| State  | Bar Court of Califor<br>Hearing Department<br>Los Angeles<br>ACTUAL SUSPENSION | rnia UBLIC MATTER                     |  |
|--|--|---------------------------------------|--|
| Counsel For The State Bar  | Case Number(s):  | For Court use only                    |  |
| Christine Souhrada   | 13-O-17053 (INV)   |                                       |  |
| Senior Trial Counsel   |  |                                       |  |
| 845 South Figueroa Street Los Angeles, California  |  | FILED                                 |  |
| (213) 765-1162   |  | NOV 1 3 2014 }                        |  |
|  |  | STATE BAR COURT                       |  |
| Bar # 228256   |  | CLERK'S OFFICE<br>LOS ANGELES         |  |
| Counsel For Respondent   |  | LOS ANGELES                           |  |
| John William Nelson<br>Weisenberg & Nelson, Inc.<br>12437 Lewis St, Ste. 204<br>Garden Grove, CA 92840 |  |                                       |  |
| (714) 703-7070   | Submitted to: Settlement Judge   |                                       |  |
| Bar # <b>73958</b>   | STIPULATION RE FACTS,<br>DISPOSITION AND ORDE                                  | CONCLUSIONS OF LAW AND<br>R APPROVING |  |
| In the Matter of: JOHN ALBERT BALENT   |  |                                       |  |
|  | ACTUAL SUSPENSION  |                                       |  |
| Bar # <b>70060</b>   | ☐ PREVIOUS STIPULAT  | ION REJECTED                          |  |
| 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 **December 22, 1976**.
- (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 **12** 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) |          | nclus<br>w".                 | ions of law, drawn from and specifically referring to the facts are also included under "Conclusions of  |
| (6) |          |                              | ties must include supporting authority for the recommended level of discipline under the heading ting Authority."  |
| (7) |          |                              | e than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any investigation/proceeding not resolved by this stipulation, except for criminal investigations.   |
| (8) |          |                              | t of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & (Check one option only):   |
|     |          |                              | ntil costs are paid in full, Respondent will remain actually suspended from the practice of law unless   |
|     |          | Co<br><b>cy</b><br>oti<br>de | lief is obtained per rule 5.130, Rules of Procedure.  osts are to be paid in equal amounts prior to February 1 for the following membership years: two billing ocles following the effective date of the Supreme Court order. (Hardship, special circumstances or ner good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as scribed above, or as may be modified by the State Bar Court, the remaining balance is due and yable immediately. |
|     |          | Co                           | osts are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs". Osts are entirely waived.  |
| ı   | Viisc    |                              | ting Circumstances [Standards for Attorney Sanctions for Professional uct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are   |
| (1) | ⊠<br>(a) | Pric                         | or record of discipline State Bar Court case # of prior case 00-O-12530  |
|     | (b)      | $\boxtimes$                  | Date prior discipline effective April 26, 2001   |
|     | (c)      | $\boxtimes$                  | Rules of Professional Conduct/ State Bar Act violations: <b>Business and Professions Code section 6068(b)</b> [failure to maintain respect due to courts].   |
|     | (d)      | $\boxtimes$                  | Degree of prior discipline Public Reproval See page 9 of Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation  |
|     | (e)      |                              | If Respondent has two or more incidents of prior discipline, use space provided below.   |
| (2) |          | dish                         | conesty: Respondent's misconduct was intentional, surrounded by, or followed by bad faith, concealment, overreaching or other violations of the State Bar Act or Rules of Professional duct.   |
| (3) |          |                              | et Violation: Trust funds or property were involved and Respondent refused or was unable to account e client or person who was the object of the misconduct for improper conduct toward said funds or erty.  |
| (4) |          | Harr                         | n: Respondent's misconduct harmed significantly a client, the public or the administration of justice.   |
|     |          |                              |  |

