

ORIGINAL

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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>			<b>PUBLIC MATTER</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-14703, 15-O-15861,</b> <b>16-O-10239</b>		<b>For Court use only</b>  <b>FILED</b> <b>APR 18 2017</b> <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>
<b>Counsel For Respondent</b>  <b>Edward O. Lear</b> <b>5200 West Century Blvd., Ste. 345</b> <b>Los Angeles, CA 90045</b> <b>(310) 666-9701</b>  <b>Bar # 132699</b>		<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
<b>In the Matter of:</b> <b>MATTHEW ELI FALER</b>  <b>Bar # 243067</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>				

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

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

- (1) Respondent is a member of the State Bar of California, admitted **June 2, 2006**.
- (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 **20** 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".



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

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

- (1) ☐ **Prior record of discipline**
- (a) ☐ State Bar Court case # of prior case
  - (b) ☐ Date prior discipline effective
  - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
  - (d) ☐ Degree of prior discipline
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

- (8) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See Attachment, p. 17**
- (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, p. 17
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☒ **Restitution:** Respondent failed to make restitution. See Attachment, p. 17
- (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. **See Attachment, pp. 17-18**

- (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:**

**No Prior Discipline. See Attachment, pg. 17**  
**Pretrial Stipulation. See Attachment, pg. 18**

**D. Discipline:**

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of **two years**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

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

(3) ☒ **Actual Suspension:**

- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **six 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.
- (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.

(Do not write above this line.)

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

☐ Substance Abuse Conditions

☐ Law Office Management Conditions

☒ Medical Conditions

☒ 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:**

In the Matter of:  
**MATTHEW ELI FALER**

Case Number(s):  
**15-O-14703, 15-O-15861, 16-O-10239**

### Medical Conditions

- a. ☐ Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. ☒ Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of every 3 months and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for \_\_\_\_\_ days or \_\_\_\_\_ months or \_\_\_\_\_ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

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

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

Other:

(Do not write above this line.)

In the Matter of:  
**MATTHEW ELI FALER**

Case Number(s):  
**15-O-14703, 15-O-15861, 16-O-10239**

## 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
The Law Office of Les Zieve	\$1,935	October 26, 2015
Burke Dambly	\$3,315	March 5, 2015
Orange County Superior Court	\$300	August 30, 2015

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

### b. Installment Restitution Payments

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

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

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

### c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- 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:

MATTHEW ELI FALER

CASE NUMBERS:

15-O-14703, 15-O-15861, 16-O-10239

**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-14703 (Complainants: Kathryn Baracao-Okula and Donald Okula)

**FACTS:**

1. Kathryn Baracao-Okula and Donald Okula employed respondent on July 9, 2013 to file a Chapter 13 bankruptcy petition. Respondent filed their bankruptcy petition 11 months later on June 2, 2014, and it was thereafter dismissed on June 30, 2014, for respondent's failure to file required schedules, statement, or plan.

2. On August 12, 2014, the day before a trustee's sale of the Okulas' residence which was scheduled for August 13, 2014, respondent filed a complaint against the Okulas' lender, alleging unlawful foreclosure, in Orange County Superior Court Case No. 30-2014-00739202, entitled *Kathryn Baracao v. Carrington Foreclosure Services, LLC, et al.* The trustee's sale went forward on August 13, 2014 and the Okulas' house was sold.

3. On January 14, 2015, respondent filed a First Amended Complaint on behalf of the Okulas. The lender filed a Demurrer, which the court sustained in part, with leave to amend. Also in that hearing, at which respondent appeared, the court set a Mandatory Settlement Conference ("MSC") for hearing on August 6, 2015. Respondent was present and received notice of the MSC.

4. On June 3, 2015, respondent filed a Second Amended Complaint on the Okulas' behalf.

5. On July 2, 2015, Defendants Seneca Mortgage Servicing, LLC and US Bank filed Notice of Demurrer and Demurrer to Second Amended Complaint, set for hearing on September 14, 2015, and served respondent with notice, which he received.

6. On August 6, 2015, respondent failed to appear at the MSC. The court continued the MSC to August 13, 2015 and the clerk of the court served notice on respondent, which he received.

