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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Elizabeth Stine Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1342 Bar # 256839	Case Number(s): 13-O-16226; 13-O-16227; 13-O-16229-DFM	For Court use only <div style="text-align: center;"> FILED JUL 24 2014 <i>JS</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Kenneth Kwanwon Chong 466 Foothill Blvd, #334 La Canada, CA 91011 [no telephone number available] Bar # 192830	<div style="text-align: center;"> PUBLIC MATTER </div>	
In the Matter of: KENNETH KWANWON CHONG Bar # 192830 A Member of the State Bar of California (Respondent)	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

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A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 9, 1997**.
- (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 **16** 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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

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- (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(f) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline**
- (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (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 at page 11.**
- (8) ☒ **Restitution:** Respondent failed to make restitution. **See Attachment at page 11.**
- (9) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (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 at page 11.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **two (2) years**.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

(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 **120 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 1.2(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:

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 1.2(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.
- (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: .

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- (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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In the Matter of: KENNETH KWANWON CHONG	Case Number(s): 13-O-16226 13-O-16227 13-O-166229
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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
Kimberly H. Kim	\$900	July 5, 2013
Su Hen Jim	\$2,000	April 27, 2011
Jin Lim	\$1,000	June 20, 2012

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **(not applicable)**.

Pursuant to the actual suspension provision on page 4, section D(3)(ii), Respondent will remain suspended until he pays restitution in full.

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.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: KENNETH KWANWON CHONG

CASE NUMBERS: 13-O-16226, 13-O-16227, and 13-O-16229

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-16226 (Complainant: Kimberly H. Kim)

FACTS:

1. On July 5, 2013, Kimberly H. Kim went to Respondent seeking legal advice regarding a Chapter 7 bankruptcy. While there, Ms. Kim signed a retainer agreement and paid Respondent \$900 in advanced fees. Respondent agreed to prepare and file a Chapter 7 bankruptcy petition on Ms. Kim's behalf.

2. On July 18, 2013, Ms. Kim contacted Respondent regarding the status of the case. Respondent told Ms. Kim that the paperwork had been completed and that Respondent would be filing the documents on July 22, 2013. Thereafter, Respondent did not file a Chapter 7 bankruptcy petition on Ms. Kim's behalf.

3. Between July 18, 2013 and August 2013, Ms. Kim left several messages with Respondent via phone and email seeking further updates, but Respondent failed to respond to any phone call or email.

4. On August 13, 2013, Ms. Kim visited Respondent's office, but discovered that it was closed. Ms. Kim checked with building security and they told her that Respondent had moved out of his office.

5. Ms. Kim has been unable to communicate with Respondent to obtain a refund of fees or an accounting. Respondent has never provided a refund of the unearned fees or provided an accounting of the fees earned.

6. Respondent performed no work of value on Ms. Kim's case and earned none of the advanced fees.

7. On September 20, 2013, and November 13, 2013, a State Bar investigator mailed Respondent letters requesting a response to the allegations brought by Ms. Kim. Respondent received both letters but failed to respond to the letters. Attempts to reach Respondent by email and phone were also unsuccessful. Emails sent to Respondent's Membership Records email address were returned as undeliverable and phone messages could not be left because the phone rang without answer or voicemail.

8. Respondent failed at any time after August 2013 to update his State Bar membership records contact information within 30 days pursuant to Business & Professions Code Section 6002.1

CONCLUSIONS OF LAW:

9. By failing to file a Chapter 7 bankruptcy petition on Ms. Kim's behalf, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

10. By failing to respond promptly to telephone messages and emails from Ms. Kim between July 18, 2013 and August 2013, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

11. By failing to refund any of the \$900 in advance fees paid by Ms. Kim, 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).

12. By failing to respond to either of the investigator's letters, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code section 6068(i).

13. By failing to update his State Bar membership records contact information within 30 days as required by Business and Professions Code section 6002.1, Respondent willfully violated Business and Professions Code section 6068(j).

Case No. 13-O-16227 (Complainant: Sun Hen Jim)

FACTS:

14. On December 3, 2010, Su Hen Jim went to Respondent seeking legal advice on a civil dispute stemming from property damage caused by her upstairs neighbor's faulty plumbing. Ms. Jim paid Respondent \$500 to write a demand letter to her upstairs neighbor.

15. On March 28, 2011, Respondent wrote a demand letter to the upstairs neighbor asking for \$5,545 to reimburse Ms. Jim for the property damage caused by their faulty plumbing.

16. On April 25, 2011, Ms. Jim's neighbor's insurance company, USAA, rejected Respondent's demand letter.

17. On April 27, 2011, Ms. Jim signed a new retainer agreement to hire Respondent to file a claim of property damage against the upstairs neighbor and their insurance company, USAA, and paid Respondent \$2,000 in advanced fees. However, Respondent never thereafter filed a claim against the upstairs neighbor or the insurance company.