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|-------|-------------|--|--|--|--|--|--|
| (5)   |             | <b>Indifference:</b> Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.  |  |  |  |  |  |
| (6)   |             | <b>Lack of Cooperation:</b> 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)   |             | <b>Multiple/Pattern of Misconduct:</b> Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.  |  |  |  |  |  |
| (8)   |             | Restitution: Respondent failed to make restitution.  |  |  |  |  |  |
| (9)   |             | No aggravating circumstances are involved.   |  |  |  |  |  |
| Add   | ition       | al aggravating circumstances:  |  |  |  |  |  |
|       |             |  |  |  |  |  |  |
|       |             | ating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating mstances are required.   |  |  |  |  |  |
| (1)   |             | <b>No Prior Discipline:</b> Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.  |  |  |  |  |  |
| (2)   | $\boxtimes$ | No Harm: Respondent did not harm the client, the public, or the administration of justice. See page 10 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of facts and circumstances of this mitigating circumstance.   |  |  |  |  |  |
| (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)   |             | <b>Remorse:</b> 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)   |             | <b>Restitution:</b> Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.  |  |  |  |  |  |
| (6)   |             | <b>Delay:</b> 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)   |             | <b>Emotional/Physical Difficulties:</b> 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)   |             | <b>Severe Financial Stress:</b> 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)  |             | <b>Family Problems:</b> At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.  |  |  |  |  |  |

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|--------|-------------|---------------|----------------------------|---|
| (11)   |             |               |                            | aracter: Respondent's extraordinarily good character is attested to by a wide range of references at and general communities who are aware of the full extent of his/her misconduct.  |
| (12)   |             | Reh           | n <b>abilit</b> a<br>wed b | ation: Considerable time has passed since the acts of professional misconduct occurred by convincing proof of subsequent rehabilitation.  |
| (13)   |             | No            | mitiga                     | ting circumstances are involved.  |
| Addi   | tion        | al mi         | tigatin                    | ng circumstances:   |
| Disp   |             |               |                            | pulation: See page 10 of the Attachment to Stipulation Re Facts, Conclusions of Law and rther explanation of facts and circumstances of this mitigating circumstance.   |
| Conc   | lusi        | ons (         | of Law                     | Community Service Work: See page 10 of the Attachment to Stipulation Re Facts, and Disposition for a further explanation of facts and circumstances of this mitigating  |
| D. D   | isci        | iplin         | e:                         |   |
| (1)    | $\boxtimes$ | Stay          | /ed Sι                     | uspension:  |
|        | (a)         | $\boxtimes$   | Resp                       | condent 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)         | $\boxtimes$   | The a                      | above-referenced suspension is stayed.  |
| (2)    | $\boxtimes$ | Prob          | oation                     | <b>:</b>  |
|        | Res<br>date | pond<br>of th | ent mu<br>ne Sup           | ust be placed on probation for a period of <b>two years</b> , which will commence upon the effective reme Court order in this matter. (See rule 9.18, California Rules of Court)  |
| (3)    | $\boxtimes$ | Actu          | ıal Su                     | spension:   |
|        | (a)         | $\boxtimes$   |                            | ondent must be actually suspended from the practice of law in the State of California for a period 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:  |
|        |             |               |                            |   |

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|--------|-------------|--|
| E. A   | \ddi        | tional 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)    | $\boxtimes$ | 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  |
| (5)    |             | promptly meet with the probation deputy as directed and upon request. 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)    | $\boxtimes$ | 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)   | $\boxtimes$ | The following conditions are attached hereto and incorporated:   |

