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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Charles T. Calix Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1000 Bar # 146853	Case Number(s): 14-O-01300, 14-O-03032, 14-O-03834, 14-O-04348 - DFM	For Court use only <div style="text-align: center;"> <p>FILED</p> <p>MAR 18 2015 <i>YHC</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> </div>
In Pro Per Respondent Al F. Amer 110 W. Ocean Boulevard, Suite 15 Long Beach, CA 90802 (866) 431-2637 Bar # 199745	<div style="font-size: 2em; font-weight: bold; margin: 0;">PUBLIC MATTER</div>	
In the Matter of: AL FADEL AMER Bar # 199745 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input 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 **November 25, 1998**.
- (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 **16** 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):
- 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: **two 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(f) & 1.5]. Facts supporting aggravating circumstances are required.

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

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- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment at page 11.**
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ 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. **See Attachment at pages 11 and 12.**
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

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- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No Prior Discipline: See Attachment at page 12.

Family Problems: See Attachment at page 12.

Pretrial Stipulation: See Attachment at page 12.

D. Discipline:

- (1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of **two years**.

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

- (b) The above-referenced suspension is stayed.

- (2) **Probation:**

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

- (3) **Actual Suspension:**

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **60 days**.

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

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (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

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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.**

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- 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: AL FADEL AMER	Case Number(s): 14-O-01300, 14-O-03032, 14-O-03834, and 14-O-04348 - DFM
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reproval), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

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

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- 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";

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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: AL FADEL AMER

CASE NUMBERS: 14-O-01300, 14-O-03032, 14-O-03834, and 14-O-04348 - DFM

FACTS AND CONCLUSIONS OF LAW.

Al Fadel Amer (“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-01300 (Complainant: Shirley McIntire Davis)

FACTS:

1. On January 11, 2001, Doyle Davis (“Doyle”) was convicted of robbery and found to have six prior convictions within the meaning of the Three Strikes Law. On May 15, 2001, Doyle was sentenced to 40-years to life. On April 9, 2002, the judgment was affirmed by the Court of Appeal. On June 19, 2002, the Supreme Court denied review.
2. In 2002, Doyle filed a writ of habeas corpus, which was denied.
3. In September 2009, Shirley McIntire Davis (“Shirley”) hired respondent to file a writ of habeas corpus on behalf of her husband Doyle.
4. On July 28, 2010, respondent’s investigator obtained a declaration from Doyle’s daughter, Sparkle Davis, wherein she declared under penalty of perjury that her cousin, David Green (“Green”), told her that he committed the robbery that Doyle was convicted of committing and that he was going to accept responsibility for the robbery. Respondent received the declaration.
5. On October 25, 2011, respondent’s investigator obtained a declaration from Green wherein he declared under penalty of perjury that he committed the crime that Doyle was convicted of committing. Respondent received the declaration.
6. On April 10, 2013, respondent filed the writ of habeas corpus on behalf of Doyle.
7. Upon receiving the writ, the State argued, inter alia, that it was untimely because of the delay in filing it after obtaining the declaration of David Green. Although the Court found that the writ was untimely, it was also denied because the Court found that Green lacked credibility.
8. On March 26, 2014 and April 10, 2014, the State Bar faxed and mailed letters to respondent requesting that he provide a written response to the allegations of misconduct in case no. 14-O-01300 on or before April 9, 2014 and April 17, 2014, respectively. Respondent received the letters, but did not respond to either of them or otherwise contact the State Bar to respond to the allegations.

CONCLUSIONS OF LAW:

9. By failing to file the writ between October 25, 2011 and April 10, 2013, respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

10. By failing to respond to the letters from the State Bar dated March 26, 2014 and April 10, 2014, requesting that he provide a written response to the allegations of misconduct in case no. 14-O-01300, respondent violated Business and Professions Code section 6068(i).

Case Nos. 14-O-03032, 14-O-03834, and
14-O-04348 (State Bar Investigations)

FACTS:

11. On November 18, 2013, respondent opened his own law firm and began taking cases other than criminal law matters. Prior to that, he focused exclusively on criminal law matters.

