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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>Erica L. M. Dennings</b> <b>Senior Trial Counsel</b> <b>180 Howard Street, 7<sup>th</sup> Fl.</b> <b>San Francisco, California 94105</b> <b>Telephone: (415) 538-2285</b>  <b>Bar # 145755</b>	<b>Case Number(s):</b>  <b>15-O-10021-LMA</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>V.A.</i> <b>FEB 23 2017</b>  <b>STATE BAR COURT CLERK'S OFFICE</b> <b>SAN FRANCISCO</b>
<b>Counsel For Respondent</b>  <b>James J. Banks</b> <b>Banks and Watson</b> <b>901 F Street, Suite 200</b> <b>Sacramento, California 95814</b> <b>Telephone: (916) 325-1000</b>  <b>Bar # 119525</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> <b>ILIJIA CVETICH</b>  <b>Bar # 133534</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>		

**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 14, 1988**.
- (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."



(Effective July 1, 2015)

Actual Suspension

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- (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: (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
  - (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) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

- (8) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. See attachment to stipulation, at p. 13.
- (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 to stipulation, at p. 13.
- (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 \$ 12000 on December 13, 2013 in restitution to Mr. Boettner without the threat or force of disciplinary, civil or criminal proceedings. See Attachment to Stipulation, at p. 13.
- (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.

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- (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 to stipulation at p. 13.**
- (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:**

**No prior discipline:** See attachment to stipulation, at p. 14.

**Pre trial stipulation:** See attachment to stipulation, at p. 14.

**Emotional difficulties:** See attachment to stipulation, at p. 14.

**D. Discipline:**

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of **two (2) 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 (3)**, 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 **two (2) 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:

**E. Additional Conditions of Probation:**

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

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

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

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

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

**F. Other Conditions Negotiated by the Parties:**

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

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In the Matter of: <b>Ilija Cvetich</b>	Case Number(s): <b>15-O-10021</b>
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### Medical Conditions

- a. ☐ Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. ☒ Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of **two (2)** times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for \_\_\_\_\_ days or \_\_\_\_\_ months or **two (2)** years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. ☒ Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

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In the Matter of: Ilija Cvetich	Case Number(s): 15-O-10021
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### Substance Abuse Conditions

- a. ☒ Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b. ☒ Respondent must attend at least two (2) meetings per month of:
- ☐ Alcoholics Anonymous
  - ☐ Narcotics Anonymous
  - ☐ The Other Bar
  - ☒ Other program As a condition of probation, and during the period of probation, respondent must attend a minimum of two (2) meetings per month of any abstinence-based self-help group of respondent's choosing, including without limitation Alcoholics Anonymous, Narcotics Anonymous, LifeRing, S.M.A.R.T., S.O.S., etc. Other self-help maintenance programs are acceptable if they include a subculture to support recovery, including abstinence-based group meetings. (See O'Connor v. Calif. (C.D. Calif. 1994) 855 F.Supp. 303 [no First Amendment violation where probationer given a choice between AA and a secular program.]) Respondent is encouraged, but not required, to obtain a sponsor during the term of participation in these meetings.  
The program called "Moderation Management" is not acceptable because it is not abstinence-based and allows the participant to continue consume alcohol.  
Respondent must contact the Office of Probation and obtain written approval for the program respondent has selected prior to attending the first self-help group meeting. If respondent wants to change groups, respondent must first obtain the Office of Probation's written approval prior to attending a meeting with the new self-help group.
- As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10<sup>th</sup>) day of the following month, during the condition or probation period.
- c. ☐ Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d. ☐ Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the

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laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.

- e. ☒ Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

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In the Matter of: <b>Ilija Cvetich</b>	Case Number(s): <b>15-O-10021 - LMA</b>
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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 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:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

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

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

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

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

**d. Client Trust Accounting School**

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

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        ILIJA CVETICH

CASE NUMBER:            15-O-10021

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 15-O-10021 (Complainant: Robert Boettner)

**FACTS:**

1. On October 10, 2010, Robert Boettner ("Boettner") hired respondent to represent him in a worker's compensation case. Boettner had been injured at work and subsequently terminated from his employment at Safelite Group, Incorporated. At that time, Boettner discussed pursuing an employment discrimination case against Safelite, but the parties did not sign a fee agreement for an employment discrimination case. An associate attorney employed by respondent assumed primary responsibility for the workers' compensation case.

