

ORIGINAL

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**State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION**

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Agustin Hernandez Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1713</p> <p>Bar # 161625</p>	<p>Case Number(s): 15-O-10285; 15-O-10981</p>	<p>For Court use only</p> <p>FILED NOV 20 2015 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>George Steven Wass 2145 E. Tahquitz Canyon Way, Ste. 4-911 Palm Springs, CA 92262 (760) 774-3000</p> <p>Bar # 161732</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: GEORGE STEVEN WASS</p> <p>Bar # 161732</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 1, 1992**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **16** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective July 1, 2015)



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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **two billing cycles following the effective date of the Supreme Court order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

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

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case **14-O-01244; 14-O-03750. See Attachment to Stipulation, at pages 11-12.**
 - (b) Date prior discipline effective **October 11, 2015**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-110(A) [two counts], 3-700(D)(2) [two counts], and 4-100(B)(3) [two counts]; and Business and Professions Code sections (i) [two counts] and 6068(m) [three counts].**
 - (d) Degree of prior discipline **one-year stayed suspension and two years of probation with conditions including 30 days of actual suspension.**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

State Bar Court Case No. 14-O-04053; 14-O-04313. See Attachment to Stipulation, at pages 11-12.

Date prior discipline effective: The discipline is not effective yet. On October 6, 2015, the State Bar Court filed a Stipulation Re Facts, Conclusions of Law and Disposition and Order Approving. The Supreme Court of California has not yet filed an order imposing the recommended discipline.

Rules of Professional Conduct/State Bar Act violations:
Rules of Professional Conduct, rules 3-110(A) [two counts], 3-700(D)(2) [two counts], 3-700(D)(1) [one count] and 4-100(B)(3) [two counts]; and Business and Professions Code sections (i) [one count] and 6068(m) [one count].

Degree of Prior Discipline: two-year stayed suspension and three years of probation with conditions including 60 days of actual suspension.

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- (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.
- (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 pages 12-13.
- (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.

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- (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:

Pre-filing Stipulation - See Attachment to Stipulation, at page 13.

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:**

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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 **three months**.
- 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.

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- (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: **On September 11, 2015, the Supreme Court of California filed Order No. S226319 imposing discipline pursuant to the Stipulation re Facts, Conclusions of Law and Disposition and Order Approving in Case Nos. 14-O-01244 and 14-O-03750. Pursuant to Order No. S226319, respondent was ordered to complete Ethics School, pass the test given at the end, and submit satisfactory proof of same to the Office of Probation within one year of the effective date of discipline.**
- (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: **On September 11, 2015, the Supreme Court of California filed Order No. S226319 imposing discipline pursuant to the Stipulation re Facts, Conclusions of Law and Disposition and Order Approving in Case Nos. 14-O-01244 and 14-O-03750. Pursuant to Order No. S226319, respondent is required to take and pass the MPRE within one year after the effective date of the Order. The protection of the public and the interests of the respondent do not require passage of the MPRE in this case. See In the Matter of Respondent G (Review Dept.1992), 2 Cal. State Bar Ct. Rptr. 181.**
- (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:

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(5) **Other Conditions:**

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ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GEORGE STEVEN WASS

CASE NUMBERS: 15-O-10285 & 15-O-10981

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-10285 (Complainant: Javier Barragan and Lourdes Barragan)

FACTS:

1. On May 15, 2014, Javier Barragan (Javier) and Lourdes Barragan (Lourdes), husband and wife, employed respondent to provide mortgage loan forbearance services pertaining to their residential property located in California. Specifically, respondent agreed to represent the Barragans in a pending foreclosure matter titled *Javier Barragan v. Robin Investment, Inc.*, Los Angeles County Superior Court, Case No. BC531811. At the time that the Barragans employed respondent, the opposing party had filed a demurrer and served it on Javier. Javier informed respondent that a hearing on the demurrer was scheduled for July 10, 2014. Respondent agreed to contest the demurrer and to file a first amended complaint that would also add Lourdes as a plaintiff.
2. On May 15, 2014, the Barragans paid respondent \$8,000 in advanced fees for mortgage loan forbearance services.
3. Prior to charging and collecting any of the advanced attorney's fees from the Barragans, respondent had not fully performed each and every service that respondent had been contracted to perform or represented that he would perform.
4. On May 15, 2014, respondent substituted in as attorney of record.
5. At no time did respondent file an opposition to the demurrer.
6. On July 10, 2014, respondent failed to appear at the hearing on the demurrer. On July 10, 2014, the court sustained the demurrer without leave to amend. On July 11, 2014, opposing counsel served notice of the court's ruling on the demurrer on respondent. Respondent received the notice.
7. On July 31, 2014, the court entered a judgment in favor of defendant Robin Investment, Inc. and against Javier, and dismissed the entire action with prejudice. On August 5, 2014, opposing counsel served notice of the entry of judgment and dismissal on respondent. Respondent received the notice.
8. At no time did respondent inform the Barragans that that the court sustained the demurrer without leave to amend, that the court entered a judgment in favor of defendant Robin Investment, Inc. and against Javier, and that the court dismissed the entire action with prejudice.

