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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Susan I. Kagan Senior Trial Counsel 180 Howard St. San Francisco, CA 94105 (415) 538-2037 Bar # 214209	Case Number(s): 14-O-00094-PEM [14-O-00721; 14-O-02208; 15-O-10806]	For Court use only PUBLIC MATTER FILED AUG 04 2015 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Geoffrey A. Sutliff 9347 Medallion Way Sacramento, CA 95814 (916) 613-7629 Bar # 224566	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: GEOFFREY ALAN SUTLIFF Bar # 224566 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 **April 3, 2003**.
- (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 **18** 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):
- ☐ 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: **three billing cycles following the effective date of the Supreme Court order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline**
- (a) ☒ State Bar Court case # of prior case **06-O-14707. See Attachment at p. 15.**
 - (b) ☒ Date prior discipline effective **March 26, 2007.**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-110(A) [failure to perform] and 3-700(D)(2) [failure to refund unearned fees] and Business and Professions Code section 6068(d) [failing to communicate].**
 - (d) ☒ Degree of prior discipline **Private Reprimand.**
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

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

Additional aggravating circumstances:

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the

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product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pretrial Stipulation. See Attachment at p. 15.

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 fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.
- (2) ☒ **Probation:**
- Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) ☒ **Actual Suspension:**
- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **six months**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

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

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

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

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

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: .
- (5) ☐ **Other Conditions:**

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In the Matter of:
GEOFFREY ALAN SUTLIFF

Case Number(s):
14-O-00094; 14-O-00721; 14-O-02208; 15-O-10806

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
Joshua Pruitt	\$3,000	August 1, 2013
Gregory Shivy	\$5,000	February 15, 2013
Karen Saetes	\$6,000	August 1, 2014

- ☐ 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
Joshua Pruitt	\$150	Monthly
Gregory Shivy	\$250	Monthly
Karen Saetes	\$250	Monthly

- ☒ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- ☐ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GEOFFREY ALAN SUTLIFF

CASE NUMBERS: 14-O-00094; 14-O-00721; 14-O-02208; 15-O-10806

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-O-00094 (Complainant: Joshua Pruitt)

FACTS:

1. On February 8, 2011, Joshua Pruitt ("Pruitt") employed respondent to represent him in the marital dissolution matter, *Banks v. Pruitt*, Sacramento County Superior Court Case No. 09FL00676 ("dissolution matter"). Specifically, Pruitt hired respondent to finalize a Marital Settlement Agreement ("MSA") that the parties had previously negotiated. Pruitt paid respondent \$3,000 as advanced fees in the dissolution matter.

2. On February 8, 2011, respondent substituted in as counsel of record on behalf of Pruitt in the dissolution matter.

3. From December 2011, through December 2012, Pruitt contacted respondent on numerous occasions to request that respondent finalize the MSA. Each time, respondent promised to finalize the MSA.

4. It was not until December 28, 2012, that respondent finalized the MSA. The parties executed the MSA on the same date.

5. Respondent never filed the MSA with the court. After December 28, 2012, respondent failed to perform any work on behalf of Pruitt in the dissolution matter.

6. From March through September 2013, Pruitt contacted respondent on numerous occasions to inquire whether respondent filed the MSA and to request him to finalize the dissolution matter. Each time, respondent promised that he would do work in the matter.

7. On October 9, 2013, respondent met with Pruitt and advised that he was retiring from the practice of law and would no longer represent him in the dissolution matter. On October 9, 2013, respondent and Pruitt executed a substitution of attorney, substituting Pruitt into the matter *pro per*. Thereafter, Pruitt hired another attorney and paid additional fees for representation in the dissolution matter.

8. Respondent did not provide Pruitt an accounting of \$3,000 paid as advanced fees. Respondent did not earn the \$3,000 paid as advanced fees by Pruitt. To date, respondent has not refunded any portion of the \$3,000 to Pruitt.