18. Between April 2011 and May 2012, Ms. Jim attempted several times to contact Respondent, via phone messages and emails, seeking updates on her case. Respondent received those messages, but Respondent failed to inform Ms. Jim on the status of her case.

19. In August 2013, Respondent advised Ms. Jim's cousin, Lae Kim, that Ms. Jim needed to pay Respondent an additional fee to continue working on the case. Thereafter, Ms. Jim unsuccessfully tried to contact Respondent via telephone, email, and, by visiting Respondent's office. Respondent failed to communicate with Ms. Jim.

20. On November 14, 2013, Ms. Jim sent Respondent an email requesting a refund of the \$2,000 advanced fees. Respondent received the email but has not provided a refund of the unearned fees or provided an accounting of the fees.

21. After April 27, 2011, Respondent performed no work of value on Ms. Jim's case and earned none of the advanced fees.

22. On October 24, 2013, and November 13, 2013, a State Bar investigator mailed Respondent letters requesting a response to the allegations brought by Ms. Jim. Respondent received both letters but failed to respond to the letters. Attempts to reach Respondent by email and phone were also unsuccessful. Emails sent to Respondent's Membership Records email address were returned as undeliverable and phone messages could not be left because the phone rang without answer or voicemail.

23. Respondent failed at any time after August 2013 to update his State Bar membership records contact information within 30 days pursuant to Business & Professions Code Section 6002.1

CONCLUSIONS OF LAW:

24. By failing to file a claim for property damage on Ms. Jim's behalf, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

25. By failing to respond promptly to telephone messages and emails from Ms. Jim between April 2011 and May 2012, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

26. By failing to refund any of the \$2,000 in advance fees paid by Ms. Jim, 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).

27. By failing to respond to the investigator's letters, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code section 6068(i).

Case No. 13-O-16229 (Complainant: Jin Lim)

FACTS:

28. On June 20, 2012, Jin Lim went to Respondent seeking legal advice regarding a tax assessment issue with the State Board of Equalization. That same day, Mr. Lim signed a retainer agreement and paid Respondent \$500 cash in advanced fees and wrote respondent a check dated June 21, 2012 for an additional \$500.

29. On April 24, 2013, Respondent met with Mr. Lim and admitted that he had failed to perform any work on Mr. Lim's case for almost a year due to personal problems. Respondent promised to expedite Mr. Lim's case. Thereafter, Respondent failed to perform on Mr. Lim's case, and abandoned the case without completing the work for which Mr. Lim hired him.

30. Between April 2013 and September 2013, Mr. Lim attempted to contact Respondent via telephone, email, and, by visiting Respondent's office to inquire on the status of his case. On September 11, 2013, Mr. Lim went to Respondent's office and discovered that Respondent's office was closed down. Respondent failed to inform Mr. Lim that he was closing his office.

31. On May 2, 2013, Respondent deposited the \$500 check that Mr. Lim had dated June 21, 2012; however, Respondent altered the check with a new date as the original check was stale. Respondent changed the date from June 21, 2012 to December 21, 2012, without Mr. Lim's knowledge or consent.

32. Respondent performed no work of value on Mr. Lim's case and earned none of the advanced fees.

33. On October 24, 2013, and November 13, 2013, a State Bar investigator mailed Respondent letters requesting a response to the allegations brought by Mr. Lim. Respondent received both letters but failed to respond to the letters. Attempts to reach Respondent by email and phone were also unsuccessful. Emails sent to Respondent's Membership Records email address were returned as undeliverable and phone messages could not be left because the phone rang without answer or voicemail.

34. Respondent failed at any time after August 2013 to update his State Bar membership records contact information within 30 days pursuant to Business & Professions Code Section 6002.1

CONCLUSIONS OF LAW:

35. By failing to perform any legal work on Mr. Lim's behalf, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

36. By failing to respond promptly to telephone messages and emails from Mr. Lim between April 2013 and September 2013, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

37. By failing to refund any of the \$1,000 in advance fees paid by Mr. Lim, 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).

38. By failing to respond to the investigator's letters, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code section 6068(i).

39. By knowingly altering, or causing to be altered, the date of Mr. Lim's check from June 21, 2012, to December 21, 2012, without his client's knowledge or permission, Respondent committed an act involving moral turpitude and dishonesty, but not corruption in willful violation of Business and Professions Code, section 6106.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's conduct involved multiple acts of wrongdoing in three client matters and numerous violations of the Rules of Professional Conduct and Business and Professions Code. Multiple acts of misconduct are an aggravating circumstance.

Failure to Make Restitution (Std. 1.5(i)): Respondent has failed to make restitution to all clients totaling \$3,900. Failure to make restitution is an aggravating circumstance.

ADDITIONAL MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to practice law in California on December 9, 1997. At the time of the misconduct, Respondent had practiced law for almost 13 years without a prior record of discipline. Although Respondent's misconduct is serious, the fact that he has no prior record of discipline is entitled to significant weight in mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596.)

