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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>	
Counsel for the State Bar  <b>Charles T. Calix</b> <b>Senior Trial Counsel</b> <b>845 S. Figueroa Street</b> <b>Los Angeles, CA 90017-2515</b> <b>(213) 765-1255</b>  Bar # 146853		Case Number(s): <b>17-O-06529-CV</b>		For Court use only   <div style="text-align: center;"> <b>FILED</b>  <i>W.S.</i>  <b>NOV 13 2018</b>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
In Pro Per Respondent  <b>Mark C. Ellis</b> <b>Ellis Law Office</b> <b>31566 Railroad Canyon Road</b> <b>Suite 2 PMB #127</b> <b>Canyon Lake, CA 92587</b> <b>(951) 385-3670</b>  Bar # 170295		Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: <b>MARK CHRISTOPHER ELLIS</b>  Bar # 170295  A Member of the State Bar of California (Respondent)		<div style="text-align: center;"> <small>kwiktag®</small>      241 070 435   </div>		

**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 7, 1994**.
- (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 **17** 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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(Effective July 1, 2018)

Actual Suspension

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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. It is recommended that (check one option only):
- ☒ Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
- ☐ Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. **SELECT ONE** of the costs must be paid with Respondent's membership fees for each of the following years:
- If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be 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: **04-O-15351. See page 19, and Exhibit 1, 15 pages .**
- (b) ☒ Date prior discipline effective: **December 28, 2006**
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **See pages 12 and 13.**
- (d) ☒ Degree of prior discipline: **See pages 12 and 13.**
- (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.

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- (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 page 13.**
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. **See page 13.**
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [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 Respondent's 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 Respondent's 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 Respondent.

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- (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 Respondent, 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 Respondent's control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's 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 Respondent's 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:**

**Good Character:** see page 13.

**Community Service:** see page 13.

**Pretrial Stipulation:** see pages 13-14.

**D. Recommended Discipline:**

- (1) ☒ **Actual Suspension:**

Respondent is suspended from the practice of law for **one year**, the execution of that suspension is stayed, and Respondent is placed on probation for **two years** with the following conditions.

- Respondent must be suspended from the practice of law for the first **60 days** of the period of Respondent's probation.

- (2) ☐ **Actual Suspension "And Until" Rehabilitation:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first \_\_\_\_\_ of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

- (3) ☐ **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**

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Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first \_\_\_\_\_ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
  - a. Respondent makes restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
  - b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(4) ☐ **Actual Suspension "And Until" Restitution (Multiple Payees) and Rehabilitation:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first \_\_\_\_\_ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
  - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(5) ☐ **Actual Suspension "And Until" Restitution (Single Payee) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first \_\_\_\_\_ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:

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- a. Respondent makes restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and,
- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(6) ☐ **Actual Suspension "And Until" Restitution (Multiple Payees) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first \_\_\_\_\_ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
  - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(7) ☐ **Actual Suspension with Credit for Interim Suspension:**

Respondent is suspended from the practice of law for \_\_\_\_\_, the execution of that suspension is stayed, and Respondent is placed on probation for \_\_\_\_\_ with the following conditions.

- Respondent is suspended from the practice of law for the first \_\_\_\_\_ of probation (with credit given for the period of interim suspension which commenced on \_\_\_\_\_).

**E. Additional Conditions of Probation:**

- (1) ☒ **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional

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Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

- (2) ☒ **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3) ☒ **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.
- (4) ☒ **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5) ☒ **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6) ☒ **Quarterly and Final Reports:**
  - a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.
  - b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
  - c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as

Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

d. **Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

- (7) ☒ **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8) ☐ **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because
- (9) ☐ **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10) ☐ **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within \_\_\_\_\_ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete \_\_\_\_\_ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (11) ☐ **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.

