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<b>State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION</b>		
<p>Counsel For The State Bar</p> <p><b>Erica L. M. Dennings</b> Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2285</p> <p>Bar # 145755</p>	<p>Case Number(s): <b>13-O-15952-LMA</b></p>	<p>For Court use only</p> <p style="text-align: center;"><b>PUBLIC MATTER</b></p> <p style="text-align: center;"><b>FILED</b> <i>MS</i></p> <p style="text-align: center;">AUG - 7 2015</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p><b>Dennis Michael Carr</b> Law Offices of Dennis Carr 5616 Geary Boulevard, Suite 211 San Francisco, CA 94121 (415) 750-3732</p> <p>Bar # 100464</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>DENNIS MICHAEL CARR</b></p> <p>Bar # 100464</p> <p>A Member of the State Bar of California (Respondent)</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 1, 1981.
- (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 15 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 July 1, 2015)

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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(h) & 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.
- (2)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5)  **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6)  **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

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- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10)  **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See attachment to stipulation, at p. 9
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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.

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- (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.
- (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:**

**No Prior Discipline: See Attachment to Stipulation, at p. 9**  
**Pretrial Stipulation: See Attachment to Stipulation, at p. 9**

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of one (1) year.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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:
- (b)  The above-referenced suspension is stayed.
- (2)  **Probation:**
- Respondent must be placed on probation for a period of two (2) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3)  **Actual Suspension:**
- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of six (6) months.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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.

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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 present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

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

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

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

IN THE MATTER OF:                      DENNIS MICHAEL CARR

CASE NUMBER:                            13-O-15952-LMA

**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. 13-O-15952 (Complainant: Gerard Hood)

**FACTS:**

1. On April 29, 2008 Gerard Hood ("Hood") signed a contingent fee agreement for respondent to represent him in a personal injury matter arising out of an accident on April 10, 2008. The fee agreement with Hood provided that respondent was entitled to 40% of any recovery after the filing of a complaint. Hood had several liens for medical treatment as a result of his injuries that respondent was obligated to compromise and pay from Hood's settlement funds.
2. Respondent filed a lawsuit on Hood's behalf in 2009, and in 2011 the matter settled for a total of \$305,000. Prior to October 18, 2011, respondent received a settlement check from Fireman's Fund Insurance Company made payable to respondent and Hood in the sum of \$230,000. Shortly after January 31, 2013, respondent received on behalf of Hood a settlement check from Fireman's Fund Insurance Company made payable to respondent, Hood, and Medicare in the sum of \$75,000. Respondent has never deposited the \$75,000 settlement check because he believes Medicare will not endorse the check until there is an agreement as to the compromise of its lien.
3. On October 17, 2011, respondent cashed two checks for \$700 and \$5,000 drawn on his client trust account at Wells Fargo Bank, account number 7606XXXX<sup>1</sup> ("CTA") for attorneys' fees in the Hood matter. The funds that respondent withdrew were attorneys' fees earned in other clients cases that respondent had not withdrawn as soon as his interest in them became fixed.
4. On October 18, 2011, respondent deposited the \$230,000 settlement check into his CTA. As of October 18, 2011, respondent's fees from the \$230,000 settlement became fixed at \$92,000. Respondent was obligated to maintain \$138,000 in his CTA for Hood. Between October 17, 2011 and July 16, 2012, respondent withdrew \$98,833.89 as attorney's fees in 27 transactions. Respondent failed to withdraw \$92,000 at the earliest reasonable time after his interest in the funds became fixed.
5. Of the \$98,833.89 in attorneys' fees withdrawn, \$92,000 were from the Hood settlement and \$6,833.89 were from respondent's attorneys' fees earned in other clients' cases.
6. Between October 17, 2011 and July 31, 2013, respondent paid out \$242,153.71 from his CTA for attorneys' fees and payments directly to Hood or on his behalf for medical and other liens. Of

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<sup>1</sup> The complete account number is redacted for privacy purposes.

the \$242,153.71 paid from the CTA and attributed to Hood, \$230,000 was from the Hood settlement and \$12,153.71 was from respondent's attorneys' fees from other clients' cases.

