

ORIGINAL

State Bar Court of California

Hearing Department

Los Angeles

ACTUAL SUSPENSION

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Agustin Hernandez Deputy Trial Counsel 1149 South Hill St. Los Angeles, CA 90015 (213) 765-1713</p> <p>Bar # 161625</p>	<p>Case Number(s): 12-O-17220-RAH</p>	<p>For Court use only</p> <p>FILED AUG 20 2013 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Timothy David Myers 4911 Warner Ave., Suite 219 Huntington Beach, CA 92649 (714) 840-0900</p> <p>Bar # 199356</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: TIMOTHY DAVID MYERS</p> <p>Bar # 199356</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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 December 7, 1998.
- (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.



(Do not write above this line.)

- (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):
 - ☐ 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 billing cycles following the effective date of the Supreme Court order. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

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

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (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. See Attachment, page 10.

(Do not write above this line.)

- (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, page 10.
- (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 Attachment, pages 10-11.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of two 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 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 90 days.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(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.

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

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

☐ No MPRE recommended. Reason:

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

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(Do not write above this line.)

In the Matter of:
TIMOTHY DAVID MYERS

Case Number(s):
12-O-17220-RAH

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
Matthew Kahnamelli	\$3,510	March 17, 2011

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 30 days after the effective date of the disciplinary order herein.

b. Installment Restitution Payments

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

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

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- 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.

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

TIMOTHY DAVID MYERS

12-O-17220-RAH

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and Rules of Professional Conduct.

FACTS:

1. On July 23, 2009, Matthew Kahnamelli (“Kahnamelli”) employed Respondent to represent Kahnamelli, individually, and Newport Convertible Engineering, Inc. (“Newport Convertible”), as defendants in a civil matter.
2. On August 27, 2010, the court filed an amended judgment in favor of the plaintiff and against Kahnamelli and Newport Convertible jointly and severally in the amount of \$10,000, plus \$2,475.11 in costs, and attorney fees of \$50,906.05.
3. Prior to November 30, 2010, Kahnamelli and Newport Convertible employed Respondent to represent them in an appeal of the amended judgment. The last day to file a notice of appeal of the amended judgment was November 30, 2010. At all relevant times, Respondent was aware that November 30, 2010, was the last day to file a notice of appeal.
4. Between January 2, 2011, and February 16, 2011, Kahnamelli paid Respondent a total of \$3,510 in advanced attorney’s fees in connection with the appeal of the Kahnamelli matter.
5. On February 4, 2011, Respondent filed an untimely notice of appeal on behalf of Kahnamelli and Newport Convertible.
6. On February 28, 2011, the Court of Appeal of the State of California, Fourth Appellate District, Division Three (“Court of Appeal”), filed an order stating that it was considering dismissing the appeal because it was filed untimely, and inviting Respondent to file a brief within 10 days explaining why the appeal should not be dismissed for being untimely.
7. On March 10, 2011, Respondent filed a response to the Court of Appeal’s February 28, 2011 order.
8. On April 20, 2011, the Court of Appeal dismissed the appeal due to Respondent’s failure to timely file the notice of appeal.
9. Respondent did not provide any legal services of value for the \$3,510 in fees that Kahnamelli paid Respondent for the appeal.
10. Respondent did not earn any portion of the \$3,510 in fees that Kahnamelli paid Respondent for the appeal.

11. To date, Respondent has failed to refund to Kahnamelli any portion of the \$3,510 in fees that Kahnamelli paid Respondent for the appeal.

12. On March 29, 2011, Kahnamelli made a complaint with the State Bar against Respondent ("Kahnamelli complaint").

13. On June 28, 2011, a State Bar Complaint Analyst sent a letter to Respondent regarding the Kahnamelli complaint. The letter requested that Respondent respond in writing to specified allegations of misconduct in the Kahnamelli complaint. Respondent received the letter.

14. In response to the State Bar Complaint Analyst's June 28, 2011 letter, on July 12, 2011, Respondent sent a letter to the State Bar Complaint Analyst. In his July 12, 2011 letter, Respondent misrepresented that Kahnamelli and Newport Convertible had not employed Respondent to represent them in the appeal. At the time Respondent made this statement, the statement was false and Respondent knew that his statement was false because he had been employed to represent Kahnamelli and Newport Convertible in the appeal.

CONCLUSIONS OF LAW:

15. By failing to file a timely notice of appeal of the amended judgment, Respondent recklessly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

16. By failing to refund to Kahnamelli any portion of the \$3,510 in fees that Kahnamelli paid Respondent for the appeal, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

17. By knowingly making a false statement to the State Bar, Respondent committed an act involving dishonesty, in willful violation of Business and Professions Code, section 6106.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent committed multiple acts of misconduct. In one client matter, Respondent, Respondent failed to perform legal services with competence, failed to unearned fees and made misrepresentations to the State Bar.