7. On August 13, 2015, respondent failed to appear at the continued MSC, and the court issued an Order to Show Cause ("OSC") why respondent should not be sanctioned and held in contempt for respondent's failure to appear at the continued MSC. The court set a hearing for August 24, 2015. The clerk of the court served respondent with notice of the OSC, which he received.

8. On August 24, 2015, the court conducted a hearing on the OSC. Respondent failed to appear. The court vacated the OSC re: Contempt, and set an OSC re: Sanctions hearing for September 28, 2015 and served notice on respondent, which he received.

9. On September 14, 2015, respondent failed to appear at the Demurrer hearing on the Second Amended Complaint.

10. On September 28, 2015, respondent appeared at the OSC re: Sanctions and was sanctioned \$1,935 for failing to appear at the August 6, 2015 MSC, the August 13, 2015 continued MSC, and the August 24, 2015 OSC, to be paid by respondent to the Law Office of Les Zieve by October 26, 2015.

11. Respondent did not report the sanctions to the State Bar, and to date has not paid the sanctions to the Law Office of Les Zieve.

#### CONCLUSIONS OF LAW:

12. By failing to file the Okulas' Chapter 13 bankruptcy petition until June 2, 2014, after having been employed to do so on July 9, 2013, by failing to timely file the requisite schedules, statements, or plan, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

13. By failing to appear at the MSC, the continued MSC, the OSC re Sanctions and Contempt, and the Demurrer hearing on the Second Amended Complaint, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

14. By failing to report to the State Bar the \$1,935 in sanctions the court imposed on respondent on September 28, 2015, in connection with Orange County Superior Court Case No. 30-2014-00739202, entitled *Kathryn Baracao v. Carrington Foreclosure Services, LLC, et al.*, respondent failed to report the sanctions to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the imposition of judicial sanctions against Respondent, in willful violation of Business and Professions Code section, 6068(o)(3).

15. By failing to comply with the court's order, issued on August 6, 2015, for respondent to appear at the continued MSC on August 13, 2015, by the Orange County Superior Court in Case No. 30-2014-00739202, entitled *Kathryn Baracao v. Carrington Foreclosure Services, LLC, et al.*, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in willful violation of Business and Professions Code, section 6103.

16. By failing to comply with the court's order, issued on August 13, 2015, for respondent to appear at the OSC re Sanctions and Contempt on August 24, 2015, by the Orange County Superior Court in Case No. 30-2014-00739202, entitled *Kathryn Baracao v. Carrington Foreclosure Services, LLC, et al.*, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in willful violation of Business and Professions Code, section 6103.

17. By failing to comply with the sanctions order issued on September 28, 2015 by the Orange County Superior Court in Case No. 30-2014-00739202, entitled *Kathryn Baracao v. Carrington*

*Foreclosure Services, LLC, et al.*, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in willful violation of Business and Professions Code, section 6103.

Case No. 15-O-15861 (Complainant: Burke Dambly)

FACTS:

18. On March 5, 2015, Burke Dambly employed respondent to file a Chapter 7 bankruptcy petition on behalf of his company, Private Asset Holdings, Inc. ("PAH") and paid respondent advanced fees of \$2,980 and advanced costs of \$335. Respondent and Dambly agreed that respondent would not proceed in filing the bankruptcy petition until Dambly advised respondent that he wanted it to be filed.

19. Respondent failed to deposit the advanced costs in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import. Instead of depositing the \$335 of advanced costs into a client trust account, respondent dishonestly misappropriated for respondent's own purposes Dambly's \$335 in advanced costs.

20. On November 2, 2015, Dambly sent an email to respondent, and attempted to telephone him and leave him a voicemail, asking respondent to commence the bankruptcy process. Respondent's phone number was disconnected and he did not respond to the email. Dambly never heard from respondent.

21. By failing to respond to Dambly's email or maintaining a telephone number at which he could be reached, respondent constructively withdrew from Dambly's employment on November 2, 2015.

22. At the time respondent withdrew from Dambly's employment, he had not taken reasonable steps to avoid reasonably foreseeable prejudice to Dambly.