9. Between May 15, 2014, and July 31, 2014, the Barragans left approximately ten voicemail messages for respondent requesting that respondent provide them with a status update of their case. Respondent received the messages. Respondent did not respond to any of the Barragans' messages.

10. Respondent did not perform any legal services for or on behalf of the Barragans. Respondent did not earn any of the \$8,000 in advanced fees paid by the Barragans.

11. On January 27, 2015, the State Bar opened an investigation against respondent pursuant to a complaint filed by the Barragans.

12. On January 29, 2015, and April 28, 2015, a State Bar Investigator mailed letters to respondent at his official State Bar membership records address requesting that respondent provide a written response to specified allegations of misconduct being investigated by the State Bar in case no. 15-O-10285. Respondent received the Investigator's letters.

13. In March 2015, respondent refunded \$6,000 of unearned fees to the Barragans.

14. On October 31, 2015, respondent refunded \$2,000 of unearned fees to the Barragans.

15. At no time did respondent provide to the State Bar a written response to the allegations of misconduct in case no. 15-O-10285.

CONCLUSIONS OF LAW:

16. By agreeing to perform mortgage loan forbearance services for a fee paid by the Barragans, and charging and receiving fees prior to fully performing each and every service that respondent had contracted to perform or represented that he would perform, in violation of Section 2944.7(a)(1) of the Civil Code, respondent wilfully violated of Business and Professions Code section 6106.3(a).

17. By failing to perform any legal services on behalf of the Barragans, respondent intentionally or recklessly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

18. By failing to inform the Barragans that the court had sustained the demurrer without leave to amend, entered a judgment, and dismissed the action with prejudice, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

19. By failing to respond to the Barragans' voicemail messages, respondent failed to respond to reasonable status inquires made by his clients, in violation of Business and Professions Code section 6068(m).

20. By not refunding all of the unearned fees until October 31, 2015, respondent failed to refund promptly fees that were paid in advance and had not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

21. By not providing a written response to the State Bar Investigator's letters, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent, in willful violation of Business and Professions Code section 6068(i).

Case No. 15-O-10981 (Complainant: Nancy Horner)

FACTS:

22. On December 27, 2014, Nancy Horner employed respondent to provide mortgage loan forbearance services pertaining to her residential property located in California. Specifically, respondent agreed to file a lawsuit to contest the foreclosure of Horner's home. At the time respondent accepted the employment, he knew that time was of the essence as the foreclosure was scheduled to take place on January 6, 2015.

23. On December 30, 2014, Horner paid respondent \$7,500 in advanced fees for the mortgage loan forbearance services.

24. Prior to charging and collecting any of the advanced attorney's fees from Horner, respondent had not fully performed each and every service that respondent had been contracted to perform or represented that he would perform.

25. Respondent did not file a lawsuit to contest the foreclosure by January 6, 2015, or at any time thereafter. Respondent did not perform any legal services for or on behalf of Horner. Respondent did not earn any of the \$7,500 in advance fees paid by Horner.

26. On January 14, 2015, Horner sent a letter to respondent terminating his employment and requesting a refund of unearned fees. Respondent received the letter. Respondent did not reply to this letter.

27. On March 9, 2015, the State Bar opened an investigation against respondent pursuant to a complaint filed by Horner.

28. On April 28, 2015, a State Bar Investigator mailed a letter to respondent at his official State Bar membership records address requesting that respondent provide a written response to specified allegations of misconduct being investigated by the State Bar in case no. 15-O-10981. Respondent received the Investigator's letter.

29. On October 8, 2015, respondent sent Horner a cashier's check in the amount of \$8,100, consisting of a \$7,500 refund of unearned fees plus \$600 in interest.

30. At no time did respondent provide to the State Bar a written response to the allegations of misconduct in case no. 15-O-10981.

CONCLUSIONS OF LAW:

31. By agreeing to perform mortgage loan forbearance services for a fee paid by Horner, and charging and receiving fees prior to fully performing each and every service that respondent had contracted to perform or represented that he would perform, in violation of Section 2944.7(a)(1) of the Civil Code, respondent wilfully violated of Business and Professions Code section 6106.3(a).

