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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
Counsel For The State Bar  <b>Anand Kumar</b> <b>Senior Trial Counsel</b> <b>845 South Figueroa Street</b> <b>Los Angeles, CA 90017</b> <b>(213) 765-1714</b>  Bar # <b>261592</b>	Case Number(s): <b>15-O-10030-DFM</b>	For Court use only  <div style="text-align: center;"> <b>PUBLIC MATTER</b>   <b>FILED</b>  <b>FEB 23 2016</b>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
In Pro Per Respondent  <b>Paul Stanley Nash</b> <b>Law Offices of Paul S. Nash, APC</b> <b>16148 Sand Canyon Ave</b> <b>Irvine, CA 92618</b> <b>(949) 727-9041</b>  Bar # <b>77555</b>	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>PAUL STANLEY NASH</b>  Bar # <b>77555</b>  A Member of the State Bar of California (Respondent)		

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

#### **A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 21, 1977**.
- (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 **13** 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."



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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: **two (2) billing cycles immediately following the effective date of the Supreme Court order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are entirely waived.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(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. **See stipulation, at page 9.**
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

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- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (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 stipulation, at page 9.
- (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. **See stipulation, at page 9.**
- (2) ☒ **No Harm:** Respondent did not harm the client, the public, or the administration of justice. **See stipulation, at page 9.**
- (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 \$ \$10,000 on **October 20, 2014** in restitution to a **third party involved in Client A's business transaction** without the threat or force of disciplinary, civil or criminal proceedings. **See stipulation, at page 9.**
- (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.

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- (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 stipulation, at page 10.**
- (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:**

**Prefiling stipulation and taking timely steps to rectify the consequences of his misconduct, see stipulation, at page 10.**

#### **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 **two (2) 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 **sixty (60) days**.

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

**E. Additional Conditions of Probation:**

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

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

- (6) ☒ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.

☐ No Ethics School recommended. Reason: .

- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input 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:**

**No Client Trust Accounting School recommended.**

**Reason: On February 5, 2016, Respondent attended State Bar Client Trust Accounting School and passed the test given at the end of the session. Accordingly, the protection of the public and the interests of the Respondent do not require passage of the CTA School as a condition of his probation in this case.**

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

IN THE MATTER OF:                      PAUL STANLEY NASH

CASE NUMBER:                              15-O-10030

**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-10030 (State Bar Investigation)

**FACTS:**

1. In April 2014, Respondent assisted his client ("Client A"), in negotiating a business transaction with a third party (collectively, the "parties"). The terms of the business transaction required the third party to pay Client A \$15,000 in exchange for Client A arranging a gym location to be leased to the third party prior to October 20, 2014.

2. Of the \$15,000 sum, \$5,000 were non-refundable and would be earned upon receipt by Client A and the other \$10,000 would be held in escrow in Respondent's client trust account at Bank of America, account number \*\*\*\*\*1169 ("CTA"), to disbursed to Client A upon execution of the lease agreement by October 20, 2014, or, alternatively, returned to the third party if the lease was not timely procured.

3. At the time of the business transaction, Respondent had performed past legal services for Client A totaling approximately \$5,000 in outstanding legal fees owed to Respondent.

4. Prior to the consummation of the business transaction with the third party, Respondent and Client A orally agreed that Respondent would collect the entire \$5,000 that Client A was entitled to receive from the business transaction with the third party to be applied towards Respondent's outstanding legal fees. However, shortly before Respondent's receipt of the funds, Client A modified his agreement with Respondent and instead requested Respondent to pay Client A \$4,000 of the \$5,000 and Respondent pay himself \$1,000 towards his outstanding legal fees.

5. On April 22, 2014, Respondent received and deposited \$15,000, on behalf of the parties, in his CTA, and promptly notified Client A of the receipt of his funds.

6. On April 22, 2014, prior to the deposit of the \$15,000 for the business transaction, the balance in Respondent's CTA was \$36.58.

7. On April 23, 2014, Respondent received \$465 in his CTA for filing fees for an unrelated client, bringing the balance in Respondent's CTA to \$15,501.58.

8. Between April 23 and 24, 2014, Respondent withdrew \$565 of the \$1,000 he was entitled to and issued a check for \$435 to a DDS legal services for filing fees for a second unrelated client, which together constituted the full \$1,000 Respondent was owed under the agreement with Client A.

