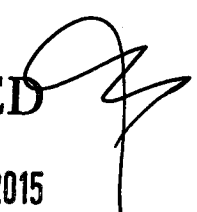


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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Charles T. Calix Senior Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1255 Bar # 146853	Case Number(s): 14-O-06160 - YDR	For Court use only <div style="text-align: center;">  FILED DEC 30 2015 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Al F. Amer The Amer Law Firm 100 Oceangate, Suite 1200 Long Beach, CA 90802 (866) 431-2637 Bar # 197745	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Al Fadel Amer Bar # 197745 A Member of the State Bar of California (Respondent)	(This section is merged into the previous row for layout accuracy)	

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 **14** 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."

 (Effective July 1, 2015)



(Do not write above this line.)

- (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 **14-O-01300, 14-O-03032, 14-O-03834, and 14-O-04384. See Attachment at page 11.**
 - (b) Date prior discipline effective **October 11, 2015.**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code sections 6068(i) [failure to cooperate in State Bar investigation] and 6106 [moral turpitude - issuance of NSF checks], and rules 3-110(A) [failure to perform with competence] and 4-100(A) [commingling personal funds in client trust account].**
 - (d) Degree of prior discipline **Respondent was suspended from the practice of law for two years, execution of which was stayed, and placed on a three-year disciplinary probation with conditions that included a 60-day actual suspension.**
 - (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.

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- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (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.
- (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 page 11.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (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 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 page 11.

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 **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 **90 days**.

(Do not write above this line.)

- 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: **Ethics School is not recommended, because effective October 11, 2015, Respondent was ordered to provide proof of attendance at a session of the Ethics School and passage of the test given at the end of that session to the Office of Probation in Case Nos. 14-O-01300, et al.**
- (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: **Passage of the MPRE is not recommended, because effective October 11, 2015, Respondent was ordered to provide proof of passage during the period of actual suspension or within one year, whichever period is longer, in Case Nos. 14-O-01300, et al.**
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

(Do not write above this line.)

In the Matter of: Al Fadel Amer	Case Number(s): 14-O-06160
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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
Ahmed Shah	\$8,625	November 1, 2011

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

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

- 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";

(Do not write above this line.)

- 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.

9. On July 19, 2012, Khoury sent a letter to Respondent that offered to compromise by allowing Respondent to keep \$4,800 for his fees and costs, if Respondent agreed to refund \$10,000 within 10 days. Respondent received the letter, but did not respond to it.

10. On August 3, 2012, Khoury sent a letter to Respondent that demanded that he refund the full \$14,800 that Ahmed Shah had paid. Respondent received the letter.

11. On August 17, 2012, Respondent sent a letter to Khoury that stated that: (A) Ahmed Shah had paid an initial payment of \$5,000; (B) Ahmed Shah paid 16 monthly payments of \$300 per month to respondent totaling \$4,800; and (C) Respondent worked a total of 17 ½ hours and therefore, earned a total of \$6,125. Respondent enclosed a refund check to Ahmed Shah in the amount of \$3,675.

12. In October 2012, Respondent acknowledged that the initial payment had been \$10,000 and Ahmed Shah was owed an additional \$5,000.

13. On April 23, 2014, the parties agreed during a fee arbitration hearing to settle the matter. The parties, with Respondent represented by his attorney, agreed that Respondent and The Cochran Firm would each pay \$2,500 to Ahmed Shah on or before May 15, 2014, and Respondent would return Mohammed Shah's client file to Ahmed Shah.

14. On May 20, 2014, The Cochran Firm returned the signed settlement agreement to Khoury and paid \$2,500 to Ahmed Shah.

15. Respondent did not sign and return the Settlement Agreement or pay the \$2,500 to Ahmed Shah. After Respondent failed to sign and return the Settlement Agreement or pay the \$2,500 to Ahmed Shah, Khoury reinstated the arbitration hearing.

16. On March 19, 2015, the arbitrator served a non-binding decision that awarded Ahmed Shah \$8,625 and the fee arbitration filing fee of \$828.75, or a total award of \$9,453.75.

17. On April 24, 2015, the decision became binding by operation of Business and Professions Code section 6203(b).

18. Respondent has not paid any portion of the arbitration award, or the \$2,500 to Ahmed Shah.

CONCLUSIONS OF LAW:

19. Between June 9, 2010 and October 2011, Respondent accepted \$14,800 from Ahmed Shah as compensation for representing Mohammed Shah without obtain Mohammed Shah's informed written consent to receive such compensation from Ahmed Shah, in willful violation of the Rules of Professional Conduct, rule 3-310(F).

