

ORIGINAL

**State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION**

| | | |
|---|--|--|
| Counsel For The State Bar Susan Jackson Deputy Trial Counsel Office of the Chief Trial Counsel State Bar of California 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 765-1498 Bar # 125042 | Case Number(s): 13-O-11091-RAP | For Court use only <p style="text-align: center;">FILED</p> <p style="text-align: center;">SEP 04 2013 </p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p style="text-align: center;">PUBLIC MATTER</p> |
| In Pro Per Respondent Alfred Oshiemele Anyia 5653-1/2 Cahuenga Blvd. North Hollywood, CA 91601 (213) 625-1679 Bar # 183571 | Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | |
| In the Matter of: ALFRED OSHIOMELE ANYIA Bar # 183571 A Member of the State Bar of California (Respondent) | | |

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted September 17, 1996.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 11 pages, not including the order.

ABD
8/16/13



(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:
Costs are to be paid in equal amounts prior to February 1 for the two billing cycles following the effective date of the Supreme Court order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

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

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case 05-O-04734
 - (b) Date prior discipline effective October 29, 2009
 - (c) Rules of Professional Conduct/ State Bar Act violations:

Rules of Professional Conduct, rule 4-100(A) [failure to maintain client funds in trust].

Business and Professions Code, section 6106 [acting with gross negligence and recklessness in connection with client trust account, by failing to oversee client trust account, failing to maintain client funds in trust, and failing to properly supervise employees who were distributing funds from trust].

Business and Professions Code, section 6106 [failing to ensure that there were sufficient funds in his client trust account to pay checks issued from that account].

See attachment, page 9.

(Do not write above this line.)

- (d) **Degree of prior discipline** Six months' actual suspension, two years' stayed suspension, and three years' probation.
- (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.
- (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 9.
- (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.

(Do not write above this line.)

- (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:

Pretrial Stipulation. See attachment, page 9.

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:**

(Do not write above this line.)

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

E. Additional Conditions of Probation:

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

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

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

(Do not write above this line.)

- (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 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:**

5. Respondent did not timely submit to the Office of Probation the six written and properly completed quarterly reports due on July 10, 2010, October 10, 2010, April 10, 2011, July 10, 2011, October 10, 2011, and January 10, 2012, respectively. These late quarterly reports were received from one day to six months late.

6. Respondent did not submit to the Office of Probation a written quarterly report due on April 10, 2012, that met the Office of Probation's requirements for a quarterly report.

7. Respondent did not submit to the Office of Probation the written quarterly report due on October 10, 2012.

8. Respondent did not submit a final report to the Office of Probation for the probationary period ending on October 29, 2012.

9. Respondent did not submit to the Office of Probation a client funds certificate due on July 10, 2012 and October 29, 2012, respectively, or a statement written under penalty of perjury that Respondent did not possess any client funds, property or securities during each relevant period.

10. Respondent did not timely submit to the Office of Probation a properly completed client funds certificate due on January 10, 2010, April 10, 2010, July 10, 2010, October 10, 2010, April 10, 2011, July 10, 2011, October 10, 2011, January 10, 2012, April 10, 2012, October 10, 2012, respectively, or a statement written under penalty of perjury that Respondent did not possess any client funds, property or securities during each relevant period. These late client funds certificates were received from two days to four months late.

11. Respondent did not submit a final client funds certificate to the Office of Probation for the probationary period ending on October 29, 2012.

CONCLUSIONS OF LAW:

12. By failing to comply with conditions of Probation requiring timely submission of properly completed quarterly reports, accompanied by properly completed client funds certificates (or a statement written under penalty of perjury that Respondent did not possess any client funds, property or securities during each relevant period), Respondent failed to comply with all conditions attached to his disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.2(b)(i)): Respondent has a prior record of discipline in one client matter. The misconduct occurred from May 2001 through October 2005, and involved Respondent's failure to maintain client funds in trust; acting with gross negligence and recklessness in connection with his client trust account, by failing to oversee his client trust account, failing to maintain client funds in trust, and failing to properly supervise employees who were distributing funds; and failure to ensure that there were sufficient funds in his client trust account to pay checks that he issued from the client trust account. The discipline imposed included six months' actual suspension, two years' stayed suspension, and three years' probation with conditions. Respondent's three-year probationary period ended on October 29, 2012.