23. At the time respondent withdrew from Dambly's employment, he had performed no legal services on behalf of Dambly, and therefore earned none of the advanced fees paid.

24. Following respondent's withdrawal from Dambly's employment on November 2, 2015, respondent failed to render an accounting to Dambly regarding the advanced fees and advanced costs respondent received from Dambly on March 5, 2015.

25. On July 1, 2016, Dambly requested, in writing, that respondent return to him the \$2,980 in advanced fees and \$335 in advanced costs Dambly had paid him.

26. To date, respondent has failed to refund to Dambly any part of the \$2,980 advanced fees or \$335 in advanced costs respondent collected from Dambly.

CONCLUSIONS OF LAW:

27. By failing to file the Chapter 7 bankruptcy petition on behalf of Dambly, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

28. By failing to deposit Dambly's advanced costs in a client trust account, respondent failed to deposit funds received for the benefit of the client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in willful violation Rules of Professional Conduct, rule 4-100(A).

29. By dishonestly misappropriating for respondent's own purposes Dambly's advanced costs of \$335, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

30. By failing to promptly pay Dambly any portion of the \$335 in advanced costs in respondent's possession, in response to Dambly's request therefor on July 1, 2016, respondent failed to pay promptly, as requested by the client, any funds which the client is entitled to receive, in willful violation Rules of Professional Conduct, rule 4-100(B)(4).

31. By withdrawing from Dambly's employment on November 2, 2015 without taking reasonable steps to avoid reasonably foreseeable prejudice to Dambly, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to Respondent's client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

32. By failing to provide an accounting to Dambly upon his withdrawal from Dambly's employment, regarding the advanced fees and advanced costs respondent received from Dambly on March 5, 2015, respondent failed to render an appropriate accounting to the client regarding those funds following termination of respondent's employment on November 2, 2015, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

33. By failing to refund any part of the advanced fee respondent collected from Dambly, despite having performed no legal services on Dambly's behalf, respondent failed to refund promptly, upon respondent's termination of employment on November 2, 2015 any part of the \$2,980 fee to the client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 16-O-10239 (Complainants: Donnamarie and Edward Kline)

FACTS:

34. In October 2012, Donnamarie and Edward Kline employed respondent to file a Chapter 7 bankruptcy petition in order to modify their current Chapter 13 payment plan. Respondent did not provide the Klines with a written fee agreement.

35. On October 22, 2012, respondent filed a Chapter 13, rather than a Chapter 7, bankruptcy petition in U.S. Bankruptcy Court Case No. 8:12-bk-22259. On January 24, 2013, respondent filed a Debtors' Notice of Conversion of Bankruptcy Case from Chapter 13 to Chapter 7. The bankruptcy petition stayed the foreclosure by the Klines' lender (Carrington Mortgage Services ("CMS")) which was pending at that time.

36. On January 28, 2013, the bankruptcy court served respondent with notice of a meeting of creditors ("341(a) meeting") to be conducted on March 11, 2013. On March 11, 2013, respondent failed to appear at the 341(a) meeting.

37. On March 20, 2013, the bankruptcy court served respondent with notice of his failure to appear at the March 11, 2013, 341(a) meeting, and of the rescheduled date of the 341(a) meeting for April 22, 2013. The bankruptcy court further advised respondent that, if he failed to appear at the rescheduled 341(a) meeting, a motion to dismiss the Klines' case may be filed by the bankruptcy trustee. On April 22, 2013, respondent failed to appear at the rescheduled 341(a) meeting.

38. On March 26, 2013, CMS filed and served respondent with a motion for relief from the automatic bankruptcy stay regarding the Klines' real property. Respondent received the motion but failed to oppose it.

39. On May 1, 2013, the Chapter 7 trustee filed and served respondent with a request to dismiss the Klines' Chapter 7 bankruptcy because of respondent's failure to appear at either of the 341(a) meetings. Respondent received the motion but did not oppose it.

40. On May 2, 2013, the bankruptcy court conducted a hearing of the trustee's motion for relief from the bankruptcy stay, and the motion to dismiss the Klines' Chapter 7 bankruptcy. Respondent did not appear. The court granted the motions.