32. By failing to file a lawsuit to contest the foreclosure of Horner's real property and by failing to perform any legal services, respondent intentionally or recklessly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

33. By failing to refund to Horner any portion of the \$7,500 in unearned fees until October 8, 2015, respondent failed to refund promptly fees that were paid in advance and had not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

34. By not providing a written response to the State Bar Investigator's letter, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent, in willful violation of Business and Professions Code section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent was admitted to the practice of law on December 1, 1992, and has two prior impositions of discipline. However, as discussed below, the aggravating impact of the prior discipline is diminished because the misconduct in the current disciplinary matter occurred mostly during the same period of time as the misconduct addressed in respondent's two prior disciplinary matters.

The first discipline became effective on October 11, 2015. (Case Nos. 14-O-01244 and 14-O-03750). Respondent's discipline consisted of a one-year stayed suspension with two years of probation with conditions including 30 days of actual suspension and restitution for misconduct involving two client matters. The misconduct occurred between January 10, 2013, and November 22, 2014.

In one client matter, respondent failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A), by failing to file a particular lawsuit against a particular defendant. Instead, respondent filed another action on behalf of his client against other defendants. Further, after filing this action, respondent failed to prosecute it by failing to file an answer to a cross-complaint on behalf of his client, and failing to appear at a hearing on an order to show cause re dismissal ("OSC") for failure to prosecute, which resulted in the matter being dismissed by the court. Respondent also failed to inform his client that a cross-complaint had been filed against her, that the court scheduled an OSC re dismissal, and that the court dismissed her case, in violation of Business and Professions Code section 6068(m); failed to promptly respond to his client's status inquiries, in violation of Business and Professions Code section 6068(m); belatedly refunded only \$4,000 of \$5,600 in unearned fees, in violation of rule 3-700(D)(2); failed to provide an accounting, in violation of rule 4-100(B)(3); and failed to cooperate in the State Bar's investigation, in violation of Business and Professions Code section 6068(i). Respondent agreed to pay restitution to the client in the amount of \$1,600 as a condition of probation.

In another client matter, respondent was employed to file an action to contest the non-judicial foreclosure of the client's home and was paid \$7,500 in advance fees. After filing a lawsuit on behalf of his client, respondent failed to perform legal services competently in that he failed to amend the lawsuit to add a defendant, failed to oppose a demurrer, and failed to appear at the hearing on the demurrer, in violation of Rules of Professional Conduct, rule 3-110(A). Respondent also failed to inform his client that a demurrer had been filed and served, and that the court sustained the demurrer without leave to amend, in violation of Business and Professions Code section 6068(m); failed to refund any portion of \$7,500 in unearned fees, in violation of Rules of Professional Conduct, rule 3-700(D)(2); failed to

provide an accounting, in violation of rule 4-100(B)(3); and failed to cooperate in the State Bar's investigation, in violation of Business and Professions Code section 6068(i). Respondent agreed to pay restitution to the client in the amount of \$7,500 as a condition of probation.

In aggravation, respondent committed multiple acts of misconduct. In mitigation, although the misconduct was serious, respondent had been practicing law for 22 years without any discipline, and entered into a stipulation prior to trial.

The second record of discipline is not effective yet. (14-O-04053 & 14-O-04313) The Stipulation Re Facts, Conclusions of Law and Disposition and Order Approving was approved and filed by the State Bar Court on October 6, 2015. The Supreme Court of California has not yet filed an order imposing the recommended discipline.

Respondent entered into a stipulation wherein he agreed to a two-year stayed suspension with three years of probation with conditions including 60 days of actual suspension and restitution for misconduct involving two client matters. The misconduct occurred between September 13, 2013, and October 28, 2014.

In one client matter, respondent failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A), by failing to prosecute an arbitration and failing to oppose a motion to dismiss the arbitration. Respondent also failed to inform his client that a motion to dismiss the arbitration had been filed, in violation of Business and Professions Code section 6068(m); failed to refund any portion of \$10,000 in unearned fees, in violation of rule 3-700(D)(2); failed to provide an accounting, in violation of rule 4-100(B)(3); and failed to return the client's file, in violation of rule 3-700(D)(1). Respondent agreed to pay restitution to the client in the amount of \$10,000 as a condition of probation.

