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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Robin Brune Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2218 Bar # 149481	Case Number(s): 13-O-16441-PEM PUBLIC MATTER	For Court use only FILED <i>JP</i> NOV 13 2014 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Jonathan Arons 100 Bush Street, Suite 918 San Francisco, CA 94104 (415) 957-1818 Bar # 111257	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: ANDREW NICHOLAS DIMITRIOU Bar # 187733 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 **March 24, 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 **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."



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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(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. **See Attachment, page 11.**
- (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.

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- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment, page 11.**
- (8) ☐ **Restitution:** Respondent failed to make restitution.
- (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 \$ 17,555 on **January 27, 2014** in restitution to **Gertha Gillette** 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. **See Attachment, page 11.**
- (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. **See Attachment, page 11.**
- (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, page 11.
Prefiling Stipulation, See Attachment, page 11.
Additional Good Character, See Attachment, page 12.

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 1.2(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 **three 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 **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 1.2(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.

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

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

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

F. Other Conditions Negotiated by the Parties:

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

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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:**

Other Conditions of Probation:
Fee Arbitration, See Attachment, pages 13-14.

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In the Matter of: ANDREW NICHOLAS DIMITRIOU	Case Number(s): 13-O-16641-PEM
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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 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:
- a. 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: ANDREW NICHOLAS DIMITRIOU

CASE NUMBER: 13-0-16641-PEM

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. 13-0-16641 (Gertha Curtis)

FACTS:

1. On March 7, 2011, Gertha Curtis Gillette (hereinafter, "Gillette") hired respondent to enforce the terms of a settlement from a previously settled lawsuit, *Gillette v. Schneider*, case no. SCV-245867, (hereinafter, "property lawsuit") filed in Sonoma Superior Court, and to bring a malpractice claim against her prior counsel (hereinafter, "malpractice lawsuit"). Gillette, who is 79 years old, was assisted in her legal matters by her daughter, Karan Curtis (hereinafter, "Curtis"). On March 10, 2011, respondent sent Gillette a letter setting forth their attorney-client fee agreement. Gillette signed it on March 18, 2011. Between March 7, 2011 and August 9, 2012, Gillette and Curtis paid respondent \$35,500 as legal fees for the property lawsuit and \$9,000 for legal fees on the malpractice lawsuit, in addition to the allocation of settlement monies noted in the following paragraph (paragraph 2).

2. On September 14, 2012, respondent settled the property lawsuit for \$50,000. Respondent received two payments in settlement. On September 13, 2012, he received check #3395004608 for \$25,000 from Farmers' Insurance, and on October 11, 2012, he received check #5645502528 from the opposing counsel on behalf of the defendant. Respondent deposited these checks on September 27, 2012, and October 12, 2012, respectively, in his attorney-client trust account, account # xxxxxx6394 at Mechanic's Bank (hereinafter, "attorney-client trust account").

3. On October 9, 2012, respondent withdrew \$14,445.000 of the settlement funds from his attorney-client trust account and applied them towards his legal fees in the property lawsuit. On October 23, 2012, respondent withdrew an additional \$9,000 of the settlement funds from his attorney-client trust account and applied them towards his legal fees in the property lawsuit. On December 31, 2012, respondent withdrew \$9,000 of the settlement funds from the attorney-client trust account and applied them towards his legal fees in the malpractice lawsuit. After the withdrawals, by respondent's accountings, \$17,555 in Gillette's settlement monies should have remained in the attorney-client trust account.

4. On December 31, 2012, the balance in respondent's attorney-client trust account dropped to \$2,641.43. On March 22, 2013, the balance in respondent's attorney-client trust account dropped to \$31.40. Respondent diverted and spent all but \$31.40 of Gillette's settlement monies (\$17,523.60) on matters unrelated to Gillette.

5. On October 10, 2013, respondent issued check #1055 to Gillette in the sum of \$17,555. Gillette was unable to cash the check because the bank found a drafting error in the check [There was a \$55 discrepancy between the numerical amount (\$17,555) and the written amount (seventeen thousand five hundred) designated on the check]. Had Gillette been able to cash the check in a timely fashion, funds respondent had deposited into the attorney-client trust account on behalf of other clients would have been diverted to pay Gillette the \$17,555.