9. At the time Respondent received the funds from the third party, Respondent was also owed outstanding legal fees from a third client, Client B, totaling approximately \$142,000, which Respondent erroneously believed was forthcoming and would imminently be deposited into his CTA. In fact, the Client B did not make her payment to Respondent for his outstanding legal fees until September 2014.

10. In April 2014, two of Respondent's former clients were also engaged in fee disputes with Respondent for legal fees he had previously earned and therefore were no longer in his CTA. Instead of restoring the disputed funds to his CTA until the resolution of the two fee disputes, Respondent improperly issued refund checks to the former clients. Specifically, on April 22 and May 2, 2014, Respondent issued CTA check numbers 1147 and 1148 to the former clients in the amounts of \$750 and \$2,000 respectively.

11. On April 22, 2014, the balance in Respondent's CTA was \$15,036.58; on May 2, 2014, the balance in Respondent's CTA was \$9,751.38.

12. The checks were negotiated by the former clients on May 1 and May 2, 2014 respectively; after the negotiation of the checks, the balance in Respondent's CTA decreased to \$7,751.58.

13. On May 7, 2014, Respondent issued CTA check number 1149 to DDS Legal Services in the amount of \$435 for filing fees in an unrelated client's matter; the check was negotiated on May 9, 2014, and caused the balance in Respondent's CTA to decrease to \$7,286.58.

14. By issuing CTA check numbers 1147, 1148, and 1149, Respondent caused the balance in his CTA to decrease to \$7,268.58, and thereby failed to maintain a balance of \$10,000 for the parties and grossly negligent misappropriated \$2,713.42 earmarked for the parties upon completion of their business transaction.

15. As explained in paragraph 17, on July 2, 2014, Respondent deposited personal funds into his CTA to restore the balance above \$10,000.

16. By October 20, 2014, Respondent's client was unable to procure the lease for the third party. Accordingly, on October 20, 2014, consistent with the terms of the business transaction, Respondent remitted \$10,000 back to the third party from his CTA.

17. Between July 2, 2014, and December 26, 2014, Respondent repeatedly commingled funds in his CTA during which time client funds were also held in trust.

18. Between July 2, 2014 and December 23, 2014, Respondent made six deposits of personal funds totaling \$113,938.87 in his CTA, including a home improvement loan from his mother-in-law in the amount of \$99,988.87 deposited in his CTA on July 2, 2014. Respondent deposited the home improvement loan funds in his CTA to avoid the funds from appearing as personal income.

19. Between August 11, 2014 and December 18, 2014, Respondent made 44 payments from his CTA for personal purposes, all of which were for expenses associated with his home-improvement.



20. On February 5, 2016, Respondent attended State Bar Client Trust Accounting School and successfully completed the test given at the end of the session

#### CONCLUSIONS OF LAW:

21. By failing to maintain a balance of \$10,000 on behalf of the parties in his CTA between May 9, 2014 and July 2, 2014, Respondent willfully violated Rules of Professional Conduct, rule 4-100(A).

22. By grossly negligently misappropriating \$2,713.42 entitled to the parties between May 9, 2014 July 2, 2014, Respondent committed an act involving moral turpitude in willful violation of Business and Profession Code section 6106.

23. By making six deposits of personal funds into his CTA between July 2, 2014 and December 23, 2014, while client funds were held in his client account, Respondent deposited and commingled funds belonging to Respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

24. By making 44 payments from his CTA for personal expenses between August 11, 2014 and December 18, 2014, while client funds were held in his client account, Respondent commingled funds belonging to Respondent in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

#### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent committed multiple violations of the Rules of Professional Conduct and the State Bar Act. Multiple acts of misconduct is considered aggravation. (*See e.g., In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498. 555.)

**Intentional Misconduct (Std. 1.5(d)):** Respondent intentionally deposited the home-improvement loan funds in his CTA, reflecting that his commingling was intentional misconduct.

#### MITIGATING CIRCUMSTANCES.

**No Prior Discipline (Std. 1.6(a)):** Respondent was admitted on December 21, 1977 and had been practicing law for 37 years at the time of the misconduct without prior discipline. This is a significantly mitigating factor. (*Friedman v. State Bar* (1990) 50 Cal.3d 235, 245 [20 years of discipline-free is "highly significant"]; *In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211, 225 [30 years of discipline-free practice was "important" mitigating factor]; *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [more than 10 years of discipline-free entitled to significant mitigation].)

