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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Anand Kumar Senior Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1714 Bar # 261592	Case Number(s): 15-O-15643-WKM	For Court use only <div style="text-align: center;"> FILED OCT 13 2016 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Steven Michael Gribben Gribben & Associates, Inc. 18201 Von Karman Ave., Suite 300 Irvine, CA 92612 (949) 878-3740 Bar # 236796	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: STEVEN MICHAEL GRIBBEN Bar # 236796 A Member of the State Bar of California (Respondent)	ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 1, 2005**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **13** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **two (2) billing cycles immediately following the effective date of the Supreme Court order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

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

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

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- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See stipulation, at page 10.
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) ☒ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur. **See stipulation, at page 10.**
- (2) ☒ **No Harm:** Respondent did not harm the client, the public, or the administration of justice. **See stipulation, at page 10.**
- (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. **See stipulation, at page 10.**
- (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.

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- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☒ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct. **See stipulation, at page 10.**
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Prefiling stipulation, see stipulation, at pages 10-11.

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **two (2) years**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.
- (2) ☒ **Probation:**
- Respondent must be placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) ☒ **Actual Suspension:**
- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **thirty (30) days**.

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

E. Additional Conditions of Probation:

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

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

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

☐ No Ethics School recommended. Reason: .

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

F. Other Conditions Negotiated by the Parties:

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

No Client Trust Accounting School recommended.

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

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: STEVEN MICHAEL GRIBBEN

CASE NUMBER: 15-O-15643

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-15643 (Complainants: Neilson Castillo and Ly Thong)

FACTS:

1. On December 8, 2012, Neilson Castillo ("Neilson") and four other family members were injured in a car accident, including his father, Santos, his mother, Eufracia ("Eufracia"), his sister, Elizabeth, and his father-in-law, Conrado Muy ("Muy") (collectively, the "clients").

2. In December 2012, the clients hired Respondent to negotiate personal injury settlements with the AAA, the insurance carrier for the at-fault driver. Respondent appropriately obtained the clients' informed written consent to represent the clients.

3. On July 16, 2013, Respondent negotiated settlements for each of the clients. Thereafter, Respondent negligently mishandled the settlement funds for three of the five clients, Neilson, Eufracia and Muy.

4. With respect to Neilson's settlement funds, Respondent appropriately disbursed to himself his own attorney's fees totaling \$4,000, but negligently mishandled Neilson's funds based on the following:

- a. On July 16, 2013, Neilson's claim settled for \$12,000. On July 19, 2013, Respondent received and timely deposited the \$12,000 settlement check into his client trust account ("CTA") and timely notified Neilson of the receipt of his funds.
- b. At the time of the settlement, there were two medical providers, each holding a valid lien against Neilson's settlement proceeds, Keystone Medical Group ("KMG") and Mendenhall Chiropractic Clinic, Inc. ("Mendenhall"), which was owned by Ly Thong ("Thong"). Respondent knew of each lien.
- c. Of the \$12,000 settlement, Respondent was required to maintain a total of \$8,000 in his CTA on Neilson's behalf, including \$4,000 for Neilson, and an additional \$4,000 (\$2,000 each) earmarked to pay KMG and Mendenhall pursuant to the executed liens.
- d. On August 6, 2013, Respondent issued two checks on Neilson's behalf, including CTA check number 1014, in the amount of \$2,000 to KMG, which was negotiated without incident on August 22, 2013, and CTA check number 1011, in the amount of

\$4,000 made payable to Neilson for his share of the settlement funds, which was not negotiated by Neilson until October 28, 2013, a delay in no part caused by Respondent.

- e. Due to his negligent oversight, Respondent did not make any payment of the \$2,000 to Mendenhall on Neilson's behalf from July 19, 2013 until January 8, 2016, when he when he received the State Bar's January 5, 2016 investigative letter and discovered Mendenhall's lien had not been paid.
- f. Accordingly, after August 22, 2013, Respondent was required to maintain a total of \$6,000 in his CTA on Neilson's behalf, including \$4,000 to pay CTA check number 1011 for Neilson's share, and \$2,000 to pay Mendenhall's lien.

