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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>REPROVAL</b>			<b>PUBLIC MATTER</b>	
<b>Counsel For The State Bar</b>  Kim Kasreliovich Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1378  Bar # 261766	<b>Case Number(s):</b> 12-O-17005 - RAH 12-O-17006	<b>For Court use only</b>   <div style="text-align: center;"> <b>FILED</b>  <b>OCT 31 2013</b> P.B.  <b>STATE BAR COURT</b>  <b>CLERK'S OFFICE</b>  <b>LOS ANGELES</b> </div>		
<b>Counsel For Respondent</b>  Ellen A. Pansky Pansky Markle Ham LLP 1010 Sycamore Ave Unit 308 South Pasadena, CA 91030 (213) 626-7300  Bar # 77688	<b>Submitted to: Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING			
<b>In the Matter of:</b> <b>JOHN CHRISTEN TORJESEN</b>  Bar # 141664  A Member of the State Bar of California (Respondent)	<b>PUBLIC REPROVAL</b>  <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 August 25, 1989.
- (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 10 pages, not including the order.



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- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☒ Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
  - ☐ Case ineligible for costs (private reproof).
  - ☐ 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.
- (9) The parties understand that:
- (a) ☐ A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b) ☐ A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c) ☒ A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (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. For a further discussion of No Prior Discipline, see the stipulation at page 7.
- (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. For a further discussion of Good Character, see the stipulation at page 7.
- (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:**

#### **D. Discipline:**

- (1) ☐ **Private reproof (check applicable conditions, if any, below)**
- (a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) ☐ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) ☒ **Public reproof (Check applicable conditions, if any, below)**

#### **E. Conditions Attached to Reproval:**

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of one year.
- (2) ☒ During the condition period attached to the reproof, 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 condition period attached to the reprobation. 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 the reprobation during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ 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 of the effective date of the reprobation.
- ☐ No MPRE recommended. Reason: .
- (11) ☐ 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:**

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

IN THE MATTER OF:                      JOHN CHRISTEN TORJESEN

CASE NUMBERS:                      12-O-17005; 12-O-17006

**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-17005 (Complainant: Kenneth Davis)

**FACTS:**

1. On June 16, 2009, Kenneth Davis ("Davis") filed a lawsuit in pro per in Riverside County Superior Court against his mortgage servicer and various other parties regarding his eviction from his home. As a result of the eviction, Davis was homeless.
2. On December 9, 2009, Davis hired Respondent to substitute into the lawsuit as the attorney of record. Respondent filed a substitution of attorney and on December 15, 2009 Respondent filed and served a First Amended Complaint.
3. On February 5, 2010, the defendants in Davis's case filed a demurrer to the First Amended Complaint, with a hearing on the demurrer scheduled for March 19, 2009. Respondent was served with the demurrer and was aware of the hearing date.
4. On February 8, 2010, Respondent sent an email to Davis, who was homeless, seeking to obtain information necessary to respond to the demurrer.
5. At no time did Respondent inform Davis that there was a hearing on a demurrer in his case.
6. On March 19, 2010, at the hearing on the demurrer, the defendant's demurrer was sustained, with 30 days' leave to amend.
7. Respondent did not amend the complaint and on May 24, 2010, Davis's case was dismissed. On January 12, 2012, Davis, while pursuing a related matter on his own, learned for the first time that his civil complaint had been dismissed.
8. Respondent did not inform Davis that his case had been dismissed.

**CONCLUSIONS OF LAW:**

9. By failing to inform Davis that there had been a demurrer filed in his case, or that Davis's case had been dismissed, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code, section 6068(m).

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**FACTS:**

10. On March 5, 2009 Leo DeRosa ("DeRosa") hired Respondent to pursue litigation to recover a multi-unit rental property DeRosa owned. The litigation settled in or about February 2010.

11. On March 10, 2009, DeRosa gave Respondent authority as his attorney to manage the same real property. Pursuant to the Designation of Authority signed by DeRosa, Respondent had the authority, among other things, to collect rents, enter into leases and execute contracts. DeRosa was incarcerated and unable to perform these tasks himself.

12. From April 2010 through January 2012, Respondent collected rents, paid bills, and made repairs on the real property owned by DeRosa.

13. Respondent provided partial verbal accountings to DeRosa at various times in 2012.

14. On September 25, 2012, DeRosa requested a complete accounting from Respondent of rents collected, bills paid or repairs made on the real property owned by DeRosa.