**Substance Abuse Conditions** 

**Medical Conditions** 

Law Office Management Conditions

**Financial Conditions** 

 $\boxtimes$ 

| 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:   |

| (Do | not   | write above this line.)   |  |                               |   |  |  |
|-----|---|---|--|-------------------------------|---|--|--|
| 1 , | In the Matter of: JOHN ALBERT BALENT  |   |  | Case Num<br>13-0-1705         |   |  |  |
| Fir | nar   | icial Conditions  |  |                               |   |  |  |
| a.  | Re  | stitution   |  |                               |   |  |  |
|     |   | Respondent must pay restitution payee(s) listed below. If the Corr any portion of the principal amount(s) paid, plus applicable                                       | lient Security Fund ("<br>amount(s) listed belo                  | 'CSF") has i                  | reimbursed one or more of t   | he payee(s) for all                    |  |
|     | P   | ayee  | Principal Amount   |                               | Interest Accrues From   |  |  |
|     | -   |   |  |                               |   |  |  |
|     |   |   |  |                               |   |  |  |
|     |   | Respondent must pay above-re<br>Probation not later than  | eferenced restitution  | and provide                   | e satisfactory proof of payme   | ent to the Office of                   |  |
| b.  | Ins   | tallment Restitution Payments   | s  |                               |   |  |  |
|     |   | Respondent must pay the above must provide satisfactory proof as otherwise directed by the Or probation (or period of reproval the payment of restitution, included). | of payment to the Office of Probation. No<br>I), Respondent must | ffice of Prob<br>o later than | pation with each quarterly pro<br>30 days prior to the expiration<br>ecessary final payment(s) in | obation report, or on of the period of |  |
|     |   | 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.  | Cli   | ent 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: |   |  |                               |   |  |  |
|     | <ul> <li>Respondent has maintained a bank account in a bank authorized to do business in the State of<br/>California, at a branch located within the State of California, and that such account is designated<br/>as a "Trust Account" or "Clients' Funds Account";</li> </ul>  |   |  |                               |   |  |  |
|     |   |   |  |                               |   |  |  |
|     |   |   |  |                               |   |  |  |
|     |   |   |  |                               |   |  |  |
|     |   |   |  |                               |   |  |  |

- 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.
- 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.
- 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:

JOHN ALBERT BALENT

CASE NUMBER:

13-O-17053

### 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-17053

## **FACTS:**

1. Respondent made three deposits of personal funds belonging to Respondent into his Client Trust Account as follows:

| DATE OF DEPOSIT   | AMT. DEPOSITED | FORM OF DEPOSIT |
|-------------------|----------------|-----------------|
| May 15, 2012      | \$6,600        | check           |
| July 31, 2012     | \$20,000       | check           |
| December 14, 2012 | \$10,000       | check           |

2. Respondent was aware the funds were personal funds at the time he deposited them and, on each occasion, he withdrew the funds from his Client Trust Account within days of their deposit.

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

3. By depositing personal funds belonging to Respondent into his Client Trust Account, Respondent wilfully violated rule 4-100(A) of the Rules of Professional Conduct.

## AGGRAVATING CIRCUMSTANCES

Prior Record of Discipline (Std. 1.5(a)): In 2001, Respondent received a public reproval in case no. 00-O-12530 for a violation of Business and Professions Code, section 6068(b) [failure to maintain respect due to courts]. Respondent received mitigating credit for acting in good faith and displaying candor and cooperation to the State Bar during the disciplinary investigation and proceedings. There were no aggravating circumstances.

### MITIGATING CIRCUMSTANCES.

## **Additional Mitigating Circumstances:**

**Prefiling Stipulation:** By entering into this stipulation before disciplinary charges have to be filed against him, Respondent is entitled to some mitigative credit. (*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].)

Charitable/Community Service Work: Multiple witnesses have provided information about Respondent's charitable and community service work. Respondent is heavily involved in charitable work through his church. Respondent founded a soup kitchen at his church approximately 25 years ago and has been overseeing the soup kitchen for the past 25 years. Respondent also makes multiple trips per year to Mexico with a group from his church bringing food, clothing, and shoes to orphanages there. Respondent receives no compensation for these activities. In addition, in 2006, Respondent joined a group assisting in the Hurricane Katrina relief effort. Respondent traveled with the group to rebuild homes. As part of these efforts, Respondent paid his own way and received no compensation. 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)

No Harm (Std. 1.6(c)): Although there were client funds in Respondent's client trust account at the time he deposited his personal funds, because Respondent's personal funds were withdrawn almost immediately after deposit and in the exact amount in which they were deposited, no client funds were put in jeopardy.

### AUTHORITIES SUPPORTING DISCIPLINE.

Disbursing funds from a client trust account to pay personal expenses constitutes a violation of the Rules of Professional Conduct, rule 4-100(A). (See *Doyle v. State Bar* (1982) 32 Cal.3d. 12, 22-23 [rule 4-100 "bars use of the trust account for personal purposes"])

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 Attny. Sanctions for Prof. Misconduct, std. 1.1. All further references to the 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))

Standards 2.2 and 1.8(a) apply to this matter. Standard 2.2 addresses commingling and other trust account violations and states:

- (a) Actual suspension of three months is appropriate for commingling or failure to promptly pay out entrusted funds.
- (b) Suspension or reproval is appropriate for any other violation of Rule 4-100.