6. On December 30, 2013, respondent deposited \$25,000 to his attorney-client trust account. On January 27, 2014, after several months' delay (due to respondent first obtaining the rejected check), respondent issued a second check, check #1073, to Gillette in the sum of \$17,555 (hereinafter "replacement check"). On January 29, 2014, respondent deposited \$15,000 of his own funds in to his attorney-client trust account. The funds respondent deposited on December 30, 2013 and January 29, 2014 were used to cover the replacement check for \$17,555 that respondent issued to Gillette on January 27, 2014. Gillette deposited the check on April 1, 2014.

7. Between March 22, 2013, and April 17, 2014, a period of thirteen months, respondent made thirteen deposits from his personal or business account into his attorney-client trust account. The deposits ranged from a low of \$1,000 (deposited on April 2, 2013) to a high of \$25,000 (deposited on December 30, 2013). The total amount of the thirteen deposits was \$80,780.

8. Respondent data-entered financial information into his accounting software, but he did not reconcile his attorney-client trust account on a monthly basis. When prompted by the State Bar investigation of this matter, respondent, in July, 2014, identified two accounting errors, one which occurred in October, 2012, and the other which occurred in December, 2012, (on each occasion, respondent inappropriately withdrew funds twice) which accounted for \$10,000 of the funds misappropriated from the Gillette settlement monies. Respondent is unable to account for the remaining \$7,523.60 that he misappropriated. Respondent deposited large sums of monies into his attorney-client trust account in order to compensate for his derelict accounting practices and assure that he paid his clients the funds they were due.

9. On September 9, 2013, Curtis wrote to respondent and requested an accounting of the malpractice lawsuit. Between September 17, 2013, and October 16, 2013, Curtis made thirteen additional requests for her accounting, one by email and thirteen by letter. Respondent received the email and letters from Curtis. On October 16, 2013, respondent provided Curtis with a 32-page printed "client ledger" from his computer accounting software, covering the period of March 2011 through October 2013, which was undecipherable to the client. Aside from one accounting dated October 1, 2012, this was the first accounting Curtis had received on the malpractice lawsuit. On October 3, 2014, after the State Bar investigation of this matter, respondent provided Curtis with five invoices/billings on the malpractice matter, dated December 31, 2012, April 30, 2013, May 31, 2013, October 15, 2013 and December 31, 2013.

CONCLUSIONS OF LAW:

10. By failing to maintain at least \$17,523.60 in his attorney-client trust account on behalf of Gillette between December 31, 2012, and January 27, 2014, respondent failed to maintain client funds in trust, in wilful violation of Rules of Professional Conduct, rule 4-100(A).

11. By withdrawing \$17,523.60 of Gillette's funds from his attorney-client trust account between October 11, 2012, and March 22, 2013, respondent grossly negligently misappropriated for respondent's

own purposes \$17,523.60 of funds that respondent's client was entitled to receive, and thereby committed an act involving moral turpitude, in wilful violation of Business and Professions Code, section 6106.

12. By depositing \$80,780 of respondent's own funds into his attorney-client trust account between March 22, 2013, and April 17, 2014, respondent commingled his personal funds into his attorney-client trust account in wilful violation of Rules of Professional Conduct, rule 4-100(A).

13. By failing to timely and completely respond to Curtis's repeated requests for an accounting of the malpractice lawsuit, respondent failed to render an appropriate accounting to the client regarding all funds he received on her behalf, in wilful violation Rules of Professional Conduct, rule 4-100(B)(3).

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): The client suffered harm when respondent misappropriated her settlement funds. The public is also harmed when attorneys fail to adhere to their fiduciary duties regarding client funds. The client also was harmed in that she was not provided accountings in the malpractice matter for a one-year period.

Multiple Acts of Misconduct (Std. 1.5(b)): By committing four disciplinary violations, respondent committed multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Restitution (Std. 1.6(j)): Respondent paid restitution to the client of the \$17,555 in settlement monies on or about January 27, 2014, prior to any State Bar involvement.

Family Problems: *In the Matter of Kaplan* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509, 519 [limited mitigation for marital difficulties in absence of medical diagnosis]. Respondent has presented the letter of a licensed clinical psychologist who reports that he has been treating the respondent since January 2013 regarding personal and family issues. Part of respondent's family problems relates to his caregiving for an elderly parent who was diagnosed with progressive, cognitive decline associated with evolving dementia.