9. On November 19, 2013, Pruitt filed a complaint against respondent with the State Bar ("Pruitt complaint"). On March 7, 2014, and April 4, 2014, the State Bar sent letters to respondent requesting a response to the allegations in the Pruitt complaint. Respondent received the letters, but failed to respond to them.

CONCLUSIONS OF LAW:

10. By failing to file the MSA and by failing to perform work on the dissolution matter after finalizing the MSA, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

11. By failing to refund \$3,000 in unearned fees to Pruitt at the time of termination, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

12. By failing to provide an accounting of the \$3,000 paid as advanced fees to Pruitt at the time of termination, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

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

Case No. 14-O-00721 (Complainant: Gregory Shivy)

FACTS:

14. On February 13, 2013, Gregory Shivy ("Shivy") employed respondent to represent him in the marital dissolution matter, *Shivy v. Shivy*, Siskiyou County Superior Court Case No. SCCVFL-12-1070 ("dissolution matter"). On February 15, 2013, Shivy paid respondent \$5,000 as advanced fees in the dissolution matter.

15. On February 26, 2013, respondent substituted in as counsel of record on behalf of Shivy in the dissolution matter. Thereafter, respondent failed to perform work on behalf of Shivy in the dissolution matter.

16. During the representation, Shivy requested respondent to draft a Marital Settlement Agreement ("MSA") for filing in the dissolution matter. It was not until September 30, 2013, that respondent provided a draft MSA to Shivy. In November 2013, respondent finalized the MSA and the parties executed the MSA on December 13, 2013.

17. Respondent promised to immediately file the MSA with the court, but never filed the MSA. Upon discovering that the MSA was not filed, Shivy sent a letter to respondent, dated January 12, 2014,

terminating respondent's representation and requesting an accounting of the advanced fees paid by Shivy. Respondent received the letter, but failed to provide an accounting to Shivy.

18. Thereafter, Shivy appeared in the dissolution matter *pro per* and the parties obtained a final judgment on February 28, 2014.

19. Respondent did not earn the \$5,000 paid as advanced fees by Shivy. To date, respondent has not refunded any portion of the \$5,000 to Shivy.

20. On January 24, 2014, Shivy filed a complaint against respondent with the State Bar ("Shivy complaint"). On March 3, 2014, March 21, 2014, and April 4, 2014, the State Bar sent letters to respondent requesting a response to the allegations in the Shivy complaint. Respondent received the letters, but failed to respond to them.

CONCLUSIONS OF LAW:

21. By failing to perform work in the dissolution matter for five months and by failing to file the MSA, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

22. By failing to refund \$5,000 in unearned fees to Shivy at the time of termination, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

23. By failing to provide an accounting of the \$5,000 paid as advanced fees to Shivy at the time of termination, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

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

Case No. 14-O-02208 (Complainant: Mary Ann Maryland)

FACTS:

25. On September 9, 2011, Mary Ann Maryland ("Maryland") employed respondent to represent her in a personal injury matter.

26. On August 16, 2013, Maryland agreed to settle the personal injury matter for \$5,500 and executed a release. Respondent faxed the release to the insurance company.

27. Thereafter, respondent ceased performing any work in the matter and ceased communicating with Maryland. As of August 16, 2013, respondent constructively terminated his employment with Maryland.

28. On August 20, 2013, the insurance company sent a check to respondent in the amount of \$5,500 for full settlement of the personal injury matter. Respondent received the check, but never deposited it.

29. Between August 2013, and February 2014, Maryland called respondent's office on at least 10 occasions and left voicemail messages inquiring about the status of the personal injury matter. Respondent received the voicemails, but failed to respond to them.

30. On April 2, 2014, Maryland filed a complaint against respondent with the State Bar ("Maryland complaint"). On May 12, 2014, and July 15, 2014, the State Bar sent letters to respondent requesting a response to the allegations in the Maryland complaint. Respondent received the letters, but failed to respond to them.