**Lack of Harm to Client (Std. 1.6(c)):** There is no evidence of any harm to Respondent's client, Client A, or the third party involved in their business transaction as a result of his grossly negligent misappropriation and Respondent timely returned all of the funds, including the misappropriated funds, to the third party consistent with the terms of the business transaction.

**Restitution (Std. 1.6(j)):** Respondent made restitution to the third party in Client A's business transaction in October 2014, prior to the State Bar's investigation and involvement, and without the threat or force of administrative, disciplinary, civil or criminal proceedings.

**Good Character (Std. 1.6(f)):** Respondent submitted nine character declarations and letters from a widespread sample of the legal and general communities, including three attorneys, four former clients, and several long-term friends, and all of whom are aware of the full extent of Respondent's misconduct and attesting to an extraordinary demonstration of his good character. Over the last 20 years, Respondent also engaged in a significant amount of community service and pro bono legal services, including leading the prayer ministry for several years at Mariner's Church in Newport Beach, leading study groups in Mariner's Recovery Ministry, performing missionary work overseas in India, South Africa, and Ukraine, and volunteering at bankruptcy clinics for low income clients through the Orange County Public Law Center. (See *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service is mitigating factor]; *In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359 [performance of civic service and charitable work is entitled to mitigation as evidence of good character under standard 1.2(e)(vi)]; see also *Porter v. State Bar* (1990) 52 Cal.3d 518, 529.)

#### **Additional Mitigating Circumstances:**

**Prefiling Stipulation:** While some of the instant facts are easily provable, Respondent has cooperated with the State Bar by entering into the instant stipulation fully resolving the matter at an early stage in the disciplinary process without the necessity of a trial, thereby saving State Bar 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]; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more extensive weight in mitigation accorded those who admit culpability as well as facts].)

**Taking Timely Steps to Rectify Consequences of Misconduct:** During the investigation, Respondent admitted his misconduct and voluntarily registered for CTA School and in doing so, he has taken steps to see that his CTA is handled and monitored appropriately, and demonstrated that he is willing and able to conform to his ethical responsibilities. (See, e.g., *Hipolito v. State Bar* (1989) 48 Cal.3d 621, 627, fn. 2. [favorable consideration given for "steps repair the damage done and to prevent its recurrence"]; see also Std. 1.7(c).)

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

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

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

reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

In this matter, Respondent admits to committing multiple acts of professional misconduct constituting four violations of the State Bar Act and Rules of Professional Conduct. 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 here is found in Standard 2.2 for Respondent’s commingling and failure to maintain funds, and Standard 2.1(b) for his grossly negligent misappropriation of the third party’s funds. Standard 2.2(a) provides that actual suspension of three months is the presumed sanction for commingling or failure to promptly pay out entrusted funds, and Standard 2.2(b) provides that suspension or reproof is the presumed sanction for any other violation of rule 4-100. Standard 2.1(b) provides that actual suspension is the presumed sanction for misappropriation involving gross negligence.

Respondent’s misconduct was serious as it constitutes several CTA violations. Respondent failed to maintain funds in his CTA; by gross negligence, he misappropriated funds in trust; and he commingled a significant amount of funds. His misconduct reflects poor management of his CTA while client funds were held in trust. However, while Respondent’s misconduct was willful, it did not involve bad faith. Willfulness in the context of attorney discipline only requires that the member charged with wrongdoing intended either to commit the act or to abstain from committing it. (See *Durbin v. State Bar* (1979) 23 Cal.3d 461, 467 [no intent to violate law, to injure another, or to acquire advantage required]; see also *Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186 [willfulness does not require bad faith or knowledge of provision violated].) Additionally, none of the misappropriated funds went to Respondent, he made restitution without incident prior to any involvement by the State Bar, and during the State Bar investigation he admitted his misappropriation of funds, and therefore his misconduct, while serious, was not dishonest. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38 [“An attorney who deliberately takes a client’s funds, intending to keep them permanently, and answers the client’s inquiries with lies and evasions, is deserving of more severe discipline than an attorney who acted negligently, without intent to deprive and without acts of deception.”].) Moreover, Respondent’s misappropriation did not cause harm to Client A or the third party.