Pretrial Stipulation: Shortly after the Notice of Disciplinary Charges was filed, Respondent worked with the State Bar to resolve these matters. (*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].) However, the weight of his mitigation is tempered by Respondent's failure to participate in the investigations.

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 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.) 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).)

Respondent has committed multiple acts of professional misconduct. Standard 1.7 (a) states that if a member 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 2.7, which states "[d]isbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of material fact. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member's practice of law."

Standard 2.7 applies to Respondent's violation of Business and Professions Code section 6106 for his unauthorized alteration of Mr. Lim's check. Respondent was paid by Mr. Lim with a postdated check dated June 21, 2012. Respondent knowingly altered the check, without his client's knowledge or permission, to December 21, 2012. By altering the check, Respondent was able to endorse the check and negotiate it on May 2, 2013. The alteration committed by Respondent is an act of moral turpitude and dishonesty. In addition to altering the check, Respondent committed further misconduct in three similar client matters. Respondent failed to perform, failed to refund advanced fees, failed to account, failed to cooperate in the investigations, and failed to update his membership records information. Respondent's misconduct is related to the practice of law because all three clients hired him to protect their interests through legal means. The clients were certainly misled because Respondent led them to believe he would be working on their cases, and did nothing to inform them that he would be closing his office. Accordingly, actual suspension is warranted under Standard 2.7.

In mitigation, Respondent had practiced law for 13 years without discipline at the time he committed the misconduct. In aggravation, Respondent committed multiple acts of misconduct and failed to make restitution. The mitigation does not clearly outweigh aggravation such that deviation from Standard 2.7 would be warranted.

In consideration of Standard 2.7, the type of misconduct, the purpose of attorney discipline, and the aggravating and mitigating circumstances that are present, a level of discipline consisting of two years suspension, stayed, and two years' probation with conditions that include 120 days' actual suspension and until Respondent makes restitution is warranted.

Case law also supports the recommended discipline. In *Bach v. State Bar* (1991) 52 Cal.3d 1201, the attorney was found culpable of failing to perform legal services for a client, failing to communicate with the client for months at a time despite repeated telephone calls and office visits, withdrawal of representation without client's consent or court approval, failing to refund unearned fees paid in advance and failure to cooperate in the State Bar's investigation of the complaint against him. In mitigation, the attorney had practiced law for 20 years without a prior record of discipline at the time he committed the misconduct. In aggravation, the attorney demonstrated indifference, or lack of atonement, for his misconduct. The Court ordered a one-year suspension, stayed, with actual suspension for 30 days. The

misconduct in *Bach* is very similar to the instant matter; however, Respondent's misconduct is more serious because it involves three client matters and includes moral turpitude.

With regard to the forgery of the check, in *Utz v. State Bar* (1942) 21 Cal.2d 100 there was evidence showing that the attorney had forged signatures of sureties on two bonds filed in estates being probated by her, had altered and then filed with probate court a receipt of a distributive share from an estate after signature by distributee, and had improperly solicited professional employment and split professional fees with unlicensed persons, required that attorney be suspended from the practice of law for two years. The misconduct in this matter is similar to the forgery in *Utz*, but on a much smaller scale.

DISMISSALS.

The State Bar respectfully requests 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-16226	Three	Rules of Professional Conduct, rule 3-700(A)(2)
13-O-16226	Five	Rules of Professional Conduct, rule 4-100(B)(3)
13-O-16227	Nine	Rules of Professional Conduct, rule 3-700(A)(2)
13-O-16227	Eleven	Rules of Professional Conduct, rule 4-100(B)(3)
13-O-16229	Fifteen	Rules of Professional Conduct, rule 3-700(A)(2)
13-O-16226	Seventeen	Rules of Professional Conduct, rule 4-100(B)(3)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 20, 2014, the prosecution costs in this matter are approximately \$5,285. 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


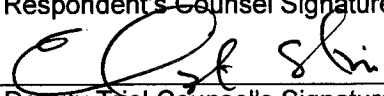
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: KENNETH KWANWON CHONG	Case number(s): 13-O-16226 13-O-16227 13-O-16229
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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.

Date 7-1-14	 Respondent's Signature	Kenneth Kwanwon Print Name
Date 7-1-14	 Respondent's Counsel Signature	Elizabeth Stine Print Name
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: KENNETH KWANWON CHONG	Case Number(s): 13-O-16226 13-O-16227 13-O-16229
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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.)**

7/22/14
Date



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 July 24, 2014, I deposited a true copy of the following document(s):

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

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:

**KENNETH K. CHONG
466 FOOTHILL BLVD 334
LA CANADA, CA 91011**

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

ELIZABETH STINE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 24, 2014.



Tammy Cleaver
Case Administrator
State Bar Court