2. On or about May 11, 2012, an associate attorney employed by respondent, filed a lawsuit on behalf of Boettner alleging, inter alia, wrongful termination and employment discrimination. *Robert Boettner v. Safelite Group Inc*, Placer County Superior Court case number SCV0031049. The associate filed the complaint with respondent's authority.

3. On January 16, 2013, with respondent's authority, the associate settled the employment lawsuit for \$14,000 less applicable tax withholding amounts required by law for a net amount \$10,475.22. Respondent requested defense counsel provide two separate checks - one payable to Boettner and one payable to respondent for claimed attorneys' fees. Boettner did not authorize anyone to sign the settlement agreement on his behalf. Respondent gave the associate the settlement agreement with Boettner's simulated signature dated January 30, 2013. Thereafter, on February 9, 2013, pursuant to respondent's request and representation that Boettner gave authority, the associate signed Boettner's name on the amendment to the Settlement Agreement and Release of Claims.

4. On February 21, 2013, opposing counsel in the *Safelite* matter sent settlement checks to respondent made payable to Robert Boettner in the amount of \$5,232.42 and made payable to respondent in the amount of \$5,242.80. Respondent did not inform Boettner that he received settlement funds. Boettner did not give respondent authority to sign his name to the settlement check. Respondent forged Boettner's signature on the check made payable to Boettner. Respondent did not promptly pay settlement funds to Boettner.

5. On February 22, 2013, respondent deposited both checks into his client trust account. Respondent did not disburse any payments to or on behalf of Boettner. Between February 22, 2013 and April 9, 2013, respondent had removed all of Boettner's funds from his CTA and misappropriated them for his own use and benefit.

6. On November 20, 2013, Boettner became aware that the Safelite matter had settled.

7. On December 13, 2013, respondent paid Boettner \$12,000 in two checks drawn on his CTA. Respondent paid Boettner with attorney fees from a case that had recently settled but had not yet been withdrawn from the CTA. Respondent also gave Boettner a disbursement sheet showing respondent waived his attorneys' fees.

#### CONCLUSIONS OF LAW:

8. By directing his associate to sign his client's name without the client's authority on the February 9, 2013 amendment to the Settlement Agreement and Release of Claims, respondent forged his client's signature, an act of moral turpitude and dishonesty in willful violation of Business and Professions Code, section 6106.

9. By not informing his client that he received the settlement money in the Safelite matter, respondent failed to notify his client of receipt of settlement funds in willful violation of Rules of Professional Conduct, rule 4-100(B)(1).

10. By forging his client's name on the settlement check, respondent committed an act of dishonesty in willful violation of Business and Professions Code, section 6106.

11. By failing to disburse any portion of the \$10,475.22 to his client from February 12, 2013 until December 13, 2013, respondent failed to promptly pay his client funds to which he was entitled in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

12. By failing to maintain \$10,475.22 on behalf of his client in his CTA, respondent failed to maintain funds on behalf of a client in willful violation of Rules of Professional Conduct, rule 4-100(A).

13. Respondent dishonestly misappropriated \$10,474.22 of his clients, funds, thereby committing an act involving moral turpitude, in willful violation of Business and Professions Code, section 6106.

#### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent committed numerous acts of misconduct in a single client matter: forging his client's signature, failing to inform his client he received settlement funds, failing to disburse the settlement funds, and misappropriating the settlement funds.

**Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)):** The client was deprived of his settlement funds for 10 months.

#### MITIGATING CIRCUMSTANCES.

**Extraordinary Good Character (Std. 1.6(f)):** Respondent provided declarations under penalty of perjury from 14 witnesses, constituting a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct.