31. Respondent never deposited the \$5,500 check and never paid Maryland her portion of the settlement funds. In December 2014, Maryland received a check directly from the insurance company.

CONCLUSIONS OF LAW:

32. By constructively terminating his employment with Maryland without notifying her or disbursing the settlement funds to her, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

33. By failing to respond to Maryland's requests for a status update in the personal injury matter, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, in willful violation of section 6068(m) of the Business and Professions Code.

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

Case No. 15-O-10806 (Complainant: Karen Saetes)

FACTS:

The Lucero litigation

35. On October 6, 2011, Karen Saetes ("Saetes") employed respondent to represent her in a business dissolution matter. Saetes was seeking to dissolve a partnership and recoup \$100,000 that she invested in the business. On the same date, Saetes paid respondent \$2,000 as advanced fees.

36. On June 19, 2012, respondent filed a complaint on behalf of Saetes against her former business partner in *Saetes v. Lucero*, Sacramento County Superior Court Case No. 34-2012-00126247 ("the Lucero litigation").

37. Lucero never filed an answer to the complaint.

38. Respondent prepared a request for entry of default and judgment against Lucero in the amount of \$100,440, but failed to file it and failed to take any further action in the Lucero litigation.

39. On June 14, 2013, the court issued a notice of hearing, scheduling trial on December 10, 2013. Respondent received the notice of hearing, but failed to inform Saetes of the trial date.

40. On August 6, 2013, based on respondent's request, Saetes paid him additional \$2,500 as advanced fees in the Lucero litigation.

41. On December 10, 2013, the matter was called for trial. Respondent failed to appear at the trial. Saetes also failed to appear because she was unaware of the trial date. On the same date, the court issued an order dismissing the Lucero litigation. Respondent received notice of the dismissal, but failed to inform Saetes of the dismissal and failed to take any further action on behalf of Saetes in the Lucero litigation.

42. Ultimately, Saetes did not recover any portion of her investment; her partner threatened to file for bankruptcy if Saetes ever attempted to collect.

The Conrad litigation

43. On February 21, 2013, the landlord of the commercial property rented by Saetes' business filed a complaint for breach of contract against Saetes in *Conrad v. Saetes*, Sacramento County Superior Court Case No. 34-2013-001400408 ("Conrad litigation").

44. On March 28, 2013, Saetes was served with the complaint.

45. On April 16, 2013, Saetes employed respondent to represent her in the Conrad litigation. On the same date, Saetes paid respondent \$1,500 as advanced fees.

46. Respondent did not immediately file an answer to the complaint.

47. It was not until May 2, 2013, that respondent provided the answer to Saetes to review and sign the verification. Respondent did not file the answer until May 3, 2013. In the meantime, on May 2, 2013, Conrad filed a request for entry of default against Saetes for failing to file an answer to the complaint. Respondent received a copy of the request for entry of default, but failed to inform Saetes of the request for entry of default.

48. On July 15, 2013, Conrad filed a request for judgment against Saetes in the amount of \$309,858.66. Respondent received a copy of the request for judgment, but failed to inform Saetes of the request for judgment.

49. On August 13, 2013, respondent filed a notice of motion for order vacating and setting aside the default. Respondent noticed the hearing for September 10, 2013.

50. On August 21, 2013, Conrad filed an opposition to respondent's motion based on insufficient notice of the hearing. Respondent received the opposition.

51. Respondent's service was arguably proper under the rules, however, after receiving the opposition, respondent did not file a reply or appear and make an argument at the hearing on September 10, 2013. On September 10, 2013, the court issued an order dropping respondent's motion due to insufficient service. Respondent received the court's order, but failed to inform Saetes that he failed to set aside the default. Respondent attempted to negotiate with Conrad to set aside default, but the parties could not reach an agreement. Thereafter, respondent took no further action on behalf of Saetes in the Conrad litigation.