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- (12) ☐ **Minimum Continuing Legal Education (MCLE):** Within \_\_\_\_\_ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete \_\_\_\_\_ hour(s) of California Minimum Continuing Legal Education-approved participatory activity in **SELECT ONE** \_\_\_\_\_ and must provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (13) ☐ **Other:** Respondent must also comply with the following additional conditions of probation: \_\_\_\_\_
- (14) ☐ **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (15) ☐ **The following conditions are attached hereto and incorporated:**
- ☐ Financial Conditions ☐ Medical Conditions
- ☐ Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

#### **F. Other Requirements Negotiated by the Parties (Not Probation Conditions):**

- (1) ☒ **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter or during the period of Respondent's actual suspension, whichever is longer, and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.
- (2) ☐ **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because \_\_\_\_\_
- (3) ☐ **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (4) ☐ **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (5) ☐ **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because

- (6) ☐ **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements:

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

IN THE MATTER OF:                      MARK CHRISTOPHER ELLIS

CASE NUMBER:                          17-O-06529 - CV

**FACTS AND CONCLUSIONS OF LAW.**

Mark Christopher Ellis ("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. 17-O-06529 - CV (Complainant: Navy C. Laurence aka Navy C. Clayton)

**FACTS:**

1. In April 2016, Navy C. Laurence aka Navy C. Clayton ("Laurence") hired respondent to represent her during a hearing on April 6, 2016 in the previously-filed dissolution of marriage matter titled *Navy C. Clayton v. James W. Clayton*, Riverside County Superior Court Case No. SWD010220 ("*Clayton v. Clayton*"). Laurence paid advance attorney's fees of \$2,100 to respondent.
2. On April 6, 2016, respondent appeared on Laurence's behalf for the hearing in *Clayton v. Clayton*. The court set a mediation and further appearance.
3. On April 6, 2016, Laurence and respondent discussed the hearing, the mediation and further appearance. Laurence instructed respondent to prepare and file Requests for Telephonic Appearances for the mediation and further appearance, and to then cease working on the file. Respondent completed those tasks and ceased working on the file.
4. On January 17, 2017, Laurence sent a letter to respondent requesting an accounting and refund of any unearned advance attorney's fees. Respondent received the letter, but did not provide the accounting or refund.
5. On February 7, 2017, respondent and Laurence conducted telephonic conversations regarding her case and further services respondent could provide, but Laurence did not hire respondent to provide any additional legal services.
6. On March 1 and 2, 2017, Laurence sent text messages to respondent requesting an accounting. Respondent received the text messages, and replied, "I am working on it," but did not provide the accounting.
7. On April 3, 2017, Laurence mailed a letter to respondent discussing her financial hardship from the settlement of her dissolution of marriage including outstanding debts. The letter requested an accounting and refund of any unearned advance attorney's fees. Respondent received the letter but did not provide an accounting or refund.

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8. On April 13, 2017, Laurence filed the Judgment of Dissolution in *Clayton v. Clayton*.

9. On June 5, 2017, Laurence submitted a complaint to the State Bar of California, Office of Chief Trial Counsel ("OCTC"), alleging that respondent failed to provide either an accounting of advance fees or a refund of any unearned advance attorney's fees.

10. On June 22, 2017, OCTC sent a letter to respondent requesting a written response and supporting documentation regarding the allegation that respondent failed to account for unearned fees. Respondent received the letter, and in response he provided Laurence with an accounting and agreed to refund her \$660, the amount of unearned fees described in the accounting.

11. On January 5, 2018, respondent sent a letter via Certified Mail to Laurence enclosing the refund of \$660, which Laurence received.

12. In February 2018, OCTC discovered that respondent's accounting used a billing rate different than what appeared in Laurence's retainer agreement with respondent, and that after applying the correct billing rate, the total refund amount increased to \$780, \$120 more than respondent previously refunded. On February 23, 2018, OCTC relayed this information to respondent.

13. On March 5, 2018, respondent sent a letter via Certified Mail to Laurence. The letter enclosed an additional refund of \$120, which Laurence received.