41. On April 8, 2014, respondent filed a civil complaint against CMS for wrongful foreclosure in Orange County Superior Court, Case No. 30-2014-00715205 entitled *Donnamarie Kline and Edward Kline v. Carrington Mortgage Services*. On April 16, 2014, respondent filed an ex parte application for an Order to Show Cause ("OSC") why a Preliminary Injunction should not be issued enjoining CMS from foreclosing or conducting a trustee sale. The court set the OSC for hearing on July 25, 2014, and served respondent with notice, which he received.

42. Between April 10, 2014 and July 29, 2014, Donnamarie Kline made approximately 25 written and verbal reasonable status inquiries to respondent, which respondent received but to which he failed to respond.

43. On July 15, 2014, CMS filed a Demurrer to the complaint and served respondent with notice that the Demurrer would be heard on September 12, 2014.

44. On July 25, 2014, respondent failed to appear at the OSC hearing. The court dismissed the OSC as moot, as CMS had provided proof that the Klines' property had been sold prior to respondent's filing of the ex parte application.

45. On September 11, 2014, respondent filed a First Amended Complaint.

46. On October 17, 2014, CMS filed a Demurrer to the Klines' First Amended Complaint.

47. On October 22, 2014, Deutsche Bank National Trust Company ("Deutsche"), as Indenture Trustee for New Century Home Equity Loan Trust, filed an unlawful detainer action against the Klines, in Orange County Superior Court Case No. 30-2014-00752115, entitled *Deutsche Bank National Trust Company v. Edward Kline and Donnamarie Kline* ("UD action"). On November 12, 2014, Deutsche filed an application for an order authorizing posting and mailing of the summons and complaint and prejudgment claim of right of possession against the Klines. On November 14, 2014, the court granted Deutsche's application.

48. On November 24, 2014, respondent filed an answer to the UD Action on behalf of the Klines.
49. On December 1, 2014, respondent filed an Opposition to CMS's Demurrer to First Amended Complaint. On December 12, 2014, the court overruled the Demurrer in part and sustained it in part, and ordered the Klines to file a Second Amended Complaint.
50. On December 29, 2014, respondent filed a Second Amended Complaint, and also filed an ex parte application to stay the proceedings. On December 31, 2014, the court denied the ex-parte application, and granted Judgment and possession of the Klines' property in favor of Deutsche against the Klines. Respondent did not inform the Klines that the ex parte application had been denied.
51. On February 13, 2015, Deutsche filed a Judgment in the UD Action.
52. On March 5, 2015, Deutsche filed a Writ of Possession the UD Action.
53. On March 12, 2015, respondent filed an Ex Parte Application to Consolidate Civil Action and Unlawful Detainer and Stay Execution of Judgment. On March 13, 2015, the court denied the Klines' ex-parte application.
54. On March 13, 2015, respondent telephoned Donnamarie Kline and misrepresented to her that the ex parte hearing had been postponed. At the time respondent made that misrepresentation, he knew that the statement was false and that the ex parte application had been denied.
55. Also on March 13, 2015, Donnamarie Kline sent respondent numerous text messages asking why the hearing had been postponed. Respondent responded to Ms. Kline's text with a text message stating that the law required a hearing on any motion or pleading, but that some judges ignore it. Respondent did not inform Ms. Kline that the ex parte application had been denied.
56. Also on March 13, 2015, Ms. Kline sent respondent a text message asking if respondent was going to get the ex parte hearing re-set for Monday. Respondent sent her a text stating that he was still trying to do so. Respondent again failed to inform Ms. Kline that the ex parte application had been denied.
57. On April 21, 2015, CMS served respondent with discovery requests.
58. On April 24, 2015, Defendant's Demurrer to Plaintiffs Second Amended Complaint came on regularly for hearing. The court ordered Defendants' Demurrer to Plaintiff's fifth cause of action for wrongful foreclosure sustained without leave to amend.
59. On April 24, 2015, respondent emailed Donnamarie Kline and advised her that he would soon give her an update on the appeal of the UD Action.
60. On April 29, 2015, respondent emailed Donnamarie Kline and advised her that he was working on the appeal of the UD Action, responding to CMS's discovery, and drafting discovery for service on CMS.
61. On May 5, 2015, respondent sent Donnamarie Kline an email attaching drafts of interrogatories, and a text message alerting her to the email he had sent. That was the final action taken

by respondent on behalf of the Klines. Respondent failed to respond to the discovery requests from CMS. After that action, respondent constructively withdrew from the Klines' employment.