5. With respect to Eufracia's settlement funds, Respondent appropriately disbursed to himself his own attorney's fees totaling \$2,500, but negligently mishandled Eufracia's funds based on the following:

- a. On July 16, 2013, Eufracia's claim settled for \$7,500. On July 24, 2013, Respondent received and timely deposited the \$7,500 settlement check into his CTA and timely notified Eufracia of the receipt of her funds.
- b. Of the \$7,500 settlement, Respondent was required to maintain a total of \$5,000 in his CTA on Eufracia's behalf, including \$2,500 for Eufracia, and an additional \$2,500 earmarked to pay Eufracia's medical provider, Alpha Wellness Center ("AWC"), pursuant to a valid lien. Respondent knew of the lien.
- c. On August 7, 2013, Respondent issued two checks on Eufracia's behalf, including CTA check number 1022, in the amount of \$2,500 to Eufracia, which was negotiated without incident on September 9, 2013, and CTA check number 1021, in the amount of \$2,500 made payable AWC, which was not negotiated by AWC until October 17, 2013, a delay in no part caused by Respondent.
- d. Accordingly, after September 9, 2013, Respondent was required to maintain a balance of at least \$2,500 in his CTA on Eufracia's behalf to pay CTA check number 1021 for AWC's lien.

6. With respect to Muy's settlement funds, Respondent appropriately disbursed to himself his own attorney's fees totaling \$2,833.33, but negligently mishandled Muy's funds based on the following:

- a. On July 16, 2013, Muy's claim settled for \$8,500. On July 24, 2013, Respondent received and timely deposited the \$8,500 settlement check into his CTA and timely notified Muy of the receipt of his funds.
- b. Of the \$8,500 settlement, Respondent was required to maintain a total of \$5,666.67 in his CTA on Muy's behalf, including \$2,833.33 for Muy, and an additional \$2,833.34 (\$277.50 and \$2,555.84) earmarked to pay Muy's two medical providers, KMG and Mendenhall, respectively pursuant to valid liens. Respondent knew of the liens.

- c. On August 6, 2013, Respondent issued two checks on Mui's behalf, including CTA check number 1016, in the amount of \$277.50 to KMG, which was negotiated without incident on August 23, 2013, and CTA check number 1015, in the amount of \$2,833.33 made payable to Mui for his share of the settlement funds, which was not negotiated by Mui until October 28, 2013, a delay in no part caused by Respondent.
- d. Due to his negligent oversight, Respondent did not make any payment of the \$2,555.84 to Mendenhall on Mui's behalf from July 24, 2013 until January 8, 2016, when he received the State Bar's January 5, 2016 investigative letter and discovered Mendenhall's lien had not been paid.
- e. Accordingly, after August 23, 2013, Respondent was required to maintain a total of \$5,389.17 in his CTA on Mui's behalf, including \$2,833.33, including \$2,833.33 to pay CTA check number 1015 for Mui's share, and \$2,555.84 to pay Mendenhall's lien.

7. Accordingly, as of September 27, 2013, Respondent was required to maintain an aggregate balance of \$13,889.17 on behalf of Neilson (\$6,000), Eufracia (\$2,500) and Mui (\$5,389.17).

8. Between September 27, 2013 and October 1, 2013, Respondent withdrew his earned fees in connection with other unrelated client matters, but due to his negligent mismanagement of his CTA and a failure to properly reconcile his CTA, Respondent mistakenly withdrew excess funds from his CTA, and due to his negligence, the balance in Respondent's CTA fell to \$6,034 prior to any disbursement of the \$13,889.17 sum on behalf of Neilson, Eufracia and Mui. Accordingly, Respondent failed to maintain a balance of at least \$13,889.17 on behalf of Neilson, Eufracia and Mui.

9. In late 2013, Respondent began winding down his personal injury practice and put his files for the clients in storage. As a result of Respondent's negligent oversight, Respondent failed to promptly pay Mendenhall's respective liens on behalf of Neilson and Mui from October 2013 until January 2016.

10. On October 29, 2015, Thong and Neilson filed their State Bar complaint that Respondent failed to promptly pay Mendenhall's liens.

11. On January 5, 2016, the State Bar investigator sent Respondent an investigative letter regarding Thong and Neilson's allegations concerning the unpaid medical liens.

