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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>STAYED SUSPENSION</b>		
Counsel For The State Bar  <b>Lori Brodbeck</b> <b>Contract Attorney</b> <b>845 S. Figueroa Street</b> <b>Los Angeles, CA 90017</b> <b>(213) 765-1075</b>  Bar # 291116	Case Number(s): <b>14-O-00148</b>	For Court use only  <b>FILED</b>  <b>MAR 10 2015 P.B.</b>  STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent  <b>Michael A Younge</b> <b>180 N Riverview Dr Ste 210</b> <b>Anaheim, CA 92808</b>  Bar # 170929	Submitted to: <b>Settlement Judge</b>	
In the Matter of: <b>MICHAEL ANTHONY YOUNGE</b>  Bar # 170929  A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **June 7, 1994**.
- (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 **11** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs are added to membership fee for calendar year following effective date of discipline.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **the three billing cycles following the effective date of the Supreme Court order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

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

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2)  **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **See Attachment, Page 9.**
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment, Page 9.**

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- (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**

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(Effective January 1, 2014)

Stayed Suspension

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**No Prior Discipline. See Attachment, Page 9.  
Pre-Filing Stipulation. See Attachment, Page 9.**

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **1 year**.

- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:

The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent is placed on probation for a period of **1 year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

**E. Additional Conditions of Probation:**

- (1)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  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.
- (3)  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.
- (4)  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.

- (5)  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.

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- (6)  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.
- (7)  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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8)  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.
- (9)  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 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 within one year. **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)  **Other Conditions:**



9. On February 21, 2011, respondent mailed a letter stating his intent to file the UIM claim with Wawanesa so that Ms. Belt might be fully compensated. On March 7, 2011, Wawanesa acknowledged receipt of respondent's letter making a claim for UIM benefits. Wawanesa stated the demand package would need to include a letter of representation, a list of liens, and a confirmation of the underlying settlement. However, respondent never sent the requested documents, despite 12 letters from Wawanesa between March 2011 and January 2012, asking for the documentation.

10. On January 23, 2012, Wawanesa wrote respondent stating that they were unable to conclude their investigation of the claim because he had not submitted the requested documentation. On September 10, 2013, Wawanesa closed Ms. Belt's case after receiving no response to their letters.

11. During the period of representation, Ms. Belt made several requests for status updates. Respondent failed to respond to Ms. Belt's multiple status requests, including three written requests on June 14, 2011, July 8, 2011, and April 10, 2013. Ms. Belt further requested her file several times since May 2011 through mail, email, and fax.

12. Ms. Belt asked a paralegal to help obtain her file from respondent. The paralegal spoke with respondent in November 2013 and again requested the file. Respondent would not verify his address where the file could be picked up and then failed to return subsequent phone calls. Respondent never turned the file over to Ms. Belt.

13. Respondent placed Ms. Belt's file in storage by mistake as he moved offices four times between May 2011 and September 2013. Respondent constructively terminated his representation of Ms. Belt when he failed to prosecute the UIM claim and failed to communicate with Ms. Belt after May 2011.

14. The defendant's insurance carrier, Access General Insurance Adjusters, Inc. (Access), issued another check to Ms. Belt for \$4,000 on October 30, 2014. Ms. Belt also received the necessary documentation from Access General, and is now completing her UIM demand package.

#### CONCLUSIONS OF LAW:

15. By failing to respond promptly to several reasonable status inquiries by respondent's client, Bun Belt, between May 2011 and November 2013, respondent willfully violated Business and Professions Code, section 6068(m).

16. By failing to file or otherwise continue prosecution of an underinsured motorist claim on behalf of Bun Belt, respondent recklessly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

17. By failing, upon constructive termination of employment in May 2011, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, Bun Belt, by failing to take action on Ms. Belt's underinsured motorist claim with her insurance carrier and failing to inform Ms. Belt of his withdrawal, respondent willfully violated the Rules of Professional Conduct, rule 3-700(A)(2).

18. By failing to release promptly, after constructive termination of respondent's employment in May 2011, to respondent's clients, Bun Belt, all of the client's papers and property following the client's numerous requests for the file since May 2011, respondent willfully violated the Rules of Professional Conduct, rule 3-700(D)(1).

## AGGRAVATING CIRCUMSTANCES.

**Significant Harm to Client and the Public, Standard 1.5(f):** Respondent's abandonment and failure to provide the client's files and documents caused significant harm to his client. Respondent's misconduct prevented Ms. Belt from obtaining relief through a UIM claim for four years. After the commencement of the State Bar investigation and through Ms. Belt's own efforts, she received her settlement check and completed her UIM claim with her insurance company seven years after her loss. (*In the Matter of Copren* (2005) 4 Cal. State Bar Ct. Rptr. 861, 864-66 (member harmed client by depriving her of \$750 in funds); *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 283 (delay of claim's resolution for five years constitutes significant harm).)