62. On June 8, 2015, a Case Management Conference ("CMC") was conducted, but respondent failed to appear. The court continued the CMC to June 22, 2015, and served respondent with notice, which he received.

63. On June 22, 2015, respondent failed to appear at the continued CMC. The court issued an Order to Show Cause why respondent should not be sanctioned for his failure to appear ("OSC re Sanctions") and served respondent with notice, which he received, ordering him to appear at the OSC re Sanctions hearing on July 31, 2015.

64. On June 17, 2015, CMS filed a motion to compel responses to discovery and a request for sanctions, and served respondent with notice of the hearing on the motion, which he received, scheduled for hearing on July 31, 2015, concurrently with the OSC re Sanctions.

65. Respondent failed to appear at the July 31, 2015 hearing on the discovery motion and OSC re Sanctions. The court granted CMS's motion and ordered the Klines to provide CMS with verified responses without objection; CMS's Requests for Admissions were deemed admitted. The court ordered respondent to pay monetary sanctions in the sum of \$300 to the court for his failure to appear at the June 22, 2015 continued CMC and his failure to appear at the OSC re: Sanctions.

66. To date, respondent has failed to pay the \$300 in sanctions to the court.

#### CONCLUSIONS OF LAW:

67. By filing a Chapter 13 bankruptcy petition instead of a Chapter 7 petition on the Klines' behalf; failing to appear at the 341(a) meeting of creditors; failing to appear at the rescheduled 341(a) meeting of creditors; failing to oppose a motion by the Klines' mortgage lender for relief from the automatic stay regarding the Klines' real property; failing to appear at the hearing on the motion for relief from the automatic stay; failing to oppose a motion by the bankruptcy trustee to dismiss the Klines' bankruptcy due to respondent's failure to appear at the 341(a) meeting; failing to appear at the hearing of the trustee's motion to dismiss the Klines' bankruptcy; failing to appear at the July 25, 2014 OSC hearing; and by failing to respond to discovery served on him by the Klines' mortgage lender; respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

68. By failing to respond promptly to approximately 25 written and verbal reasonable status inquiries made by respondent's client, Donnamarie Kline, between April 10, 2014 and July 29, 2014, respondent failed to respond to reasonable status inquiries he received in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

69. By failing to inform the Klines that the ex parte application respondent had filed on December 29, 2014, was denied on December 31, 2014, and by failing to inform the Klines that the ex parte application respondent had filed on March 12, 2015, was denied on March 13, 2015, respondent failed to keep respondent's clients 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).



70. By asserting to Donnamarie Kline, on March 13, 2015, that the court had continued the hearing of the ex parte application he had filed on her behalf on March 12, 2015, when respondent knew the statement was false, and that the court had instead denied the application, and by continuing to conceal the fact that the ex parte application had been denied in text messages with Ms. Kline on March 13, 2015, respondent thereby committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

71. By failing, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's clients, Donnamarie and Edward Kline, when respondent constructively terminated his employment on May 5, 2015, and by thereafter failing to inform the clients that he was withdrawing from employment, respondent improperly withdrew from employment, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

72. By failing to pay the \$300 in sanctions the court imposed on respondent on July 31, 2015, for respondent's failure to appear at the June 22, 2015 Case Management Conference, and for his failure to respond to the court's Order to Show Cause Why Sanctions Should Not be Imposed, in connection with Orange County Superior Court Case No. 30-2014-00715205, entitled *Donnamarie Kline and Edward Kline v. Carrington Mortgage Services, Inc.*, Respondent disobeyed or violated an order of the court requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession which Respondent ought in good faith to do or forbear, in willful violation of Business and Professions Code, section 6103.

#### **AGGRAVATING CIRCUMSTANCES.**

**Multiple acts of misconduct** (Std.1.5(b)). Respondent has committed approximately 50 separate acts of misconduct within the 15 charged violations.