12. On January 8, 2016, Respondent received the State Bar's investigative letter, discovered his failure to promptly pay Mendenhall's liens on behalf of Neilson and Mui, and sent Thong an apology letter with an enclosed payment for the outstanding liens on Neilson and Mui's behalves.

13. On June 20, 2016, Respondent voluntarily registered for State Bar Client Trust Accounting School, and on August 5, 2016, Respondent attended State Bar Client Trust Accounting School and successfully completed the test given at the end of the session.

CONCLUSIONS OF LAW:

14. By failing to maintain a balance of \$13,889.17 on behalf of Neilson, Eufracia and Mui in his CTA between September 27, 2013, and October 1, 2013, Respondent willfully violated Rules of Professional Conduct, rule 4-100(A).

15. By failing to promptly pay Mendenhall's lien on behalf of Neilson between July 19, 2013, and January 8, 2016, Respondent failed to pay promptly to the lienholder, pursuant to a valid lien of which Respondent was aware, any portion of the \$2,000 funds in Respondent's possession which the client was entitled to receive, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

16. By failing to promptly pay Mendenhall's lien on behalf of Muy between July 24, 2013, and January 8, 2016, Respondent failed to pay promptly to the lienholder, pursuant to a valid lien of which Respondent was aware, any portion of the \$2,555.84 funds in Respondent's possession which the client was entitled to receive, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed multiple violations of the Rules of Professional Conduct and the State Bar Act. Multiple acts of misconduct is considered aggravation.

MITIGATING CIRCUMSTANCES.

No Prior Discipline (Std. 1.6(a)): Respondent was admitted in June 2005 and had been practicing law for 8 years at the time of the misconduct without prior discipline, which is entitled to slight mitigation. (*Kelly v. State Bar* (1988) 45 Cal.3d 649, 657 [7.5-year discipline-free record considered to be mitigating but not "especially commendable"].)

Lack of Harm to Client (Std. 1.6(c)): There is no evidence of any harm to the clients involved as a result of Respondent's failure to maintain funds on the clients' behalves and failure to promptly pay the liens on their behalf in light of Respondent's prompt payment of restitution to Mendenhall upon the discovery of his misconduct.

Good Character (Std. 1.6(f)): Respondent submitted six character letters from a widespread sample of the legal and general communities, including two attorneys, former clients, and long-term friends, and all of whom are aware of the full extent of Respondent's misconduct and attesting to an extraordinary demonstration of his good character.

Remorse (Std. 1.6(g)): Upon being informed of his failure to pay the liens, Respondent took prompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement for his misconduct, including admitting his misconduct early on in the State Bar investigation, making restitution to the lienholder, and voluntarily enrolling for State Bar CTA School. The steps reflects that Respondent is willing to conform to his ethical duties and therefore his misconduct is unlikely to recur. (See, e.g., *Hipolito v. State Bar* (1989) 48 Cal.3d 621, 627, fn. 2. [favorable consideration given for "steps repair the damage done and to prevent its recurrence"]; see also Std. 1.7(c).)

Prefiling Stipulation: While some of the instant facts are easily provable, Respondent has cooperated with the State Bar by entering into the instant stipulation fully resolving the matter at an early stage in the disciplinary process without the necessity of a trial, thereby saving State Bar resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State

Bar Ct. Rptr. 179, 190 [more extensive weight in mitigation accorded those who admit culpability as well as facts].)

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 multiple acts of professional misconduct constituting three violations of the Rules of Professional Conduct. Standard 1.7(a) requires that where a Respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to Respondent’s misconduct here is found in Standard 2.2(a), which is triggered by Respondent’s failure to promptly pay out funds to Mendenhall pursuant to the liens, in violation of rule 4-100(B)(4) of the Rules of Professional Conduct. Standard 2.2(a) provides that actual suspension of three months is the presumed sanction for the failure to promptly pay out entrusted funds.

Respondent’s misconduct was serious as it constitutes three violations involving client funds. Respondent failed to maintain three clients’ funds in his CTA and failure to promptly pay medical liens for approximately 2.5 years. His misconduct therefore warrants serious discipline consisting of a period of actual suspension.