Harm (Std. 1.2(b)(iv)): While the dismissal of the appeal does not necessarily support a finding that Kahnamelli and Newport Convertible would have prevailed in their appeal had it not been dismissed, Respondent's misconduct cost them the opportunity to appeal the judgment entered against them in the amount of \$10,000, plus \$2,475.11 in costs, plus \$50,906.05 for attorney fees. (See *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 283 (loss of a cause of action constitutes significant harm).)

Respondent also caused further financial harm to Kahnamelli and Newport Convertible by failing to refund any portion of the unearned fees.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

No Prior Discipline: Although Respondent's misconduct is serious, he has almost 15 years of practice without discipline, which is entitled to substantial mitigation. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49 [attorney with 17 years of discipline-free practice entitled

to mitigation despite serious misconduct]; *Edwards v. State Bar* (1990) 52 Cal.3d 28, 38-39 [mitigation was given to an attorney with 12 years of practice without discipline despite serious misconduct].)

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a full stipulation to resolve this matter prior to trial, thereby preserving State Bar Court 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].)

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 committed three acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent commits 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 2.3, which applies to Respondent’s misrepresentation to the State Bar, an act of dishonesty in violation of Business and Professions Code section 6106.

Standard 2.3 provides that culpability of an act of moral turpitude, fraud, intentional dishonesty or concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member’s acts within the practice of law.

In the instant case, Respondent knowingly misrepresented to the State Bar that he had not been employed to work on the appeal of the Kahnamelli matter when in fact he had been employed to work on the appeal. Respondent’s misrepresentation to the State Bar is directly related to the practice of law and constitutes a serious breach of his duties as an attorney. (See *Chang v. State Bar* (1989) 49 Cal.3d

114, 128 (fraudulent and contrived misrepresentations to the State Bar may constitute a greater offense than misappropriation).) In addition, Respondent failed return the unearned fees that he received for the appeal after having allowed the time for initiating the appeal to run. Respondent's misconduct also harmed his clients as they lost the opportunity to appeal the judgment. Respondent's 15 years of discipline-free practice, as well as his agreement to enter into this stipulation are mitigating factors. However, they are not sufficiently compelling to warrant a deviation from standard 2.3. Based on the facts, aggravating and mitigating circumstances, and the standards, discipline consisting of a two-year stayed suspension and two years of probation subject to conditions, including a 90-day actual suspension, is sufficient to protect the public, the courts and the integrity of the legal profession.

A 90-day actual suspension is also consistent with case law. *In the Matter of Wells*, a member received a two-year stayed suspension, with six months of actual suspension and two years of probation for making misrepresentations to the State Bar of California as well as to the South Carolina deputy solicitor general. The misconduct in *Wells* however, was more egregious than the misconduct in the instant matter as she also engaged in the unauthorized practice of law. Wells moved to South Carolina where she represented at least nine clients during the approximately five years that she lived there. Wells misrepresented to the State Bar of California that she did not practice law in South Carolina. She also made misrepresentations to the South Carolina deputy solicitor general by understating the extent of her practice of law in that state and how long she had lived there. The court found that Wells violated Business and Professions Code section 6106 (misrepresentations), and rules 1-300(B) (practicing in a jurisdiction where not licensed) (two counts), 4-200(A) (charging an illegal fee) (two counts), 3-700(D)(2) (failure to refund unearned fees) (two counts). Wells also had a prior imposition of a private reproof. (*In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896).

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 11, 2013, the prosecution costs in this matter are \$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 reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of:
TIMOTHY DAVID MYERS

Case number(s):
12-O-17220-RAH

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.

7/23/13  TIMOTHY DAVID MYERS
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name

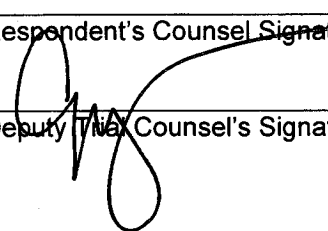
Date Deputy Trial Counsel's Signature AGUSTIN HERNANDEZ
Print Name

(Do not write above this line.)

In the Matter of: TIMOTHY DAVID MYERS	Case number(s): 12-O-17220-RAH
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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.

_____	_____	TIMOTHY DAVID MYERS
Date	Respondent's Signature	Print Name
_____	_____	_____
Date	Respondent's Counsel Signature	Print Name
July 30, 2013		AGUSTIN HERNANDEZ
_____	_____	_____
Date	Deputy Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:
TIMOTHY DAVID MYERS

Case Number(s):
12-O-17220-RAH

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.

*PAGE 1, SECTION A. 3 - DELETE - "13 PAGES"
INSERT - "14 PAGES"*

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.)**

08-15-2013
Date


RICHARD A. PLATEL
Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 20, 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:

**TIMOTHY D. MYERS
4911 WARNER AVE STE 219
HUNTINGTON BEACH, CA 92649**

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

Agustin Hernandez, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 20, 2013.



Paul Barona
Case Administrator
State Bar Court