**Harm to clients** (Std.1.5(j)). Burke Dambly was harmed by respondent's failure to perform any services on his behalf or to communicate with him after his employment and by failing to promptly refund Dambly's unearned advanced fees. The Klines were harmed by the stress of their repeated unsuccessful attempts to communicate with respondent while they were at risk of losing their home to foreclosure.

**Failure to make restitution** (Std. 1.5(m)). Respondent has paid no restitution to Dambly for the funds he misappropriated and the fees he did not earn.

#### **MITIGATING CIRCUMSTANCES.**

**No Prior Record of Discipline:** Respondent has no prior record of discipline in seven years of practice prior to misconduct, which is worth only slight mitigation. (*In the Matter of Aguiluz* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32, 44; *Kelly v. State Bar* (1988) 45 Cal.3d 649, 657 [seven and a half years not especially commendable]. The courts have found respondents entitled to mitigation where, as here, misconduct was serious. (See See, e.g. *In the Matter of Riordan* (Review 2007) 5 Cal. State Bar Ct. Rptr. 41, 49; *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn. 12.)

**Extreme Mental Disabilities** (Std. 1.6 (d)): Respondent suffered from bipolar disorder from 2011 until he began treatment at UCLA's mood clinic on September 9, 2015, during which time respondent's prescribed medications were no longer proving effective at managing his bipolar episodes.

Respondent's symptoms included depression, feelings of hopelessness, difficulty sleeping, difficulty with focus, concentration, and organization. All these symptoms adversely affected respondent's ability to timely file pleadings, keep track of scheduled hearings, or timely respond to client communications. Respondent's current treating physician has provided evidence that, although respondent's prior medications were ineffective, his condition is now under medical control due to a changed pharmaceutical regimen and regular talk therapy, and that his disability no longer poses a risk to the public. A mental or psychological disorder may serve as a mitigating factor if the attorney establishes through clear and convincing evidence that the attorney no longer suffers from the disorder, as through a showing of either successful therapeutic rehabilitation or a strong prognosis for future rehabilitation. (See *Phillips v. State Bar* (1989) 49 Cal.3d 944, 954 [disbarring attorney who has a personality disorder because attorney did not convince court that he no longer suffers from the disorder].)

**Pretrial Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*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 Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

## **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).)

Standard 2.1(a), for respondent's misappropriation of Dambly's entrusted funds, is the applicable standard, and calls for disbarment as the presumed sanction "unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which

Standard 2.1(a), for respondent's misappropriation of Dambly's entrusted funds, is the applicable standard, and calls for disbarment as the presumed sanction "unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate." Case law has held that the amount of respondent's misappropriation here is too small to support a disbarment recommendation.

In *Howard v. State Bar* (1990), 51 Cal.3d 215, 222-223, the court held that an intentional misappropriation of \$1,300 was "a relatively small sum" and declined to impose disbarment. The amount respondent misappropriated from Dambly is approximately 25% of the sum in *Howard*. Given the relatively low level of the misappropriation and the unlikelihood that it would support respondent's disbarment, actual suspension is appropriate.

In this case, respondent's misconduct is substantially aggravated by the multiple acts of misconduct subsumed within the 15 violations, as well as by the significant harm to his clients. And, although respondent is entitled to some mitigation for the mental disability he suffered during the time frame, he is entitled to only slight mitigation for his mere seven years in practice without prior discipline before this misconduct. Given the magnitude and multiplicity of respondent's misconduct, six months of actual suspension is warranted to protect the public.

Six months of actual suspension is also supported by case law. In *McKnight v. State Bar*, 53 Cal.3d 1025 (1991), an attorney misappropriated the substantial sum of \$8,500, which he claimed to believe had been authorized by his client in their (unwritten) loan agreement (which also did not comply with rule 3-300). As with respondent, the attorney in *McKnight* was also found culpable of failing to deposit funds into his client trust account and of failing to pay entrusted funds out promptly. That attorney, like respondent, had been suffering undiagnosed bipolar disorder and had been in practice seven years prior to his misconduct. Although the court imposed one year of actual suspension, it analyzed the level of discipline according to the then-current version of std. 2.1(a), which had required one year of actual suspension for a misappropriation not warranting disbarment: "while the circumstances in mitigation are sufficiently compelling to preserve petitioner from disbarment, they do not warrant a deviation from the minimum period of actual suspension prescribed by the Standards."

