client are minimal, in which case reproof is appropriate. If the transaction or acquisition and its terms are unfair or unreasonable to the client, then disbarment or actual suspension is appropriate."

The business transactions in this case were unfair to the client because the terms were not disclosed in writing, the client's written consent was not obtained, the loans were not secured, and the risks in Respondent receiving the money to repay the loans were not explained to the client. (See *In the Matter of Hagen* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153; *In the Matter of Gillis* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387.) While Standard 2.4 calls for disbarment or actual suspension, under the current circumstances, there is a compelling justification and reason to deviate from Standard 2.4 and impose lesser discipline. (See, *In re Silvertown*, *supra*, 36 Cal.4th at p. 92.) Standard 1.7(c) states that "[mitigating circumstances] should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard." As stated above, Respondent's misconduct is aggravated by the fact that it involved multiple acts of misconduct and caused harm to his client. However, Respondent has now made full restitution to his client and has financially compensated the client for the lost use of her funds. Respondent is also entitled to mitigation for his evidence of good character and for acknowledging wrongdoing by entering into a pretrial stipulation. Finally, Respondent is entitled to significant

mitigation for over forty years of discipline-free practice. The fact that Respondent practiced law for over forty years with no prior discipline indicates that the current misconduct is aberrational and unlikely to recur. (See *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029.) Accordingly, based on standard 2.4 and the totality of circumstances, a two (2) year stayed suspension and a two (2) year period of probation with conditions will be sufficient to protect the public, the courts, and the legal profession. (Std. 1.1.)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of February 10, 2014, the prosecution costs in this matter are estimated at \$3,419. 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, or any other educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: WILLIAM ARTHUR HUSTWIT	Case number(s): 12-O-16830
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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>2/7/2014</u> Date	<u></u> Respondent's Signature	<u>William A. Hustwit</u> Print Name
<u>2/25/14</u> Date	<u></u> Respondent's Counsel Signature	<u>Marisol Ocampo</u> Print Name
<u>2/25/14</u> Date	<u></u> Deputy Trial Counsel's Signature (Contract Attorney for the State Bar)	<u>Melissa R. Marshall</u> Print Name

(Do not write above this line.)

In the Matter of: WILLIAM ARTHUR HUSTWIT	Case Number(s): 12-O-16830
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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.)**

03-04-2014
Date



RICHARD A. PLATEL
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 San Francisco, on March 5, 2014, I deposited a true copy of the following document(s):

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

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

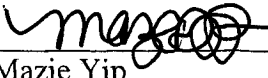
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

MARISOL OCAMPO
CENTURY LAW GROUP LLP
5200 W CENTURY BLVD #345
LOS ANGELES, CA 90045

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

MELISSA R. MARSHALL, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 5, 2014.



Mazie Yip
Case Administrator
State Bar Court