Accordingly, the gravamen of Respondent’s misconduct concerns his mass-scale commingling and misuse of his CTA, which was repeated and extensive. However, Respondent’s admission of the misconduct to the State Bar during its investigation and prompt registration and subsequent completion of Client Trust Accounting School reflect an ability and willingness to conform his conduct to his ethical responsibilities, and Respondent’s lack of discipline over 37-years of practice, a highly significant and an important mitigating factor, demonstrates that his misconduct is unlikely to recur. Other mitigating circumstances include Respondent’s good character and pro bono activities, lack of harm to Client A and the third party, and timely restitution. When viewed in totality, the mitigating circumstances surrounding Respondent’s misconduct are significant and constitute a compelling justification and

reason to deviate from Standard 2.2(a) and impose lesser discipline than the presumed sanction of a three-month actual suspension. (See, *In re Silverton*, *supra*, 36 Cal.4th at p. 92.) Accordingly, discipline consisting of a two (2) year stayed suspension and a two (2) year probation with conditions, including a sixty (60) day actual suspension is appropriate to protect the public, the courts and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession.

The recommended discipline is supported by case law. In *Brockway v. State Bar* (1991) 53 Cal.3d 51, the Supreme Court imposed a three-month actual suspension for a \$500 grossly negligent misappropriation and failure to refund client funds. The respondent also committed misconduct in a second matter by acquiring an adverse interest in a client's property. Brockway had 13 years of discipline-free practice in California and five in Iowa, and favorable character evidence but his misconduct was aggravated by questionable candor and indifference. Here, Respondent's misappropriation involved slightly more funds, and unlike Brockway, Respondent also engaged in commingling. However, Respondent also has 24 more years of discipline-free practice than Brockway, admitted his misconduct and entered into a prefiling stipulation to resolve this matter at an early stage, and has demonstrated a willingness and ability to conform to his ethical obligations. Accordingly, Respondent's discipline should be less severe than imposed in *Brockway*.

In *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, 123 the Review Department imposed a sixty-day actual suspension on an attorney who commingled personal funds by improperly using his trust account as an operating account and failed to maintain and grossly negligently misappropriated \$270 in client funds in his trust account as a result of his poor management and misuse of the trust account. The Court also found that Bleecker had engaged in moral turpitude by concealing personal assets in his client trust account to avoid an existing tax levy. In deviating from former Standard 2.2(b), which required a minimum 90-day actual suspension for commingling, the Court found Bleecker had no prior record of discipline over six years prior to the misconduct, that he shown rehabilitation in four years since the misconduct occurred before trial was held, and accepted responsibility for his misconduct and took objective steps to avoid further misconduct, and that his misconduct was surrounded by financial pressures. Respondent's misconduct is similar to Bleecker's in that he used his CTA as a personal account and the misconduct resulted from overall poor management and misuse of the CTA. While Respondent's grossly negligent misappropriation involved more than funds than in *Bleecker*, he also had many more years of discipline-free practice (37 years compared to 6 years) and his misconduct does not involve additional moral turpitude as found there. Accordingly, Respondent's misconduct warrants the same level of discipline imposed in *Bleecker*.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of February 8, 2016, the prosecution costs in this matter are approximately \$3,066. 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 State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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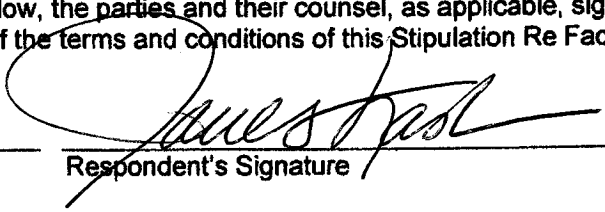
In the Matter of:  
PAUL STANLEY NASH

Case number(s):  
15-O-10030

### 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 5, 2016  
Date

  
Respondent's Signature

Paul Stanley Nash  
Print Name

Date

Respondent's Counsel Signature

Print Name

February 10, 2016  
Date

  
Deputy Trial Counsel's Signature

Anand Kumar  
Print Name

(Do not write above this line.)

In the Matter of: PAUL STANLEY NASH	Case Number(s): 15-O-10030
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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.

Page 5; paragraph E, subp. (6): The "x" indicating that the assignment of a probation monitor is a condition of probation is DELETED. No such probation monitor is required as a condition of probation.

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

2/22/16

  
**DONALD F. MILES**  
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 February 23, 2016, 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:

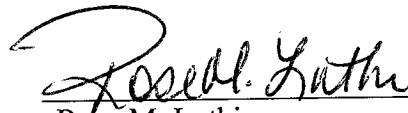
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

PAUL STANLEY NASH  
LAW OFC PAUL S NASH  
16148 SAND CANYON AVE  
IRVINE, CA 92618

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

ANAND KUMAR, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 23, 2016.



Rose M. Luthi  
Case Administrator  
State Bar Court