

ORIGINAL

**State Bar Court of California
Hearing Department
San Francisco
DISBARMENT**

Counsel For The State Bar Robert A. Henderson Supervising Senior Trial Counsel 180 Howard Street San Francisco, California 94105 Telephone: (415) 538-2385 Bar # 173205	Case Number(s): 14-N-03273-LMA	For Court use only PUBLIC MATTER FILED SEP 17 2014 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Thaddeus Z. Wolny 2120 Railroad Avenue, #103-175 Pittsburg, California 94565 Telephone: (925) 848-6461 Bar # 119113	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: THADDEUS ZIGMUND WOLNY Bar # 119113 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 **October 7, 1985**.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (10) 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."
- (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):
- ☒ Costs to be awarded to the State Bar.
- ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
- ☐ Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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 11-O-16028 [S210429]. See Attachment to Stipulation at p. 7.
- (b) ☒ Date prior discipline effective August 9, 2013.
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code sections 6068(c) [maintaining an unjust action], 6068(l) [failure to cooperate in investigation], 6068(o)(3) [failure to report sanctions], 6103 [violating court order to pay sanctions] and 6106 [misrepresenting and concealing facts].
- (d) ☒ Degree of prior discipline two years stayed suspension, two years of probation and 90 days actual suspension.
- (e) ☒ If respondent has two or more incidents of prior discipline, use space provided below:
- See Attachment to Stipulation at p. 7.
- (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.

(Do not write above this line.)

- (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.
- (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 \$ 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 subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pre-hearing Stipulation - See Attachment to Stipulation at p. 7.

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.
- (2) ☐ **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: THADDEUS ZIGMUND WOLNY

CASE NUMBER: 14-N-03273-LMA

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 14-N-03273-LMA (State Bar Investigation)

FACTS:

1. On November 4, 2013, respondent, in State Bar case nos. 12-O-17699 and 13-N-16583, signed a stipulation admitting culpability for violations of: California Rules of Professional Conduct, rules 3-110(A) and 3-700(D)(2), Business and Professions Code section 6068(i), and California Rules of Court, rule 9.20.
2. On February 27, 2014, the Supreme Court filed and served its Order, S215548, imposing discipline on respondent in State Bar case nos. 12-O-17699 and 13-N-16583. The discipline included a requirement that respondent comply with California Rules of Court, rule 9.20, 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 order. Respondent received the Order shortly after it was served.
3. On March 11, 2014, a Probation Deputy advised respondent by letter of his obligation to comply with the conditions of probation, including California Rules of Court, rule 9.20, and the acts specified in subdivisions (a) and (c) of that rule. The Probation Deputy specifically advised respondent of his duty to provide his rule 9.20 Compliance Declaration, which was required by subdivision (c), by May 8, 2014. Respondent received the letter shortly after it was mailed.
4. On March 29, 2014, Supreme Court Order S215548 became effective. Pursuant to the Order, respondent was required to comply with California Rules of Court, rule 9.20 subdivisions (c) by May 8, 2014.
5. On May 12, 2014, a Probation Deputy advised respondent by letter of his obligation to comply with the conditions of probation. The Probation Deputy included a copy of the March 11, 2014, letter. Respondent received the letter shortly after it was mailed. On this same date, a Probation Deputy advised respondent by letter that his 9.20 Compliance Declaration had not been received and had been due on May 8, 2014. Respondent received both these letters shortly after they were mailed.
6. To date respondent has not filed his 9.20 Compliance Declaration.

CONCLUSIONS OF LAW:

7. By failing to file a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20 subdivision (c) within 40 days of the effective date of the 9.20 order, respondent wilfully violated rule 9.20, California Rules of Court.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)):

First Prior

Effective August 9, 2013, in case no. 11-O-16028 [S210429] – Respondent stipulated to a two year stayed suspension, two years of probation and a 90 day actual suspension. The single matter involved violations of 6068(c) [maintaining an unjust action], 6106 [misrepresenting and concealing facts from creditors and the court in a bankruptcy matter], 6103 [violating court order to pay sanctions], 6068(o)(3) [failure to report sanctions], and 6068(i).

Second Prior

Effective March 29, 2014, in case nos. 12-O-17699 and 13-N-16583 [S215548] – Respondent stipulated to a three year stayed suspension, three years of probation and six month actual suspension. The two matters included one client complaint, which involved violations of 3-110(A), 3-700(D)(2) and 6068(i), and a “N” matter from his 1st discipline for filing his 9.20 declaration six weeks late.

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

Pretrial Stipulation: While the facts of this matter are easily provable, respondent has cooperated with the State Bar by entering into this pretrial stipulation as to facts and conclusions of law, prior to hearing, thereby obviating the need for a hearing and saving State Bar 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].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the

standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

The Standard for assessing discipline for a violation of rule 9.20 is set out in the rule itself. Rule 9.20(d) states in pertinent part: "A suspended member's willful failure to comply with the provisions of this rule is a cause for disbarment or suspension. . ."

In this matter, respondent admits to failing to comply with one of the requirements of Supreme Court Order no. S215548, to file a rule 9.20 Compliance Declaration. Standard 1.8(b) states:

"(b) If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:

1. Actual suspension was ordered in any one of the prior disciplinary matters;

...

3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities."

Respondent has two prior disciplines, both of which involved an actual suspension from the practice of law and both of which demonstrate either an unwillingness or inability to conform to his ethical responsibilities. Moreover, respondent has minimal mitigation in the current matter, for his pre-hearing stipulation. Disbarment is appropriate under rule 9.20 and Standard 1.8(b).

For further guidance on the appropriate level of discipline we look to case law, which has stated: "Disbarment is generally the appropriate sanction for a wilful violation of rule 955 [current rule 9.20]." (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131; see also *Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186-1188; *Powers v. State Bar* (1988) 44 Cal.3d 337, 341-342; *In the Matter of Snyder* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 593, 599-601; *In the Matter of Grueneich* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 439, 442-444.)

As discussed above, the aggravating factor of two prior records of discipline outweigh strongly the very modest mitigation of a pre-hearing stipulation. Disbarment is the appropriate discipline, which will protect the public and the administration of justice in the future.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of June 9, 2014, the prosecution costs in this matter are \$2,432. 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.

(Do not write above this line.)

In the Matter of: THADDEUS ZIGMUND WOLNY	Case number(s): 14-N-03273-LMA
---	-----------------------------------

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>8/28/2014</u> Date	<u>Thaddeus Wolny</u> Respondent's Signature	<u>Thaddeus Z. Wolny</u> Print Name
<u>8/29/14</u> Date	<u>Robert A. Henderson</u> Respondent's Counsel Signature	<u>Robert A. Henderson</u> Print Name
	<u>Deputy Trial Counsel's Signature</u>	<u>Print Name</u>

(Do not write above this line.)

In the Matter of:
THADDEUS ZIGMUND WOLNY

Case Number(s):
14-N-03273-LMA

DISBARMENT 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.)

Respondent THADDEUS ZIGMUND WOLNY is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

Sept. 17, 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 September 17, 2014, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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:

THADDEUS ZIGMUND WOLNY
LAW OFFICES OF TED WOLNY
2120 RAILROAD AVE # 103-175
PITTSBURG, CA 94565

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

ROBERT A. HENDERSON, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 17, 2014.



Bernadette C.O. Molina
Case Administrator
State Bar Court