Standard 1.8(a) details the effect of prior discipline and states:

If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.

In the present matter, Respondent commingled his personal funds in his client trust account only three times and in each instance the funds were commingled for only a brief period of time, presenting little threat to client funds and resulting in no client harm. Further, by entering into this stipulation to resolve this matter without the necessity of filing disciplinary charges, Respondent is acknowledging the wrongfulness of his acts, indicating that there is less risk of Respondent failing to conform to ethical responsibilities in the future. In addition, Respondent's charitable and community service work is substantial and long-running, and thereby evidences good character. Finally, although Respondent's prior misconduct was not insignificant, it occurred approximately 13 years ago making it remote in time. Thus, there are sufficient facts and mitigation to justify a slight deviation from standard 2.2.

In light of the facts of this case and Respondent's mitigation, a discipline of sixty days' actual suspension, although a slight deviation from standard 2.2, would nonetheless serve the purposes of protecting the public and be an appropriate level of discipline.

## COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 29, 2014, the prosecution costs in this matter are \$2,992. 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 <u>not</u> receive MCLE credit for completion of Ethics School or Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

| In the Matter of: JOHN ALBERT BALENT | Case number(s): 13-O-17053 | 4 |
|--------------------------------------|----------------------------|---|
|                                      |                            |   |

# 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.

| 10/23/14         | Shiff last Balos                 | John Albert Balent  |
|------------------|----------------------------------|---------------------|
| Date V V         | Respondent's Signature           | Print Name          |
| 10/24/14         |                                  | John William Nelson |
| Date / / /       | Respondent's Coursel Signature   | Print Name          |
| 10/27/14<br>Date | alke                             | Christine Souhrada  |
| Date/            | Deputy Trial Counsel's Signature | Print Name          |
| 4                |                                  |                     |

| (Do not write a             | bove this line.)                                  |  |  |   |                                      |
|-----------------------------|---|--|--|---|--------------------------------------|
| In the Matt<br>JOHN AI      | er of:<br>LBERT BALENT                            |  | Case Num<br>13-O-170                                   | * *   |                                      |
|                             |   | ACTUAL                                     | SUSPENSION O   | RDER  |                                      |
| Finding the requested d     | stipulation to be fair t<br>ismissal of counts/ch | o the parties and<br>arges, if any, is G   | that it adequately pro<br>RANTED without pre           | tects the public, IT IS O judice, and:  | RDERED that the                      |
| $\boxtimes$                 | The stipulated fact<br>Supreme Court.             | s and disposition                          | are APPROVED and                                       | the DISCIPLINE RECO   | MMENDED to the                       |
|                             | The stipulated fact DISCIPLINE IS RE              | s and disposition a                        | are APPROVED AS I<br>the Supreme Court.                | MODIFIED as set forth I   | below, and the                       |
|                             | All Hearing dates a                               | are vacated.                               |  |   |                                      |
|                             |   |  |  |   |                                      |
|                             |   |  |  |   |                                      |
|                             |   |  |  |   |                                      |
| within 15 da stipulation. ( | ys after service of thi<br>See rule 5.58(E) & (I  | is order, is granted<br>F), Rules of Proce | d; or 2) this court mod<br>dure.) <b>The effective</b> | n to withdraw or modify<br>difies or further modifies<br>date of this dispositio<br>. (See rule 9.18(a), Cali | the approved n is the effective date |
| Nov                         | EMBER 13,   | 2014                                       | Men  | n [hott   |                                      |
| Date                        |   |  | Judge of the State                                     | T, JUDGE PRO TEM<br>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 November 13, 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 Los Angeles, California, addressed as follows:

JOHN WILLIAM NELSON WEISENBERG & NELSON, INC. 12437 LEWIS ST STE 204 GARDEN GROVE, CA 92840

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

Christine A. Souhrada, Enforcement, Los Angeles Terrrie Goldade, Office of Probation, Los Angeles

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

Julieta E. Gonzales

State Bar Court