However, while Respondent’s misconduct was willful, it did not involve bad faith. Willfulness in the context of attorney discipline only requires that the member charged with wrongdoing intended

either to commit the act or to abstain from committing it. (See *Durbin v. State Bar* (1979) 23 Cal.3d 461, 467 [no intent to violate law, to injure another, or to acquire advantage required]; see also *Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186 [willfulness does not require bad faith or knowledge of provision violated].) Additionally, there are several factors present which demonstrate Respondent's willingness to conform his conduct to his ethical responsibilities and that his misconduct is unlikely to recur, including his 8-year discipline-free record, his good character, his belated but prompt restitution to the lienholders after being informed of his failure to pay the liens, his recognition of the misconduct early in the State Bar investigation and voluntarily enrollment in and completion of State Bar Client Trust Accounting School. Moreover, taking Respondent's misconduct in context with Respondent's timely payment to the some of the clients and lienholders involved in the summer and fall of 2013 and his prompt restitution to Mendenhall upon discovery of his misconduct, the circumstances surrounding Respondent's misconduct demonstrate that while serious, it did not involve dishonesty. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38 ["An attorney who deliberately takes a client's funds, intending to keep them permanently, and answers the client's inquiries with lies and evasions, is deserving of more severe discipline than an attorney who acted negligently, without intent to deprive and without acts of deception."].) Lastly, Respondent's misconduct did not cause harm to the specific clients affected by Respondent's misconduct.

When viewed in totality, the mitigating circumstances surrounding Respondent's misconduct warrants a deviation from the presumed sanction of a three-month actual suspension under Standard 2.2(a). Accordingly, discipline consisting of a two (2) year stayed suspension and a two (2) year probation with a thirty (30) day actual suspension and conditions is appropriate to protect the public, the courts and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession.

The recommended discipline is supported by case law. In *Dudugjian v. State Bar* (1991) 52 Cal.3d 1092, the Supreme Court imposed a public reproof where an attorney received a settlement check in the amount of \$5,356 but did not distribute it to the client. Instead, he applied it against his legal fees in the honest but mistaken belief that his client had allowed him to do so. He was found culpable of failing to keep client funds in trust in violation of former rule 8-101, the predecessor to rule 4-100(A). In mitigation, the attorney lacked a prior record of discipline and provided character letters. The Court found the honest nature of the error to be the most weighty factor in mitigation. Here, there are similar violations of rules 4-100(A) and 4-100(B)(4) in that Respondent received settlement funds but failed to timely and appropriately disburse the funds to his clients and their lienholders, which was caused due to a mistaken belief regarding his entitlement to CTA funds and negligence. Accordingly, a deviation from the presumed sanction of a three-month actual suspension is similarly appropriate in the instant matter.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of September 8, 2016, the prosecution costs in this matter are approximately \$3,139. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

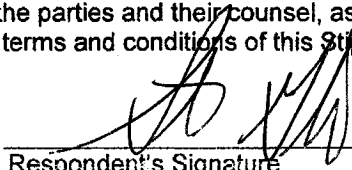
In the Matter of:
STEVEN MICHAEL GRIBBEN

Case number(s):
15-O-15643

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.

September 12, 2016
Date


Respondent's Signature

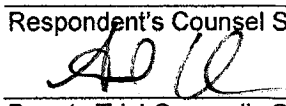
Steven Michael Gribben
Print Name

Date

Respondent's Counsel Signature

Print Name

September 15, 2016
Date


Deputy Trial Counsel's Signature

Anand Kumar
Print Name

(Do not write above this line.)

In the Matter of:
STEVEN MICHAEL GRIBBEN

Case Number(s):
15-O-15643

ACTUAL SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

October 13, 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 October 13, 2016, I deposited a true copy of the following document(s):

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

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

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

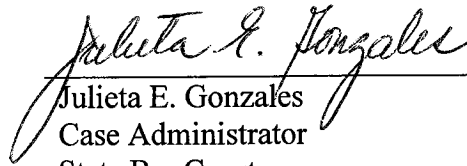
STEVEN M. GRIBBEN
GRIBBEN & ASSOCIATES, INC.
19200 VON KARMAN AVE STE 400
IRVINE, CA 92612

STEVEN MICHAEL GRIBBEN
GRIBBEN & ASSOCIATES, INC.
18201 VON KARMAN AVE., SUITE 300
IRVINE, CA 92612

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

Anand Kumar, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 13, 2016.



Julieta E. Gonzales
Case Administrator
State Bar Court