In the current matter, given the relatively small sum misappropriated, and respondent's mental disability, two years of stayed suspension and three years of probation, with probation conditions including six months of actual suspension and until respondent makes restitution in the sum of \$3,315 to Burke Dambly, and pays \$300 in sanctions to the Orange County Superior Court, and pays \$1,935 in sanctions to the Law Office of Les Zieve, as described in the attached Financial Conditions, are supported by the Standards and case law, and are sufficient to protect the public.

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of April 4, 2017, the prosecution costs in this matter are \$5,810.

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

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.)

(Do not write above this line.)

In the Matter of:  
**MATTHEW ELI FALER**

Case number(s):  
**15-O-14703, 15-O-15861, 16-O-10239**

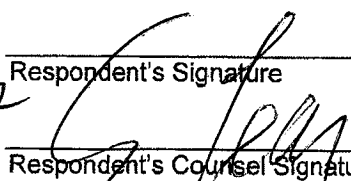
### SIGNATURE OF THE PARTIES

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.

Date

4/10/17

Respondent's Signature



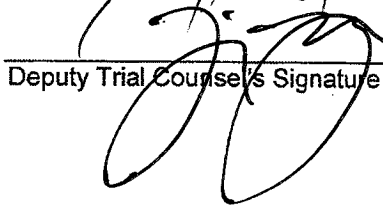
Matthew E. Faler

Print Name

Date

4.11.17

Respondent's Counsel Signature

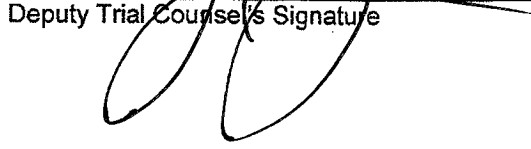


Edward O. Lear

Print Name

Date

Deputy Trial Counsel's Signature



Timothy G. Byer

Print Name



(Do not write above this line.)

In the Matter of:  
MATTHEW ELI FALER

Case Number(s):  
15-O-14703, 15-O-15861, 16-O-10239

### 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.
- On page 1 of the Stipulation, at paragraph A.(3), line 3, "20" is deleted,, and in its place is inserted "21".
- On page 4 of the Stipulation, at paragraph D.(3)(a)ii., "and sanctions" is inserted between "restitution" and "as".
- On page 8 of the Stipulation, at paragraph a., line 1, "and sanctions" is inserted after "restitution".
- On page 8 of the Stipulation, at paragraph a., line 2, "and furnish satisfactory proof to the State Bar's Office of Probation in Los Angeles" is inserted after "below".

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.)**

Dated: April 17, 2017



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 April 18, 2017, I deposited a true copy of the following document(s):

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

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

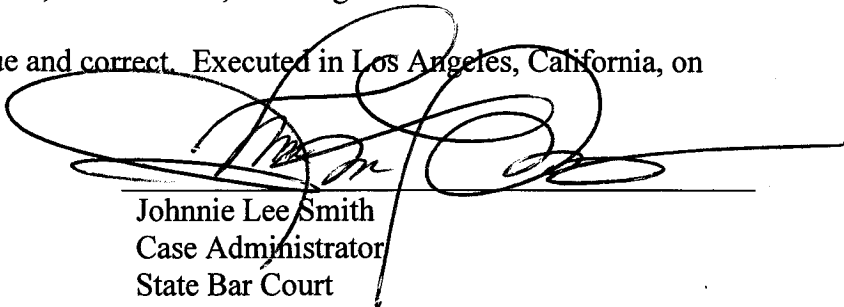
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**EDWARD O. LEAR  
CENTURY LAW GROUP LLP  
5200 W CENTURY BLVD #345  
LOS ANGELES, CA 90045**

- ☒ 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 April 18, 2017.

  
Johnnie Lee Smith  
Case Administrator  
State Bar Court