Good Character (Std. 1.6(f)): Respondent presented sixteen character reference letters from a wide range of the community, including six attorneys, former and current clients, colleagues at his Masonic Lodge, and the Principal of his child's elementary school.

Additional Mitigating Circumstances:

No Prior Discipline: Although Respondent's misconduct is serious, he is entitled to mitigation for having practiced law for approximately fifteen years without discipline before his misconduct began. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Prefiling Stipulation: Respondent has entered into a stipulation prior to the filing of a Notice of Disciplinary Charges, thereby saving the State Bar 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].)

Additional Good Character: Civic service and charitable work can be mitigation as evidence of good character (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359; *Porter v. State Bar* (1990) 52 Cal. 3d 518, 529). Respondent served on the AIDS legal referral panel. Since 2007 he has helped 70 pro bono clients. He contributed 47 hours in 2011, 4 hours in 2012, and 31 hours in 2013. He received a volunteer appreciation award in 2014, for accepting over five referrals; an award in 2012 for accepting over ten referrals; and an award in 2011 for accepting over ten referrals. Respondent served as a member of the Diversity Center of the San Francisco Bar Association, and received their award for outstanding volunteer in public service (given to the top 10% of volunteers) in 1995, 1996, 1997, 1998, and 2003. Respondent served on the BASF Legal Ethics Committee for over fifteen years and donated 1-2 hours every four months as an ethics hotline adviser, in addition to attending monthly meetings for the past five years. Respondent served as a chaperone for his children's school events at Garfield Elementary School. He is an annual speaker to the fifth grade class (civics) and serves as an Officer of the New Partner Organization. In this capacity, he donates 5-10 hours a week to support the parent-teacher organization, and he manages the annual "box tops fund raiser" program. In the spring of 2011, he served as chair of the School Site Council, approving the school budget, and he attends regular meetings about the vision for the school, contributing 2-8 hours a month. Respondent volunteers at his church, the Annunciation, and assists in the annual Greek Food Festival.

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).)

In this matter, respondent admits to committing four 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 2.1(b), which applies to respondent's violation(s) of Business and Professions Code, Section 6106. Standard 2.1(b) provides that disbarment or actual suspension is warranted for misappropriation involving gross negligence.

In this case, respondent successfully resolved the client's litigation in the property lawsuit. However, when the client requested an accounting in the still ongoing malpractice lawsuit, respondent was unable to provide one. He instead provided a computer print-out of his client ledger, which covered the period of March 2011 through October 2013. The State Bar investigation of respondent's attorney-client trust account revealed that respondent misappropriated \$17,523.60 of the client's settlement monies, and respondent made thirteen deposits, totaling \$80,780, of his own funds into his attorney-client trust account between March 22, 2013 and April 17, 2014. Respondent's inability to account to his client for her funds, his misappropriation of her settlement monies, as well as his extensive and repeated commingling of his personal funds into his attorney-client trust account, demonstrates gross negligence rising to moral turpitude. In aggravation, respondent has committed multiple acts of misconduct and caused significant harm to the client and the public by misappropriating client funds. In mitigation, when the client requested the return of her funds, respondent deposited sufficient funds into the attorney-client trust account to reimburse the client for the funds misappropriated. In addition, respondent demonstrated good character with sixteen character reference letters from a wide range of the community, and he also demonstrated significant charitable and pro bono work. He has been practicing law for approximately seventeen years with no prior discipline, and he was undergoing family problems at the time of the misconduct. He also stipulated to an early resolution of this matter, saving time and resources to the State Bar. Standard 2.1(b) provides that disbarment or actual suspension is warranted for misappropriation involving gross negligence. Here, a balance of the misconduct, and the aggravating and mitigating factors, indicate that the discipline of three years of suspension, stayed, three years of probation, including one year of actual suspension, is warranted to protect the public.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 25, 2014, the prosecution costs in this matter are \$2,925.00. 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.