15. On July 25, 2013, Respondent provided a complete written accounting to De Rosa.

**CONCLUSIONS OF LAW:**

16. By failing to provide a timely accounting to DeRosa, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

**MITIGATING CIRCUMSTANCES.**

**No Prior Discipline (Std. 1.2(e)(i)):** Respondent has been in practice for 24 years without discipline. Over 20 years practicing law without discipline is "highly significant" and a strong mitigating factor in this case. (*Friedman v. State Bar* (1990) 50 Cal.3d 235, 245.) It also makes the present misconduct appear aberrational. (*Id.*)

**Good Character (Std. 1.2(e)(vi)):** Respondent has offered an extraordinary demonstration of good character attested to by a wide range of references in the legal community and who are aware of the full extent of Respondent's misconduct. Without exception all seven character references praised Respondent's good character and dedication to his clients and the practice of law.

**AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

The most severe sanction applicable to Respondent’s misconduct is found in Standard 2.2(b), which applies to Respondent’s violation of 4-100(B)(3).

Standard 2.2(b) provides that that culpability of a member of a violation of rule 4-100 of the Rules of Professional Conduct, none of which offenses result in the willful misappropriation of entrusted funds or property shall result in at least a three month suspension from the practice of law, irrespective of mitigation.

Although Standard 2.2(b) applies to Respondent’s failure to account for rent funds he collected and expenditures he made on behalf of DeRosa, deviation from the standard may be appropriate where there exists well founded doubts as to the propriety of applying them in a particular case. (*In re Silverton* (2005) 36 Cal.4th 81, 92.) Standard 1.6(b)(ii) states that “a lesser degree of sanction...shall be imposed or recommended” if mitigation circumstances are present and the purposes of imposing attorney discipline will still be properly fulfilled in light of the balance between aggravating and mitigating circumstances. Here, there is no evidence of misappropriation or other misconduct in the DeRosa complaint. There was some harm to the client in that he received a very belated accounting. However, the harm was minimal because the client was not owed money, merely an explanation of how his money was dispersed. The only other misconduct present in this case is a failure to inform a client of significant events.

In consideration of Standard 1.6(b)(ii) and the purposes of attorney discipline, it must also be considered that Respondent has nearly 25 years in the practice of law without discipline. Twenty years in practice without discipline is afforded significant weight in mitigation. (*Friedman, supra*, 50 Cal.3d 235.) Respondent’s lack of prior discipline over such a long period of practice indicates that the present misconduct is aberrational. In addition, Respondent did provide a belated accounting and has demonstrated good character. Respondent’s very significant mitigation, and lack of aggravation, gives reason to deviate from the standards with a public reproof.

In *Sternlieb v. State Bar* (1990) 52 Cal. 3d 317, Sternlieb collected rent for a client in a marital dispute and was to hold the funds in trust for use on the property. Thereafter, Sternlieb used a portion of the funds to pay her fees without authorization from her client. Sternlieb’s client repeatedly requested an accounting and Sternlieb failed to provide one. The Supreme Court found that Sternlieb misappropriated funds held in trust, although not dishonestly, failed to account, and failed to release the funds. In light of Sternlieb’s lack of priors, pro bono work, good character and remedial actions taken, the Court imposed a 30 day actual suspension. Unlike Sternlieb, Respondent has not mishandled client funds. Therefore,



Respondent's misconduct is less serious than that in *Sternlieb* which further supports a deviation from Standard 2.2(b) and lower level of discipline.

#### **DISMISSALS.**

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
12-O-17005	ONE	3-700(A)(2)

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 21, 2013, the prosecution costs in this matter are \$4,575.77. 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. (Rules Proc. of State Bar, rule 3201.)




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In the Matter of:  
JOHN CHRISTEN TORJESEN

Case number(s):  
12-O-17005; 12-O-17006

### 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>10/29/13</u>	<u></u>	<u>John C. Torjesen</u>
Date	Respondent's Signature	Print Name
<u>10/29/13</u>	<u></u>	<u>Ellen A. Pansky</u>
Date	Respondent's Counsel Signature	Print Name
<u>10/30/13</u>	<u></u>	<u>Kim Kasrelievich</u>
Date	Deputy Trial Counsel's Signature	Print Name

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In the Matter of: JOHN CHRISTEN TORJESEN	Case Number(s): 12-O-17005; 12-O-17006
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### REPROVAL ORDER

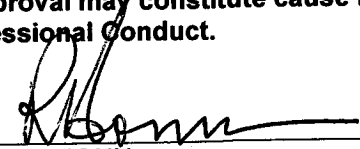
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☐ All court dates in the Hearing Department 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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

10-30-13  
Date

  
RICHARD A. HONN  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 31, 2013, I deposited a true copy of the following document(s):

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

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

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

**ELLEN ANNE PANSKY  
PANSKY MARKLE HAM LLP  
1010 SYCAMORE AVE UNIT 308  
SOUTH PASADENA, CA 91030**

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

**Kimberly G. Kasreliovich, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 31, 2013.



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Paul Barona  
Case Administrator  
State Bar Court