12. On February 18, 2014, respondent opened his first client trust account at JP Morgan Chase Bank, N.A. ("Chase"), Account Number xxxxxxxxxxxx8310 ("CTA"), with a starting account balance of \$0. Respondent did not know or take action to learn his statutory and ethical obligations regarding his CTA prior to opening it.

13. On February 26, 2014, March 7, 2014, and March 11, 2014, respondent deposited personal funds of \$2,000, \$500, and \$2,500 into his CTA. Within three days of each of those deposits, he issued payments totaling at least the amount of each deposit.

14. Between February 21, 2014 and September 2, 2014, respondent issued a check and issued electronic payments drawn from his CTA to pay personal expenses against insufficient funds ("NSF"), including the following:

CHECK NUMBER	DATE ISSUED	PAYEE	AMOUNT	DATE PAID	ACCOUNT BALANCE
7837	2/21/2014	Law Office of Joe Dane	\$250	NSF	\$125
Electronic	3/18/2014	Anthem Blue Cross	\$1,745.80	NSF	\$100
Electronic	6/9/2014	Achma Visb	\$1,000	NSF	\$100
Electronic	6/13/2014	Achma Visb	\$1,532.99	NSF	\$100
Electronic	6/16/2014	Capital One	\$500	NSF	\$100
Electronic	7/16/2014	Capital One	\$560	NSF	\$100
Electronic	9/2/2014	Achma Visb	\$2,528.84	NSF	\$390

15. Between March 18, 2014 and September 2, 2014, respondent repeatedly issued six electronic payments drawn from personal funds he deposited into his CTA to pay his personal expenses, including, but not limited to, the following:

CHECK NUMBER	DATE ISSUED	PAYEE	AMOUNT	DATE PAID
Electronic	3/18/2014	Anthem Blue Cross	\$1,745.80	NSF
Electronic	6/9/2014	Achma Visb	\$1,000	NSF

Electronic	6/13/2014	Achma Visb	\$1,532.99	NSF
Electronic	6/16/2014	Capital One	\$500	NSF
Electronic	7/16/2014	Capital One	\$560	NSF
Electronic	9/2/2014	Achma Visb	\$2,528.84	NSF

16. Respondent issued the electronic payments set forth above when he knew or should have known that there were insufficient funds in this CTA to pay them.

17. On June 4, 2014, August 8, 2014, August 19, 2014, and October 2, 2014, the State Bar mailed letters to respondent requesting that he provide written responses to the allegations of misconduct concerning the payments for personal expenses and NSF payments from his CTA on or before June 18, 2014, August 22, 2014, September 2, 2014, and October 17, 2014, respectively. Respondent received the letters, but did not respond to them or otherwise contact the State Bar to respond to the allegations.

CONCLUSIONS OF LAW:

18. By repeatedly depositing personal funds into his CTA and issuing electronic payments from his CTA to pay personal expenses, respondent commingled funds in a client trust account in violation of rule 4-100(A), Rules of Professional Conduct.

19. By issuing a check and electronic payments drawn on his CTA to pay personal expenses when he knew or should have known that there were insufficient funds to pay the check or electronic payments, respondent committed acts involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106.

20. By failing to respond to the letters from the State Bar dated June 4, 2014, August 8, 2014, August 19, 2014, and October 2, 2014, requesting that he provide a written response to the allegations of misconduct concerning the payments for personal expenses and NSF payments from his CTA, respondent violated Business and Professions Code section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Multiple acts of wrongdoing (Std 1.5(b)): Respondent's failure to perform with competence, commingling, issuance of NSF checks, and failure to cooperate in four State Bar investigations constitutes multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Good Character (Std. 1.6(f)): Respondent presented letters attesting to his good character, knowledge, skill, dedication to his clients from two Judges of the Superior Court who have known respondent for at least five years, were aware of the allegations against him, and who hold him in the highest regard. Respondent also presented letters from an attorney who has known respondent for 15 years, an associate attorney who has worked for respondent for three years, and a private investigator who has worked with respondent for 10 years. Each attested that they were aware of the full extent of his misconduct, and that respondent demonstrates excellent moral character, skill, and dedication to his clients. Respondent also presented letters from his ex-wife and four clients, including a client to whom he provided pro bono services. Each declarant attested to their awareness of the full extent of respondent's alleged misconduct, and their belief that respondent is of excellent character. They also

attested to his compassion, professionalism, and skill, and that they would hire him or refer him to family or friends

No Prior Discipline: Respondent has been a member of the State Bar since November 25, 1998, and had no prior record of discipline before the misconduct began in October 2011. Although his misconduct is serious, respondent is entitled to mitigation for no prior record of discipline. (See *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [attorney's practice of law for more than 10 years' worth significant weight in mitigation].)