52. On January 24, 2014, judgment was entered against Saetes in the amount of \$309,858.66. Respondent received notice of the judgment, but failed to inform Saetes of the judgment and failed to take any further action in the Conrad litigation.

53. In August 2014, Saetes first learned of the judgment and immediately contacted respondent. On August 24, 2014, respondent sent Saetes a text message apologizing for his performance and promising to assist her with the Conrad litigation. Saetes subsequently hired new counsel to represent her in the Conrad litigation and the parties were able to reach a settlement. However, respondent did not assist Saetes, or her new counsel, in any way during the pendency of the Conrad litigation and respondent never refunded any money to Saetes.

54. In total, Saetes paid respondent \$6,000 as advanced fees for representation in the Lucero litigation and the Conrad litigation. At no time after termination of employment did respondent provide Saetes with an accounting. Respondent did not earn the \$6,000 paid as advanced fees by Saetes. To date, respondent has not refunded any portion of the \$6,000 to Saetes.

55. On January 29, 2015, Saetes filed a complaint against respondent with the State Bar ("Saetes complaint"). On March 19, 2015, April 14, 2015 and April 16, 2015, the State Bar sent letters to respondent requesting a response to the allegations in the Saetes complaint. Respondent received the letters, but failed to respond to them.

CONCLUSIONS OF LAW:

56. By failing to file a request for entry of default in the Lucero litigation, by failing to notify Saetes of the trial date in the Lucero litigation, by failing to appear for trial in the Lucero litigation, by failing to notify Saetes of the dismissal of the Lucero litigation, by failing to perform any work after drafting the request for entry of default in the Lucero litigation, by failing to timely file the answer to the complaint in the Conrad litigation, by failing to inform Saetes that a request for entry of default and judgment were filed against her in the Conrad litigation, by failing file a reply to the plaintiff's opposition to the motion to set aside the default or appear and make an argument make an argument at the hearing on September 10, 2013, in the Conrad litigation, by failing to notify Saetes that a judgment had been entered against her in the Conrad litigation and by failing to perform any work after attempting to negotiate with Conrad to set aside the default in the Conrad litigation, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

57. By failing to refund \$6,000 in unearned fees to Saetes at the time of termination, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

58. By failing to provide an accounting of the \$6,000 paid as advanced fees to Saetes at the time of termination, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

59. By failing to notify Saetes of the trial date in the Lucero litigation, by failing to notify Saetes of the dismissal of the Lucero litigation, by failing to inform Saetes that a request for entry of default and judgment were filed against her in the Conrad litigation and by failing to notify Saetes that a judgment had been entered against her in the Conrad litigation, respondent failed to keep his client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of section 6068(m) of the Business and Professions Code.

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

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has a prior record of discipline in Case No. 06-O-14707, effective March 26, 2007. Respondent was privately reprovved for misconduct in one client matter in 2006 for failing to perform and failing to refund unearned fees in violation of rules 3-110(A) and 3-700(D)(2) of the Rules of Professional Conduct and failing to communicate with the client in violation of section 6068(m) of the Business and Professions Code.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent's 16 acts of misconduct represent multiple acts of wrongdoing.

Harm (std. 1.5(j)): Respondent significantly harmed all four clients. Pruitt had to hire new counsel to represent him in the dissolution matter after having paid \$3,000 in fees to respondent. Shivy had to complete the dissolution matter on his own after having paid \$5,000 in fees to respondent. Maryland was deprived of her settlement funds for more than a year. Saetes had to hire new counsel to represent her in the Conrad litigation after having paid \$6,000 in fees to respondent.

Failure to Make Restitution (std. 1.5(m)): To date, respondent failed to refund unearned fees to Mr. Pruitt, Mr. Shivy and Ms. Saetes .

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].) However, any mitigation credit is tempered by respondent's failure to cooperate in the investigations.