7. Between April 3, 2012 and March 28, 2013, respondent deposited \$15,458.16 of his personal funds into his CTA as follows:

<u>DATE OF DEPOSIT</u>	<u>AMT. DEPOSITED</u>	<u>FORM OF DEPOSIT</u>	<u>MEMO/NOTES</u>
April 3, 2012	\$287	check	Rent/April 2012
May 25, 2012	\$287	check	Rent/May 2012
June 5, 2012	\$287	check	Rent/June 2012
June 13, 2012	\$1200	check	Checking Acct
July 9, 2012	\$200	check	Rent
July 9, 2012	\$267	MoneyGram	(MoneyGram)
July 16, 2012	\$1200	check	Transfer to Checking
July 20, 2012	\$493.76	check	Rent 7/15-8/15
August 9, 2012	\$307	check	Rent/Aug 2012
August 14, 2012	\$1200	check	Checking Acct
August 16, 2012	\$404.37	check	Rent 8/1/12-8/15/12
September 4, 2012	\$307	check	Rent/Sept 2012
September 4, 2012	\$270.36	check	for rent 8/15/12-8/31/12
September 12, 2012	\$1200	check	
September 18, 2012	\$468.67	check for rent	Rent 9/1-9/15
October 5, 2012	\$500	check	
October 17, 2012	\$358	check	Rent 10/15-10/31
October 17, 2012	\$1200	check	Checking Acct
November 5, 2012	\$500	check	Rent 11/1/12-11/15/12
November 5, 2012	\$307	check	Rent for Nov. 2012
November 8, 2012	\$1200	check	Checking Acct
December 6, 2012	\$307	check	Rent/Dec 2012
December 13, 2012	\$1200	check	Checking Acct
January 4, 2013	\$307	check	Rent/Jan 2013
January 11, 2013	\$1200	check	Checking Acct

8. Between November 4, 2011 and February 8, 2013, respondent disbursed money to Hood through his paralegal, Victor Ngo in the following way: Ngo requested respondent issue checks payable to Ngo for an amount he claimed Hood wanted. Thereafter, respondent issued checks payable to Ngo and companion checks payable to Hood for the same amount as a "receipt". Ngo cashed the checks payable to him and gave Hood the cash. Ngo gave Hood the companion checks as receipts for the cash he received. Respondent took no steps to verify that Hood had, in fact, asked for the amount Ngo requested. Respondent took no steps to verify that Hood received the cash from the checks he wrote to Ngo. Respondent failed to supervise Ngo's distribution of cash to Hood. When Hood informed respondent that he had not received the amounts reflected on the checks, respondent paid Hood directly. Respondent has now paid out \$138,000 to Hood directly or for Hood's benefit. Respondent terminated Ngo from his employment in 2014.

9. As of January 31, 2013, there were outstanding liens from Hood's case totaling approximately \$86,354.59 from Medicare and other medical providers dating from before October 2011. Respondent has not taken any steps to compromise or pay the liens of the medical providers.

#### **CONCLUSIONS OF LAW:**

10. By not withdrawing his attorneys' fees from his CTA after his interest in the fees became fixed, respondent commingled personal funds belonging to respondent in a bank account labelled "Trust Account", "Client Funds Account", or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A)(2)<sup>2</sup>.

11. By depositing at least \$15,458.16 of his personal funds into his CTA, respondent commingled personal funds belonging to respondent in a bank account labelled "Trust Account", "Client Funds Account", or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

12. By not depositing Hood's \$75,000 settlement check into his CTA, respondent failed to deposit funds received for the benefit of a client in a bank account labelled "Trust Account", "Client Funds Account", or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

13. By not compromising, paying, or otherwise resolving his client's Medicare lien and other medical liens for more than two years, and by not supervising his paralegal's distribution of his client's funds, respondent repeatedly failed to perform legal services competently in willful violation of Rules of Professional Conduct, rule 3-110(A).

#### **AGGRAVATING CIRCUMSTANCES.**

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent committed numerous acts of misconduct in a single client matter. Respondent repeatedly commingled personal funds in his CTA for more than three years, failed to supervise his paralegal, failed to deposit settlement funds, and failed to resolve his client's liens.

#### **ADDITIONAL FACTS RE: MITIGATING CIRCUMSTANCES**

#### **MITIGATING CIRCUMSTANCES.**

**No Prior Discipline:** Respondent is entitled to significant mitigation for having practiced law for 33 years without discipline. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving 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].)