Family Problems: Beginning in late 2013, marital relations between respondent and his spouse of 15 years deteriorated and in January 2014, respondent constructively moved out of the family residence. In November 2014, they formally separated and his spouse filed for divorce, which was resolved by stipulated judgment in February 2014. The divorce and separation from his three children (ages 14, 11, and 9) caused significant emotional stress coupled with financial distress. Numerous character witnesses attested that the divorce and separation from his children caused significant emotional stress to respondent. The stress caused depression, fatigue, apathy, irritability, and inability to concentrate that impacted his law practice and contributed to the misconduct as it relates to the allegations concerning his CTA. While respondent still maintains a CTA, he has read the Handbook on Client Trust Accounting for California Attorneys published by the State Bar of California and will attend the Client Trust Accounting School by way of this Stipulation. (See *Rose v. State Bar* (1989) 49 Cal.3d 646, 667 [family difficulties and other stressful emotional difficulties may be considered in mitigation]; and *In re Naney* (1989) 47 Cal.3d 725 [emotional problems resulting from familial problems can be mitigating circumstances when they are extreme and are directly responsible for the misconduct].)

Between 2009 and 2013, respondent's real estate investments were dramatically impacted by the recession that was affecting the U.S. economy. As a result of the recession, respondent was forced to short sell three real properties between 2009 and 2011, lost two real properties to foreclosure in 2009, and lost five more to foreclosure between 2011 and August 2013. Respondent's attempts to hold on to the properties and the loss of the properties caused significant financial loss and substantial emotional distress, which caused depression and anxiety that impacted his law practice and contributed to the misconduct set forth in case number 14-O-01300. (See *In the Matter of Mapps* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1, 13 [misconduct attributed to financial difficulties may be considered in mitigation].)

Pretrial Stipulation: Respondent has demonstrated candor and cooperation to the State Bar during the disciplinary proceeding by executing a Stipulation of Facts And Admission of Documents that establishes the misconduct in case numbers 14-O-03032, 14-O-03834, and 14-O-04348. (See *In the Matter of Jensen* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283, 291 [admitting culpability is entitled to considerable weight]; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [mitigation is accorded to those who willingly admit their culpability as well as the facts].) Here, the facts in these matters could have been proven by documentary evidence. Also, his cooperation is tempered by the fact that he did not provide written responses to the State Bar investigations. However, by entering into this stipulation prior to trial, respondent has acknowledged his wrongdoing and conserved the time and resources of the State Bar Court and State Bar. (See *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 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 has committed five acts of professional misconduct. Standard 1.7(a) requires that where an attorney “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 2.2(a), which applies to respondent’s acts of commingling in violation of rule 4-100(A). Standard 2.2(a) provides that an actual suspension of three months is appropriate

Here, respondent deposited personal funds into his CTA on three occasions and issued six payments for personal expenses. The purpose of rule 4-100(A) is “to provide against ... the danger in all cases that such commingling will result in the loss of clients’ money.” [Citation.]” (*Heavey v. State Bar* (1976) 17 Cal.3d 553, 558.) It is well-established that an attorney is culpable of misconduct whenever the attorney fails to manage funds in a manner designated by the rules, even if no person is injured. (*Guzetta v. State Bar* (1987) 43 Cal. 3d 962, 976.) Disbursing funds from a client trust account to pay personal expenses constitutes a violation of rule 4-100(A). (*Doyle v. State Bar* (1982) 32 Cal.3d 12, 22-23 [rule 4-100(A) “bars use of the trust account for personal per purposes”].) Accordingly, under standard 2.2(a), an actual suspension of three months would be appropriate in the instant matter.