FEE ARBITRATION CONDITIONS OF PROBATION:

A. Respondent's Duty to Initiate and Participate in Fee Arbitration

Respondent must initiate fee arbitration within thirty (30) days from the effective date of this matter, including making any payment(s) and filing fees required by the organization conducting the fee arbitration to start the process. The fee arbitration will be for the fees that Gillette and/or Curtis paid respondent, as well as the portion of the settlement fees that respondent allocated to his legal fees on

both the property lawsuit and the malpractice lawsuit. Respondent must not request more fees than have already been paid by, or on behalf of, Gillette.

Respondent must provide the Office of Probation with a copy of the conformed filing within forty-five (45) days from the effective date of this matter. Respondent must immediately provide the Office of Probation with any information requested regarding the fee arbitration to verify respondent's compliance.

Respondent must fully and promptly participate in the fee arbitration as directed by the organization conducting the fee arbitration. Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration. Respondent understands and agrees that the Office of Probation may contact the entity conducting the fee arbitration for information.

Respondent must accept binding arbitration on the arbitration request form. If the arbitration proceeds as non-binding, however, respondent must abide by the arbitration award and forego the right to file an action seeking a trial de novo in court to vacate the award.

B. Respondent's Duty to Comply with the Arbitration Award

Within fifteen (15) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter, respondent must provide a copy of said award, judgment or stipulated award to the Office of Probation.

Respondent must abide by any award, judgment or stipulated award of any such fee arbitrator and agrees to provide proof thereof to the Office of Probation within thirty (30) days after compliance with any such award, judgment or stipulated award. If the award, judgment or stipulated award does not set forth a deadline for any payment, respondent is to make full payment within thirty (30) days of the issuance of any such award, judgment or stipulated award. Respondent must provide proof thereof to the Office of Probation within thirty (30) days after payment.

To the extent that respondent has paid any fee arbitration award, judgment or stipulated award prior to the effective date of this matter, respondent will be given credit for such payment(s) provided satisfactory proof of such payment(s) is or has been provided to the Office of Probation.

C. Effect of Respondent's Failure to Comply with Fee Arbitration Conditions

Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in this Court imposing additional discipline (with attendant costs) and conditions upon respondent.

EXCLUSION FROM MCLE CREDIT

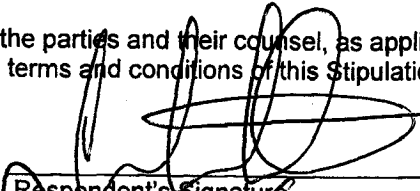
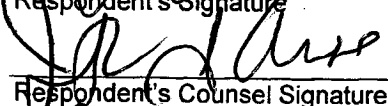
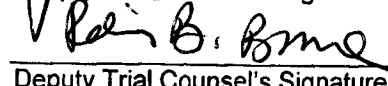
Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics School or State Bar Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: ANDREW NICHOLAS DIMITRIOU	Case number(s): 13-O-16441-PEM
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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.

10/31/14		ANDREW NICHOLAS DIMITRIOU
Date	Respondent's Signature	Print Name
11/3/2014		JONATHAN ARONS
Date	Respondent's Counsel Signature	Print Name
11/3/2014		ROBIN BRUNE
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:
ANDREW NICHOLAS DIMITRIOU

Case Number(s):
13-O-16441-PEM

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

Nov. 13, 2014


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 November 13, 2014, I deposited a true copy of the following document(s):

STATUS CONFERENCE ORDER

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:

JONATHAN IRWIN ARONS
LAW OFC JONATHAN I ARONS
100 BUSH ST STE 918
SAN FRANCISCO, CA 94104

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

Robin B. Brune, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 13, 2014.


Laurretta Cramer
Case Administrator
State Bar Court

CORRECTED 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 November 18, 2014, 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:

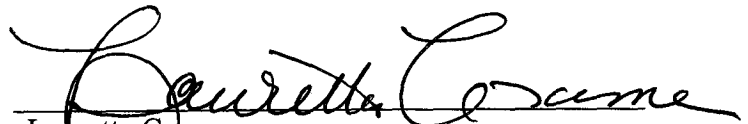
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JONATHAN IRWIN ARONS
LAW OFC JONATHAN I ARONS
100 BUSH ST STE 918
SAN FRANCISCO, CA 94104

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

Robin B. Brune, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 18, 2014.



Laurretta Cramer
Case Administrator
State Bar Court