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<sup>2</sup> This conclusion of law applies to misconduct described in paragraphs 3, 4, 5, and 6

## **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 multiple acts of professional misconduct. Standard 1.7(a) requires that where a respondent “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 2.2(a), which applies to respondent’s violation of Rules of Professional Conduct, rule 4-100(A). Standard 2.2(a) states that an actual suspension of three months is presumed for commingling. Disbursing funds from a client trust account to pay personal expenses constitutes a violation of Rules of Professional Conduct, rule 4-100(A)(2). *Doyle v. State Bar* (1982) 32 Cal.3d, 12, 22-23 [rule 4-100 “bars use of the trust account for personal purposes”].

Standard 1.7(b) provides that, if aggravating circumstances are found, they should be considered alone and in balance with any mitigating circumstances, and if the net effect demonstrates that a greater sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a greater sanction than what is otherwise specified in a given Standard. On balance, a greater sanction is appropriate in cases where there is serious harm to the client, the public, the legal system, or the profession. In this case, respondent’s commingling is aggravated due to the extensive nature and time frame in which it occurred. Respondent withdrew attorneys’ fees in partial increments and repeatedly deposited personal funds into his CTA for three years. Additionally, respondent has failed to resolve his client’s outstanding medical liens or deposit the \$75,000 settlement check, leaving his client’s case unresolved. In mitigation, respondent has no prior record of discipline in 33 years of practice and cooperated by entering into a pre-trial stipulation. Moreover, respondent no longer employs or works with his paralegal, Victor Ngo. Additionally, respondent has paid his client with his personal funds.

Considering the misconduct, aggravating and mitigating factors, and application of the standards to the facts of this case, a six month actual suspension, one year suspension, stayed, and two years' probation with standard conditions plus financial conditions is the appropriate discipline for this matter.

#### **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>
13-O-15952	two	Rules of Professional Conduct, rule 4-100(B)(4)
13-O-15952	three	Rules of Professional Conduct, rule 4-100(A)
13-O-15952	five	Rules of Professional Conduct, rule 4-100(A)
13-O-15952	seven	Business and Professions Code, section 6106
13-O-15952	eight	Business and Professions Code, section 6106

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 23, 2015, the prosecution costs in this matter are \$7,631. 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 and State Bar Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: <b>DENNIS MICHAEL CARR</b>	Case Number(s): <b>13-O-15952-LMA</b>
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### Financial Conditions

#### a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

#### 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 revocation), 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";

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**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.**

(Do not write above this line.)

In the Matter of: <b>DENNIS MICHAEL CARR</b>	Case Number(s): <b>13-O-15952-LMA</b>
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**Law Office Management Conditions**

- a.  Within 90 days/        months/        years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
  
- b.  Within        days/        months/        years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than        hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
  
- c.  Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

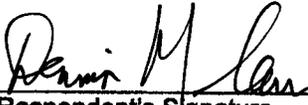
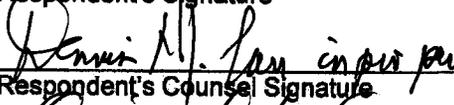
Other:

(Do not write above this line.)

In the Matter of: <b>DENNIS MICHAEL CARR</b>	13-O-15952-LMA
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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>23 July, 2015</u> Date	<u></u> Respondent's Signature	<u>Dennis Michael Carr</u> Print Name
<u>23 July, 2015</u> Date	<u></u> Respondent's Counsel Signature	<u>DENNIS MICHAEL CARR</u> Print Name
<u>23 July 2015</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Erica L. M. Dennings</u> Print Name

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 13-O-15952

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to each: (see below)
(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: at San Francisco, addressed to: (see below)
(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: addressed to: (see below)

Table with 3 columns: Person Served, Business-Residential Address, Fax Number. Includes contact info for Dennis M. Carr and Law Offices of Dennis M. Carr.

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service (UPS).

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: July 23, 2015

SIGNED:

Leon Thomas, Jr.
Declarant

(Do not write above this line.)

In the Matter of:  
DENNIS MICHAEL CARR

Case Number(s):  
13-O-15952-LMA

### 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.

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

August 7, 2015

  
PAT E. MCELROY  
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 August 7, 2015, 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 San Francisco, California, addressed as follows:

DENNIS MICHAEL CARR  
825 VAN NESS AVE #407  
SAN FRANCISCO, CA 94109

DENNIS MICHAEL CARR  
5616 GEARY BOULEVARD, SUITE 211  
SAN FRANCISCO, CA 94121

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

ERICA L.M. DENNINGS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 7, 2015.



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Mazie Yip  
Case Administrator  
State Bar Court