**Multiple Acts of Misconduct, Standard 1.2(b)(ii):** Respondent committed multiple acts of misconduct, specifically violations of Rules of Professional Conduct, rule 3-110(A) (failure to perform), rule 3-700(D)(1) (failure to return client's file), rule 4-100(A) (failure to deposit settlement funds into a client trust account), and Bus. & Prof. Code Section 6068(m) (failure to communicate significant developments in the case and after client's reasonable inquiries). (*In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 105; *In the Matter of Seltzer* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263, 270.)

## ADDITIONAL MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent had been in practice for nearly 17 years at the time of the misconduct. While respondent's misconduct is serious, his nearly-17-years of discipline-free practice is entitled to significant weight in mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 (over ten years is worth significant weight in mitigation).)

**Pre-filing Stipulation:** Respondent is entering into this stipulation as to facts and culpability prior to filing the Notice of Disciplinary Charges and therefore is entitled to mitigation. (*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 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 the 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 discipline 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 that 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 most severe sanction applicable to respondent's misconduct is found in standard 2.15 (applicable to any violation not specifically listed in the standards, such as failing to release client's file, rule 3-700). Standard 2.15 provides that a member may be suspended for a period not to exceed three years or receive a reproof. After reviewing the aggravating and mitigating circumstances, as discussed below, the most appropriate discipline to impose is a 1-year stayed suspension with 1-year of probation.

The gravamen of respondent's misconduct is an effective abandonment of Ms. Belt's case and the attendant fall-out. Respondent's misconduct is aggravated by multiple acts. Respondent never released the file to Ms. Belt. Respondent ignored the multiple times Ms. Belt requested the file since 2011. Respondent admits he did not file the UIM demand package and did not respond to requests for information because he could not locate the file. He effectively abandoned Ms. Belt and prevented her from pursuing her UIM claim for nearly four years, causing her harm.

However, in mitigation, respondent has nearly 17 years of discipline-free practice prior to committing the misconduct in this case. Ten years of discipline-free practice is worth significant weight. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596.) Respondent is also entitled to mitigation for agreeing to settle this matter early. Based on the nature of his misconduct, the standards, the aggravation, and mitigation, discipline at the lowest end of the range is not appropriate. The imposition of a 1-year stayed suspension and 1-year probation would fulfill the primary purposes of discipline, which are the protection of the public, the maintenance of the highest professional standards and preservation of public confidence in the legal profession.

Case law, too, supports this level of discipline. The Supreme Court found that a member who failed to competently perform, failed to communicate, and failed to properly withdraw in two client-matters, considering several mitigating and aggravating factors, should be placed on a 6-month stayed suspension with 30-days of actual suspension and 1-year of probation was adequate to meet the purposes of discipline. (*Smith v. State Bar* (1985) 38 Cal.3d 525, 540-42.) While this case involves only one-client matter, because of the abandonment, lost file and settlement check, and 4-year delay in the resolution in Ms. Belt's claim, a stayed suspension is necessary to achieve the purposes of attorney discipline. Balancing the respondent's violations in this case with the mitigating and aggravating factors, the appropriate discipline would be a 1-year stayed suspension and 1-year of probation, with the usual conditions.

#### **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.)

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In the Matter of: MICHAEL ANTHONY YOUNGE	Case number(s): 14-O-00148
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**SIGNATURE OF THE PARTIES**

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

2-9-15      Michael A Young      MICHAEL A YOUNGE  
Date                  Respondent's Signature                  Print Name

2/17/15      [Signature]      SUE HONG  
Date                  Deputy Trial Counsel's Signature                  Print Name

(Do not write above this line.)

In the Matter of: MICHAEL ANTHONY YOUNGE	Case Number(s): 14-O-00148
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### STAYED 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:

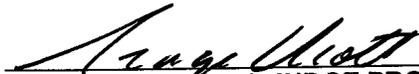
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

1. On page 9 of the stipulation, the paragraph beginning "Multiple Acts of Misconduct," "rule 4-100(A) (failure to deposit settlement funds into a client trust account)," is deleted as no rule 4-100(A) violation was found under "Conclusions of Law" on page 8; and

2. On page 9 of the stipulation, the paragraph beginning "Multiple Acts of Misconduct," the following is added as this violation was found under "Conclusions of Law" on page 8: "rule 3-700(A)(2) (failing, upon constructive termination of employment, to take reasonable steps to avoid foreseeable prejudice to respondent's client.)"

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.)**

3-10-15  
Date

  
GEORGE E. SCOTT, JUDGE PRO TEM  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on March 10, 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 Los Angeles, California, addressed as follows:

**MICHAEL A. YOUNGE  
MICHAEL A YOUNGE  
180 N RIVERVIEW DR STE 210  
ANAHEIM, CA 92808**

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

**Sue K. Hong, Enforcement, Los Angeles**

**Terrie Goldade, Probation, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 10, 2015.



\_\_\_\_\_  
Paul Barona  
Case Administrator  
State Bar Court