

**ORIGINAL**

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<b>State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>Timothy G. Byer</b> <b>Deputy Trial Counsel</b> <b>845 S. Figueroa Street</b> <b>Los Angeles, CA 90017-2515</b> <b>(213) 765-1325</b>  <b>Bar # 172472</b>	<b>Case Number(s):</b> <b>15-O-11121</b>	<b>For Court use only</b>  <b>FILED</b>  <b>JAN -7 2016</b> <i>Mc</i>  <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>  <b>PUBLIC MATTER</b>
<b>In Pro Per Respondent</b>  <b>Rae D. Shirer</b> <b>3857 Birch Street #113</b> <b>Newport Beach, CA 92660</b> <b>(657) 333-2361</b>  <b>Bar # 167137</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>In the Matter of:</b> <b>RAE DIANE SHIRER</b>  <b>Bar # 167137</b>  <b>A Member of the State Bar of California (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 **December 13, 1993**.
- (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):
- ☐ Costs are added to membership fee for calendar year following effective date of discipline.
- ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **2016, 2017, 2018**. (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 **06-O-12713**
- (b) ☒ Date prior discipline effective **July 31, 2008**
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Rule of Professional Conduct 3-110(A)**
- (d) ☒ Degree of prior discipline **private reproof**
- (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline. See Attachment, page 9, "Aggravating Circumstances."
- (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..

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- (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, page 9, "Aggravating Circumstances."
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances**

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

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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.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

**Pre-trial stipulation. See Attachment, pp. 9-10, "Mitigating Ciorcumstances."**

**D. Discipline:**

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **one year**.
- 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:

The above-referenced suspension is stayed.

- (2) ☒ **Probation:**

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

**E. Additional Conditions of Probation:**

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ 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.
- (3) ☒ 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.

- (4) ☒ 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.

- (5) ☐ 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.
- (6) ☒ 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.
- (7) ☒ 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 State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☐ 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.
- (9) ☒ The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input checked="" type="checkbox"/> Financial Conditions  |

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

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **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) ☐ **Other Conditions:**

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In the Matter of: <b>RAE DIANE SHIRER</b>	Case Number(s): <b>15-O-11121</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
Michael Kent	\$450.00	March 23, 2015

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **thirty days after the effective date of discipline herein**.

### b. Installment Restitution Payments

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

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

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

### c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

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:                      RAE DIANE SHIRER

CASE NUMBER:                          15-O-11121

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 15-O-11121 (Complainant: Michael Kent)

**FACTS:**

1.      On or about January 24, 2014, Michael Kent employed Respondent to perform legal services, specifically, to incorporate Kent's organization and to prepare and file applications for state and federal tax exempt status for that organization. In addition to Respondent's \$2,500 fee, Kent paid Respondent \$450 in advanced costs.
2.      On March 10, 2014, after completing the incorporation of Kent's organization but prior to completing the applications for tax exempt status, Respondent's computer malfunctioned and the data thereon was lost.
3.      On June 30, 2014, Kent wrote to Respondent seeking an update on the status of his matter. Between November 3, 2014, and December 2, 2014, Kent left ten telephonic inquiries on Respondent's voicemail, each seeking a status update. Respondent received all of Kent's communications but did not respond to any of them.
4.      On March 23, 2015, Kent sent a letter to Respondent via email, which Respondent received, in which Kent terminated Respondent's representation and demanded an accounting of his advanced fee. Respondent did not respond to the email.
5.      On January 11, 2015, Kent complained to the State Bar, and on January 20, 2015, the State Bar opened a disciplinary investigation into Kent's allegations, identified as State Bar case no. 15-O-11121.
6.      On April 27, 2015, and again on May 14, 2015, a State Bar investigator wrote letters to Respondent, which she received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 15-O-11121. Respondent did not respond to either letter.

**CONCLUSIONS OF LAW:**

7.      By not completing the applications for tax exempt status for Kent's corporation, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).



8. By not responding to Kent's reasonable status inquiries, communicated by Kent on June 30, 2014, and between November 3, 2014 and December 2, 2014, which Respondent received in a matter in which Respondent had agreed to provide legal services, Respondent willfully violated Business and Professions Code, section 6068(m).

9. By not rendering an appropriate accounting to Kent as Kent requested in his letter terminating her services on March 23, 2015, Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

10. By not responding to the letters dated April 27, 2015, and May 14, 2015, which Respondent received from the State Bar investigator, Respondent failed to cooperate in a State Bar investigation, in willful violation of Business and Professions Code, section 6068(i).

### **AGGRAVATING CIRCUMSTANCES.**

**Prior Record of Discipline (Std. 1.5(a)):** Respondent was privately reprovved (Case No. 06-O-12713), effective July 31, 2008, for a single charge of 3-110(A). As part of a business dissolution settlement, Respondent's client made payments to Respondent on an informal installment payment plan for an outstanding federal employment tax balance owed by the dissolving business (a formal installment payment plan between the client and the IRS was deemed impractical due to the non-cooperation of two of the client's former partners). When Respondent noticed that the IRS had stopped apportioning the client's payments in the manner desired, Respondent tried without success to get clarification from the IRS. In July 2003, Respondent informed her client that she would not forward further payments to the IRS on the client's behalf until the apportionment issue was resolved.