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent engaged in multiple acts of misconduct by failing to comply with three distinct conditions of his probation on multiple occasions. All told, R committed 21 separate violations.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent is entitled to mitigation for entering into this stipulated settlement without the need of a trial to resolve this matter. (See *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 Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Standard 2.6 provides that culpability of a member of a violation of Business and Professions Code 6068(k) shall result in disbarment or suspension depending on the gravity of the offense or harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Moreover, Standard 1.7(a) provides that when an attorney has a prior record of discipline, the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline was so remote in time to the current proceeding and the offense for which it was imposed was so minimal that requiring greater discipline in the current proceeding would be manifestly unjust. Neither of the two exceptions to Standard 1.7(a) applies to Respondent’s prior discipline, which consisted of a six-month actual suspension. Accordingly, under Standard 1.7(a), the discipline in this proceeding should exceed six months’ actual suspension.

In analyzing the appropriate level of discipline in cases involving probation violations, more serious sanctions should be applied to those probation violations closely related to the reasons for imposing the previous discipline or closely related to rehabilitation. (*In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.) Here, Respondent’s failure to submit client funds certificates to the Office of Probation was directly related to his prior misconduct, which included misconduct associated with the administration of his client trust account. Respondent was required to timely submit 13

properly completed client funds certificates. However, only one was properly completed and timely submitted. Ten were submitted late, one was never submitted, and one was submitted but was not acceptable to Probation. The late client funds certificates were received from two days to four months late.

Further, the requirement that Respondent file quarterly reports is intended to assist Respondent with his rehabilitation in that the reports require Respondent to report to the Office of Probation his compliance with the Rules and Statutes. Respondent was required to timely submit 13 properly completed quarterly reports, of which only four were timely submitted and properly completed, six were submitted late, two were never submitted, and one was submitted but was not acceptable to Probation.

Although Respondent is entitled to mitigation for entering into this Stipulation, the mitigation is not sufficiently compelling to warrant a deviation from Standards 1.7(a) and 2.6.

In the present case, given Respondent's repeated and multiple acts of misconduct (consisting of 21 separate violations), his prior discipline, and his lack of substantial mitigation, one year of actual suspension, two years of stayed suspension, and two years of probation for the present misconduct is appropriate to achieve the purposes of attorney discipline. Since Respondent attempted to timely and properly submit the majority of his reports, additional actual suspension is not required.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 23, 2013, the prosecution costs in this matter are \$3419. 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.)

(Do not write above this line.)

| | |
|---|-----------------------------------|
| In the Matter of: Alfred Oshioleme Anyia | Case number(s): 13-O-11091-RAP |
|---|-----------------------------------|

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>8-19-13</u> Date |  Respondent's Signature | <u>Alfred Oshioleme Anyia</u> Print Name |
| <u>8/19/13</u> Date | <u>Susan Jackson</u> Deputy Trial Counsel's Signature | <u>Susan Jackson</u> Print Name |

(Do not write above this line.)

| | |
|---|-----------------------------------|
| In the Matter of: Alfred Oshiomele Anyia | Case Number(s): 13-O-11091-RAP |
|---|-----------------------------------|

ACTUAL SUSPENSION ORDER

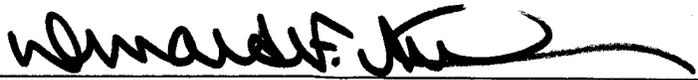
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

Paragraph A (8) is modified to provide that costs are to be paid in two equal amounts, with the first installment due prior to February 1, 2015 and the second installment due prior to February 1, 2016. The remaining language of that paragraph remains in full force.

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.)

Date 8/26/13


DONALD F. MILES
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 September 4, 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:

ALFRED O. ANYIA
5653 1/2 CAHUENGA BLVD
NORTH HOLLYWOOD, CA 91601

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

SUSAN JACKSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 4, 2013.



Angela Carpenter
Case Administrator
State Bar Court