In another client matter, respondent failed to perform legal services with competence, in violation of Rules of Professional Conduct, rule 3-110(A), by failing to file an action to contest the foreclosure of the client's home. Respondent also failed to refund any portion of \$7,500 in unearned fees, in violation of Rules of Professional Conduct, rule 3-700(D)(2); failed to provide an accounting, in violation of rule 4-100(B)(3); and failed to cooperate in the State Bar's investigation, in violation of Business and Professions Code section 6068(i). Respondent agreed to pay restitution to the client in the amount of \$7,500 as a condition of probation.

In aggravation, respondent had a prior record of discipline. However, its aggravating impact was diminished because the misconduct in both disciplinary matters occurred contemporaneously. Also in aggravation, respondent committed multiple acts of misconduct, caused significant harm to his clients, demonstrated indifference toward rectification or atonement for the consequences of his misconduct, and failed to make restitution. In mitigation, although the misconduct was serious and this was his second disciplinary matter, consideration was given to his 22 years of practicing law without discipline. This was because consideration had to be given to the totality of the findings in the two cases to determine what discipline would have been had all the charged misconduct been brought as one case. Also in mitigation, respondent displayed candor and cooperation, and entered into a stipulation prior to trial.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed ten acts of misconduct in two client matters. In the Barragan matter, respondent agreed to perform mortgage loan forbearance services and accepted fees prior to fully performing all of the services that he was hired to perform;

failed perform with competence by failing to provide any legal services; failed to inform his clients of significant events; failed to respond client inquiries; failed to timely refund unearned fees; and failed to cooperate in the State Bar's investigation. In the Horner matter, respondent agreed to perform loan forbearance services and accepted fees prior to fully performing all of the services that he was hired to perform; failed perform with competence by failing to provide any legal services; failed to timely refund unearned fees; and failed to cooperate in the State Bar's investigation.

MITIGATING CIRCUMSTANCES.

Prefiling Stipulation: Respondent is entitled to mitigation for entering into this stipulation prior to filing a notice of disciplinary charges, thereby preserving State Bar Court time and resources. However, this mitigation is tempered by respondent's failure to cooperate in the State Bar investigation. (*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).)

Since this is respondent's third disciplinary matter, disbarment is the presumed sanction pursuant to Standard 1.8(b). Disbarment however, is not always required. In this matter, the aggravating impact of the two prior impositions of discipline is diminished because the misconduct in the current disciplinary matter occurred mostly during the same period of time as the misconduct addressed in respondent's two prior disciplinary matters. When an attorney has been previously disciplined, and the previous misconduct was contemporaneous with the current misconduct, it is appropriate to "consider the totality of the findings in the two cases to determine what discipline would have been had all the charged

misconduct in this period be brought as one case.” (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal.State Bar Ct. Rptr. 602, 619.)

The current misconduct was mostly contemporaneous with the misconduct in the two prior disciplinary matters. The misconduct in the first disciplinary matter occurred between January 10, 2013, and November 22, 2014. The misconduct in the second disciplinary matter occurred between September 13, 2013, and October 28, 2014. The misconduct in the current disciplinary matter occurred between May 15, 2014, and April 28, 2015. Thus, it occurred primarily within the period of his prior offenses.

In analyzing all three disciplinary matters together, in addition to being contemporaneous, it appears that the misconduct was similar in all three cases. In the two prior disciplinary matters, respondent committed misconduct in a total of four client matters consisting of failing to perform legal services with competence, failing to communicate with his clients, failing to refund unearned fees, failing to provide accountings, and failing to cooperate in the State Bar investigations. The current disciplinary matter involves the same type of misconduct in two client matters, however it now also includes accepting fees for mortgage loan forbearance services prior to fully performing all of the services that he was hired to perform.

Further, the discipline in the first disciplinary matter did not become effective until October 11, 2015. The misconduct in all three disciplinary matters occurred prior to this date. Respondent has not demonstrated an unwillingness or inability to conform to his ethical responsibilities as he has not had the opportunity to heed the import of the discipline imposed. (*In the Matter of Hagen* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153, 171.)

Considering the totality of the three disciplinary matters as if they had they been brought as one case, the appropriate level of discipline would have been a two-year stayed suspension with three years of probation with conditions including six months of actual suspension. However, the first prior disciplinary matters already includes a one-year stayed suspension and two years of probation with conditions including 30 days of actual suspension. The second disciplinary matter, if approved by the Supreme Court, includes an additional two-year stayed suspension and three years of probation with conditions including an additional 60 days of actual suspension. Therefore, pursuant to the principles of *Sklar*, an additional three months of actual suspension with a two-year stayed suspension and three years of probation is appropriate in this matter.