Respondent received no further installment payments from her client, but did receive IRS notices which indicated that payments were being made to the IRS on her client's behalf. Respondent assumed her client was making them personally, as Respondent received no notice that another entity was negotiating with the IRS on her client's behalf. There was no evident progress either toward resolving the non-cooperation by the client's former partners concerning the payroll tax information, nor in resolving the apportionment issue concerning the client's informal installment payments. Respondent allowed the matter to lie dormant and unattended until contacted by the State Bar during the investigation, and thereby failed to competently perform. Respondent's misconduct was mitigated by her lack of a prior disciplinary record, her candor and cooperation, her good faith, emotional/physical difficulties, and family problems. There was no aggravation.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent has committed four acts of misconduct, Rules of Professional Conduct, rules 3-110(A) and 4-100(B)(3), and Business and Professions Code, sections 6068(m) and 6068(i).

### **MITIGATING CIRCUMSTANCES.**

**Pre-trial Stipulation:** Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to trial, thereby saving State Bar Court time and resources; it also evidences Respondent's recognition of wrongdoing. This mitigation is tempered, however, 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].)

After discussing settlement at a Voluntary Settlement Conference on October 20, 2015, Respondent failed to respond to telephone calls from the State Bar from that date until she appeared at a second Voluntary Settlement Conference on November 30, 2015, three days before the scheduled trial date. As such, the State Bar was forced to prepare for trial, and the mitigation value of this stipulation is therefore lessened due to the expenditure of time and resources by the State Bar that could have been saved had she been responsive to State Bar contact between October 20 and November 30.

#### **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 four 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 the underlying misconduct is found in Standard 2.7(c), which states that “Suspension or reproof is the presumed sanction for performance, communication, or withdrawal violations which are limited in scope or time[, with t]he degree of sanction depend[ing] on the extent of the misconduct and the degree of harm to the client ... .” The same disciplinary level is applicable to Respondent’s failure to provide an accounting, according to Standard 2.2(a) (“suspension or reproof is the presumed sanction for any ... violation of Rule 4-100 [other than for commingling or failure to promptly pay out entrusted funds].”

In this case, Respondent's failure to perform was limited in scope to the final step in the representation (the tax exempt status applications), which she had prepared but lost due to her computer malfunction. The degree of harm was also limited, given that Kent was not prohibited from employing another attorney to complete the work.

Also applicable to this matter, and providing a more severe sanction, is Standard 1.8(a), which provides that "If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust." Standard 1.8(a) requires that Respondent's current sanction be greater than her prior private reproof. Although the time frame between her prior discipline and the current misconduct is lengthy (8 ½ years), it is not so "remote in time" as to justify a departure from progressive discipline. Given that the instant misconduct is aggravated by four acts of misconduct, and that the mitigation value of this stipulation is low, one year of stayed suspension is a level of progressive discipline appropriate to the misconduct and sufficient to further the purposes of attorney discipline.

Case law supports this resolution. In *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, the attorney received a six-month suspension for failing to perform, communicate, and properly withdraw in a single client matter. The attorney had failed to appear before the Review Department, which was deemed aggravating as demonstrating a lack of concern for the disciplinary process and a failure to appreciate the seriousness of the charges against him, but the California Supreme Court found no serious consequences to the client. The attorney had practiced law for 5 ½ years prior to committing the misconduct.

Here, Respondent failed to render legal services competently, communicate with a client, provide an accounting, and cooperate with the State Bar investigation in a single matter. Unlike in *Van Sloten*, Respondent has not demonstrated the more serious aggravating factor of indifference, but a prior record of discipline in a private reproof. This diminished aggravation justifies a lower level of discipline than that in *Van Sloten*, while still remaining within the range of discipline provided by the applicable Standards.

#### **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-11121	3	Rule of Professional Conduct, rule 3-700(A)(2)
15-O-11121	5	Rule of Professional Conduct, rule 3-700(D)(1)

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of December 3, 2015, the prosecution costs in this matter are \$5,680. 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 ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

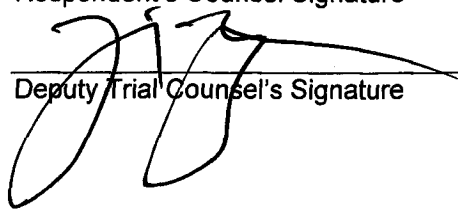
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In the Matter of: <b>RAE DIANE SHIRER</b>	Case number(s): <b>15-O-11121</b>
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### SIGNATURE OF THE PARTIES

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.

<u>12/8/15</u>		<u>Rae D. Shirer</u>
Date	Respondent's Signature	Print Name

<u>12.8.15</u>		<u>Timothy G. Byer</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:  
RAE DIANE SHIRER

Case Number(s):  
15-O-11121

### STAYED SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

1. On page 2 of the stipulation, in paragraph A(8), the phrase "2016, 2017, 2018" is MODIFIED to read: "2017, 2018, and 2019." (Membership billings for 2016 have long been closed.)
2. On page 6, in paragraph Financial Conditions, a. Restitution, Principal Amount column, "\$450.00" should read "\$450.00 (advanced costs)".

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.)**

January 5, 2016  
Date

W. Kearse McGill  
W. KEARSE MCGILL  
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 January 7, 2016, I deposited a true copy of the following document(s):

### **STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION**

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

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

**RAE DIANE SHIRER  
LAW OFFICE OF RAE SHIRER  
3857 BIRCH ST # 113  
NEWPORT BEACH, CA 92660**

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

**TIMOTHY BYER, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 7, 2016.



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Tammy Cleaver  
Case Administrator  
State Bar Court