## **Additional mitigating Circumstances**

**No Prior Discipline:** Respondent was admitted to the practice of law in California on June 14, 1988 and has no prior record of discipline. Respondent is entitled to significant mitigation for having practiced law for 25 years without discipline. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

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

**Extreme emotional difficulties:** Between 2012 and 2016, respondent experienced extreme emotional distress due to several family and financial issues. These issues caused a strain on his marriage and family life, and caused him to abuse alcohol and feel depressed which resulted in his poor decision making regarding managing his law practice. Respondent underwent therapy from 2014-2016, has stopped supporting other family members (his parents and in laws passed away in 2014 and 2015; his children are all adults and living on their own), and has reduced the size of his office staff and caseload so that it is manageable. Furthermore, respondent has stopped consuming alcohol, and incorporates exercise and good nutrition in order to maintain good mental health and functioning. Respondent provided a psychological evaluation report corroborating the causes of respondent's emotional distress and the effect it had on his law practice.

## **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 admits to committing eight 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 2.1(a), which provides for disbarment for intentional or dishonest misappropriation unless the most compelling mitigating circumstances clearly predominate. This is a case in which the mitigating circumstances clearly predominate. Respondent has no prior record of discipline for 25 years, he repaid the money to his client before the State Bar complaint was filed, he demonstrated good character, he experienced extreme emotional and financial difficulties which contributed to the misconduct, and he cooperated in entering into a pre-trial stipulation.

The Supreme Court has not disbarred attorneys who have intentionally misappropriated client funds when various mitigating circumstances were deemed sufficient to warrant a lesser discipline. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 37.) "In some cases, the attorney has presented evidence of compelling mitigating circumstances relating to the attorney's background or character . . . which tended to prove that the misconduct was aberrational and hence unlikely to recur." (*Id.* at pp. 37-38.)

The attorney in *Edwards* was actually suspended for two years for willfully misappropriating approximately \$3,000 from a client. Edwards had no prior record of discipline and had taken measures to correct the problems which contributed to the misconduct. The court in *Edwards* concluded that disbarment was not necessary to protect the public, the courts, and the legal profession, which are the goals of attorney discipline.

This case is similar to *Edwards* in the sense that discipline short of disbarment will suffice to achieve the goals of attorney discipline.

Therefore, considering all of the mitigating and aggravating factors and the purposes of attorney discipline, two years' actual suspension and until a showing of rehabilitation pursuant to Standard 1.2 (c)(i) and standard conditions of probation is an appropriate disposition.

#### **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>
15-O-10021	One	Business and Professions Code, section 6104 (appearing without authority)
15-O-10021	Two	Business and Professions Code, section 6106 (Misrepresentation)

#### **EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT**

Respondent may not receive MCLE credit for completion of State Bar Ethics School or State Bar Client Trust Accounting School.

(Do not write above this line.)

In the Matter of: <b>Ilija Cvetich, Member No. 133534</b>	Case number(s): <b>15-O-10021</b>
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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.

February 10, 2017

Date



Respondent's Signature

Ilija Cvetich

Print Name

February 10, 2017

Date



Respondent's Counsel Signature

James J. Banks

Print Name

February 13, 2017

Date



Deputy Trial Counsel's Signature

Erica L. M. Dennings

Print Name

(Do not write above this line.)

In the Matter of: ILIJIA CVETICH	Case Number(s): 15-O-10021-LMA
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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

Feb. 23, 2017

  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on February 23, 2017, I deposited a true copy of the following document(s):

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

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

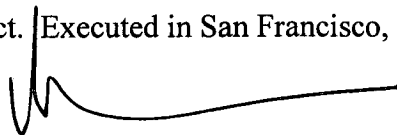
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JAMES JOSEPH BANKS  
BANKS & WATSON  
901 F ST STE 200  
SACRAMENTO, CA 95814

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

Erica L. M. Dennings, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on February 23, 2017.



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Vincent Au  
Case Administrator  
State Bar Court