In addition, respondent issued seven CTA payments against insufficient funds in violation of Business and Professions Code section 6106. “An attorney’s practice of issuing checks which he knows will not be honored violates “the fundamental rule of ethics--that of common honesty--without which

the profession is worse than valueless in the place it holds in the administration of justice.” (*Alkow v. State Bar* (1952) 38 Cal.2d 257, 264, quoting *Tatlow v. State Bar* (1936) 5 Cal.2d 520, 524.) Such conduct involves moral turpitude. (*In the Matter of Heiser* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 47, 54.)

While standard 2.2(a) calls for an actual suspension of three months, under the current circumstances, there are justifications and reasons to deviate from that level of discipline and impose lesser discipline. (*In re Silverton* (2005) 36 Cal.4th 81 92.) Standard 1.7(c) states that mitigating and aggravating circumstances “should be considered alone and in balance ... and if the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard.” Standard 1.7(c) further states that “a lesser sanction is appropriate in cases of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future.”

Although respondent had practiced law for 16 years, he had no experience in operating a client trust account. Although respondent’s failure to learn his statutory and ethical obligations to his CTA directly contributed to his misconduct, his failure to learn his obligations occurred during a period of significant family and financial problems. Respondent deposited personal funds into his CTA on three occasions and used his CTA to pay personal expenses on six occasions, demonstrating a misuse and mismanagement of his CTA. However, there is no evidence to suggest that he misappropriated client funds or that any client was harmed as a result of his misconduct. Respondent’s 16 years in practice without prior discipline and evidence of good character demonstrates that the misconduct in these matters is aberrant conduct caused by the convergence of family and financial problems, and that he is willing and able to conform to ethical responsibilities in the future.

The level of discipline is also supported by case law. In *Bach v. State Bar* (1991) 52 Cal.3d 1201, the Supreme Court ordered Bach be suspended from the practice of law for one year, execution of suspension be stayed, and that he be placed on probation for one year, subject to the condition that he be actually suspended for 30 days for committing misconduct in a single matter. Bach failed to perform legal services with competence, failed to communicate, failed to refund unearned fees, improperly withdrew from representation without the client’s consent, and failed to cooperate in the State Bar’s investigation. In mitigation, Bach practiced law for 26 years with no prior record of discipline. In aggravation, Bach demonstrated a lack of recognition and insight into his misconduct.

Respondent’s misconduct is somewhat similar to Bach’s misconduct, but more serious in that respondent also committed moral turpitude in issuing NSF payments. Bach had no record of prior discipline in 26 years of practice, which is a significant distinction. On balance, *Bach* is sufficiently analogous to the present matter to establish that an actual suspension of 60 days is appropriate given the magnitude of the misconduct in this case balanced against the significant mitigating circumstances.

Accordingly, a two year suspension, stayed, with a three-year period of probation with conditions including a 60 day actual suspension will serve to protect the public, courts, and the legal profession, to maintain high professions standards by attorneys, and to preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 26, 2015, the prosecution costs in this matter are approximately \$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 and State Bar Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

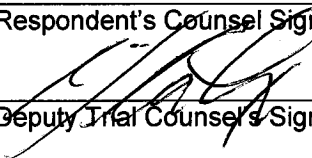
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In the Matter of: AL FADEL AMER	Case number(s): 14-O-01300, 14-O-03032, 14-O-03834, and 14-O-04348 - DFM
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SIGNATURE OF THE PARTIES

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.

2/27/15  Al Fadel Amer
Date Respondent's Signature Print Name

2/27/15  Charles T. Calix
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: AL FADEL AMER	Case Number(s): 14-O-01300 et. seq.
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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 page 1 of the Stipulation, in the second and third boxes on the left, "Bar # 199745" is deleted and in its place is inserted "Bar # 197745"

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 3-16-15 
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 18, 2015, I deposited a true copy of the following document(s):

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

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:

**AL F. AMER
THE AMER LAW FIRM
110 W OCEAN BLVD STE 15
LONG BEACH, CA 90802**

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

CHARLES CALIX, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 18, 2015.



Tammy Cleaver
Case Administrator
State Bar Court