The level of discipline is also consistent with case authority. In *Matthew v. State Bar*, an attorney received a three-year stayed suspension and three years of probation with conditions including 60 days of actual suspension for committing misconduct in three client matters. (*Matthew v. State Bar* (1989) 49 Cal.3d 784.) In one client matter, the attorney failed to perform legal services with competence, failed to communicate with the client, failed to refund unearned fees and failed to release the client’s file. In a second client matter, the attorney failed to perform legal services with competence and failed to communicate with the client. In a third client matter, the attorney failed to communicate with the client, failed to refund unearned fees, and failed to release the client file. In aggravation, the Court found that the attorney demonstrated indifference toward rectification of or atonement for the consequences of his misconduct. The attorney’s failure to refund unearned fees also caused financial harm to the clients. In mitigation, the Court gave limited weight to the lack of prior discipline due to the attorney’s short period of time since being admitted to the practice of law.

In *In the Matter of Taylor* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221, an attorney received discipline consisting of a two-year stayed suspension and two years of probation with conditions

including an actual suspension of six months and until he pays restitution. Taylor collected illegal fees in violation of Civil Code, section 2944.6(a) from eight clients, and failed to provide one client with the written statement required by Civil Code, section 2944.6. In aggravation, Taylor committed multiple acts of misconduct, caused significant harm to his clients, and demonstrated indifference toward rectification or atonement for the consequences of his misconduct. In mitigation, he presented evidence of good character.

In this matter, respondent's misconduct warrants higher discipline than that imposed in *Matthew* but not greater than the discipline in *Taylor*. Respondent's misconduct was more extensive than the misconduct in *Matthew*, and it involved fewer client matters and less aggravation than the misconduct in *Taylor*.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of November 4, 2015, the prosecution costs in this matter are \$4,044. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

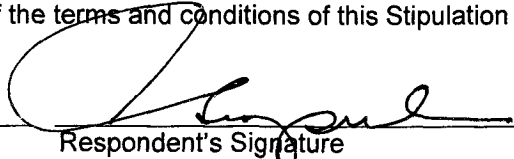
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School and/or any other educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

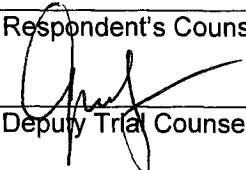
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In the Matter of: GEORGE STEVEN WASS	Case number(s): 15-O-10285; 15-O-10981
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SIGNATURE OF THE PARTIES

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.

11/05/2015  _____
Date Respondent's Signature Print Name
GEORGE STEVEN WASS

Date Respondent's Counsel Signature Print Name
November 5, 2015  _____
Date Deputy Trial Counsel's Signature Print Name
AGUSTIN HERNANDEZ

(Do not write above this line.)

In the Matter of: GEORGE STEVEN WASS	Case Number(s): 15-O-10285; 15-O-10981
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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.

See attached modifications to stipulation.

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.)**

November 19, 2015
Date

W. Kearse McGill
W. KEARSE MCGILL
Judge of the State Bar Court

In the Matter of:
GEORGE STEVEN WASS

Case Number(s):
15-O-10285; 15-O-10981

MODIFICATIONS TO STIPULATION

1. On page 6 of the stipulation, at the end of paragraph F(1), the last sentence, which begins "The protection of the public," and the citation to *In the Matter of Respondent G* are DELETED, and the following text is INSERTED in their place:

Because the present misconduct occurred before the Supreme Court ordered respondent to take and pass the MPRE in case number S226319, there is no reason to again order that respondent be required to take and pass the MPRE in the present proceeding. (Cf. *Rhodes v. State Bar* (1989) 49 Cal.3d 50, 61; *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 286.)

2. Respondent is advised that he must file a California Rules of Court, rule 9.20(c) compliance affidavit/declaration even if he has no clients on the day the Supreme Court files its order directing him to comply with rule 9.20. Respondent is further advised that the failure to strictly comply with rule 9.20 almost always results in disbarment.
3. On page 15 of the stipulation, the section titled "Exclusion from MCLE Credit" is DELETED in its entirety since respondent is not required to complete Ethics School or any other educational courses in the present proceeding.
4. On page 5 of the stipulation, at the end of the sentence 3(a), the words "three months" are deleted, and replaced with "90 days."

-X-X-X

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 November 20, 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:

**GEORGE S. WASS
2145 E TAHQUITZ CANYON WAY
STE 4-911
PALM SPRINGS, CA 92262**

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

AGUSTIN HERNANDEZ, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 20, 2015.



Paul Barona
Case Administrator
State Bar Court