20. Respondent failed to release promptly, after termination of his employment in October 2011, to Mohammed Shah or Ahmed Shah, all of Mohammed Shah's papers and property following Ahmed Shah's request for the file in October 2011, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

21. Between June 9, 2010 and October 2011, Respondent and The Cochran Firm received advanced attorney's fees of \$14,800 from Ahmed Shah as compensation to prepare and file a Petition for Writ of Habeas Corpus for Mohammed Shah. By failing to return the unearned advanced attorney's fees of \$5,000 or pay the fee arbitration decision award of \$8,625, Respondent failed to refund promptly, upon his termination of employment, any part of the undisputed unearned advanced attorney's fees of \$5,000 or the arbitration award of \$8,625 fee to Ahmed Shah, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Effective October 11, 2015, Respondent was suspended from the practice of law for two years, execution of which was stayed, and placed on a three-year disciplinary probation with conditions that included a 60-day actual suspension in case nos. 14-O-01300, et al. Between October 2011 and April 10, 2013, Respondent failed to prepare and file a Petition for Writ of Habeas Corpus that he had been hired to file in September 2009, in violation of rule 3-110(A), Rules of Professional Conduct [failure to perform with competence], and failed to cooperate with the State Bar in its investigation into the misconduct in violation of Business and Professions Code section 6068(i) [failure to cooperate in State Bar investigation]. Between February 21 2014 and September 2, 2014, Respondent deposited personal funds into his client trust account on three occasions and issued six electronic payments to pay his personal expenses in violation of rule 4-100(A) [commingling], and issued one check and six electronic payments against insufficient funds in violation of Business and Professions Code section 6106 [moral turpitude – issuance of NSF checks].

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's accepting fees from a non-client, failure to return file, and failure to refund unearned fees constitute multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: 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. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low

end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

In this matter, Respondent stipulates that he committed three 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 2.19, which applies to respondent’s violation of rules 3-310(F), 3-700(D)(1) and 3-700(D)(2). Standard 2.19 states that reproof to a suspension not to exceed three years is appropriate for violations of those rules.

Standard 1.8(a) states that 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. Respondent’s prior discipline was neither remote in time because four of the five violations occurred between February 21, 2014 and September 2, 2014, and the Stipulation was filed on March 18, 2015, nor was the previous misconduct not serious in that Respondent stipulated to a 60 day actual suspension for five counts of misconduct. Therefore, the sanction in this matter must be greater than the previously imposed sanction of a 60 day actual suspension pursuant to Standard 1.8(a).

Here, there are no compelling mitigating circumstances. While the majority of the current misconduct occurred prior to or during the misconduct giving rise to the prior record of discipline, Respondent has failed to refund unearned advanced attorney’s fees that he knew he has no right to retain. Consequently, the continuing misconduct appears to demonstrate Respondent’s unwillingness or inability to conform to ethical responsibilities, and therefore, progressive discipline is warranted and consistent with case law as set forth below.

In *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646, the Review Department found that Bach’s misconduct in his first disciplinary proceeding, which was not final at the time of his second disciplinary proceeding, was a factor in aggravation, but was diluted because it occurred before the notice to show cause had been served and therefore, “ ‘does not carry with it as full a need for severity as if the misconduct in the [prior] matter had occurred after respondent had been disciplined and had failed to heed the import of that discipline.’ ” (*In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136.)” In *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619, the Review Department held that the impact of a prior disciplinary matter was diminished because it occurred during the same time as the misconduct in the case at issue, and that any assessment of the appropriate discipline to recommend requires that that we “consider the totality of the discipline would have been had all the charged misconduct in this period been brought in one case.”

In the instant case, Respondent continues to fail to return unearned fees after he has being disciplined and has failed to heed the import of that discipline. In aggravation, Respondent has a prior discipline and committed multiple acts of misconduct.

Following Standards 1.8(a) and 2.19, *In the Matter of Bach, supra*, 1 Cal. State Bar Ct. Rptr. at p. 646, and *In the Matter of Sklar, supra*, 2 Cal. State Bar Ct. Rptr. at p. 619, and considering the gravity of the misconduct, Respondent's failure to heed the import of his prior discipline, the aggravating circumstances, the mitigating circumstances, the imposition of progressive discipline consisting of a two-year stayed suspension and three year probation with conditions, including an actual suspension for 90 days and until he pays restitution of \$8,625 plus interest to Ahmed Shah and compliance with rule 9.20, California Rules of Court, will be sufficient to protect the public, courts, and legal profession as set forth in Standard 1.1.

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-06160	TWO	Rules of Professional Conduct, rule 3-110(A) [Failure to Perform with Competence]
14-O-06160	THREE	Business and Professions Code, section 6068(m) [Failure to Respond to Client Inquiries]
14-O-06160	FIVE	Rules of Professional Conduct, rule 4-100(B)(3) [Failure to Render Accounts of Client Funds]

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of December 23, 2015, the prosecution costs in this matter are the approximate sum of \$7,431. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: Al Fadel Amer	Case Number(s): 14-O-06160
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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.

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

12/29/15

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 December 30, 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:

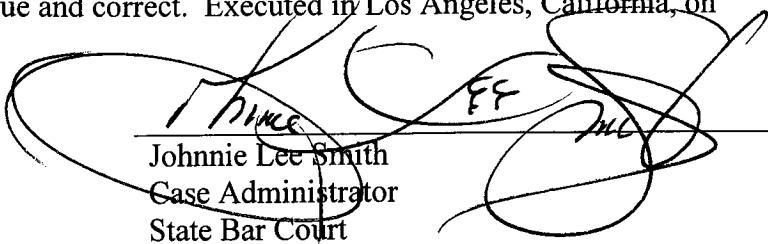
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**AL F. AMER
THE AMER LAW FIRM
PO BOX 90773
LONG BEACH, CA 90809**

- 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 December 30, 2015.


Johnnie Lee Smith
Case Administrator
State Bar Court