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing

with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

In this matter, respondent admits to committing 16 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 2.7(b), which applies to respondent’s failure to perform in four client matters. Standard 2.7(b) provides: “Actual suspension is the presumed sanction for performance, communication, or withdrawal violations in multiple client matters, not demonstrating habitual disregard of client interests.” Standard 1.8(a) also applies since respondent has a prior record of discipline. Standard 1.8(a) provides: “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.”

Here, respondent committed misconduct in four client matters. Respondent failed to perform in all four matters, failed to refund unearned fees and provide an accounting in three of the matters and failed to communicate in two of the matters. Respondent also failed to cooperate in all four State Bar investigations. Respondent’s misconduct is serious.

To determine the appropriate level of discipline, consideration must also be given to the aggravating and mitigating circumstances. In aggravation, respondent has a prior record of discipline for similar misconduct in 2006. Given that respondent started committing similar misconduct only four years after he was disciplined for his prior misconduct, it would not be manifestly unjust to impose greater discipline in this matter in accordance with standard 1.8(a). Also in aggravation, respondent committed multiple acts of misconduct, caused significant harm to his clients and has failed to make restitution.

Respondent is entitled to mitigation for entering into a pretrial stipulation, but any mitigation is tempered by his failure to cooperate in the investigations.

In light of the serious misconduct, factors in aggravating and limited mitigation, a lengthy actual suspension is appropriate under the standards.

Case law is instructive. In *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, the court recommended a six-month stayed suspension for an attorney who failed to perform in a criminal appellate and habeas corpus proceedings, failed to obey court orders and failed to report sanctions in a single client matter. In aggravation, the court found multiple acts of misconduct and harm. In mitigation, the court found no prior record of discipline in 17 years of practice, no further misconduct, good character and cooperation for entering into a fact stipulation.

Respondent's misconduct is much more egregious than that in *Riordan* since respondent committed misconduct in four client matters. In addition, respondent has more factors in aggravation, most significantly, a prior record of discipline for similar misconduct, and fewer factors in mitigation. In light of the foregoing, discipline above that recommended in *Riordan* is appropriate.

On balance, a six-month actual suspension is necessary to protect the public and serve the purposes of attorney discipline.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
14-O-02208	Nine	3-110(A)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 21, 2015, the prosecution costs in this matter are \$10,117. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of:
GEOFFREY ALAN SUTLIFF

Case number(s):
14-O-00094; 14-O-00721; 14-O-02208; 15-O-10806

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.

7/22/15

Date


Respondent's Signature

Geoffrey A. Sutliff

Print Name

7/27/15

Date


Respondent's Counsel Signature

N/A

Print Name

Susan I. Kagan

Senior Trial Counsel's Signature

(Do not write above this line.)

In the Matter of: GEOFFREY ALAN SUTLIFF	Case Number(s): 14-O-00094; 14-O-00721; 14-O-02208; 15-O-10806
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ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☒ All Hearing dates are vacated.

1. On p. 1, delete respondent's zip code "95814" and substitute in its stead: "95826."
2. On p. 2, B. (1)(b), delete "March 26, 2007" and substitute in its stead: "April 16, 2007."
3. On p. 2, B. (1)(c), delete "6068(d)" and substitute in its stead: "6068(m)."
4. On p. 15, paragraph "Prior Record of Discipline," 2nd line, delete "March 26, 2007" and substitute in its stead: "April 16, 2007."

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date August 4, 2015 Cat McElroy
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, On August 4, 2015, I deposited a true copy of the following document(s):

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

in a sealed envelope for collection and mailing on that date as follows:

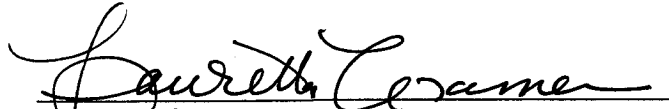
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

GEOFFREY A. SUTLIFF
9347 MEDALLION WAY
SACRAMENTO, CA 95826

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

Susan I. Kagan, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 4, 2015.


Laurretta Cramer
Case Administrator
State Bar Court