#### CONCLUSIONS OF LAW:

14. By failing to render an appropriate accounting to Laurence regarding the \$2,100 she paid to him on April 2, 2016 following her written requests for accountings on January 17, 2017, March 1 and 2, 2017, and April 3, 2017, respondent failed to render an accounting following the client's written requests in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

15. By failing to refund promptly, upon termination of respondent's employment on April 3, 2017, any part of the \$780 of remaining advanced attorney's fees to the client until January 5, 2018, respondent failed to promptly refund the unearned advance attorney's fees in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

#### AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** Effective December 28, 2006, respondent began a one-year stayed suspension and 18-month probation with conditions including passing the Multistate Professional Responsibility Examination. Between August 27, 2002 and November 2005, respondent failed to perform with competence in transferring a case concerning his client from Louisiana to California in violation of Rules of Professional Conduct ("rule"), rule 3-110(A), failed to respond to his client's numerous phone and letters requesting reasonable status reports on his client's case in violation of Business and Professions Code section 6068, subdivision (m), failed to promptly return his client's file despite numerous requests by his client in violation of rule 3-700(D)(1), and failed to promptly provide an accounting to his client despite numerous requests by his client in violation of rule 4-100(B)(3). In aggravation, respondent's misconduct harmed his client. In mitigation, respondent had no prior record of discipline, received psychiatric treatment for depression and alcohol dependency, and regularly attended Alcoholics Anonymous meetings.

Attached as Exhibit 1, consisting of 15 pages, is a true correct copy of the record of prior discipline.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent's failure to account for advance fees and refund unearned fees constitute multiple acts of misconduct.

**Significant Harm to the Client (Std. 1.5(j)):** Respondent harmed his former client by depriving her of funds she needed to pay outstanding debts created by the marital dissolution.

#### MITIGATING CIRCUMSTANCES.

**Good Character:** Respondent presented five letters attesting to his good character, knowledge, skill, and dedication to her clients from attorneys, all of whom have known respondent for seven to 15 years, including a former employer, opposing counsel, and two fellow members of the Mt. San Jacinto/Hemet Bar Association. Each declarant attested to respondent's good character, favorable reputation in the community, willingness to help his clients, and awareness of the full extent of his misconduct. (See *In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319 [serious consideration is given to the testimony of attorneys because they have a "strong interest in maintaining the honest administration of justice"].)

Respondent also presented references from six members of the community, including two clients he has represented for five and 10 years, and four former clients to whom he originally provided pro bono legal services, but who since have become friends. Each attested to respondent's good character, honesty, compassion, dedication, professionalism, and awareness of the full extent of his misconduct. They described respondent as "a good man," "very honorable," "being there for them and never asking for anything in return," "a wonderful, law abiding person, who respects the law the way it should be, and cares a great deal about his clients," and "the best of the best." Five of respondent's references had referred family or friends to respondent, and their family or friends were pleased with respondent's services and consider respondent to be an honest and dedicated attorney. (*In re Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 912 [eight character witnesses, including a retired judge and three attorneys, entitled to mitigative weight pursuant to Standard 1.2(e)(6)].)

**Community Service:** Respondent is entitled to mitigation for substantial community service. Between 2008 and the present, respondent supported the Mt. San Jacinto/Hemet Bar Association in various ways, including serving two terms as its President in 2011 and 2012. (See *In the Matter of Field* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171, 185 [active participation in local bar associations and community associations promoting legal matters is a mitigative factor].) Respondent presented four pro bono clients who stated that between 2008 and the present, respondent provided pro bono legal services to numerous individuals on a wide variety of issues, including but not limited to helping seriously injured parties find adequate legal representation to spending days providing legal services in family law, breach of contract and unlawful detail matters to other individuals. Three of the former clients referred respondent to family or friends, and respondent provided pro bono services to them. (See *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service is mitigating factor entitled to considerable weight].)

**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. (See *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 Review Department held that the attorney's stipulation to facts and culpability was 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).)

In this matter, respondent committed two acts of professional misconduct. Standard 1.7(a) requires that where a respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to respondent’s misconduct is found in Standards 2.2(b) and 2.19, which apply to respondent’s violation of rule 4-100(B)(3) and 3-700(D)(2), respectively. Standard 2.2(b) provides that reproof to suspension is the presumed sanction for violations of rule 4-100 other than commingling or failure to promptly pay out entrusted funds, while Standard 2.19 provides that reproof or suspension not to exceed three years is the presumed sanction for a violation of a provision of the Rules of Professional Conduct not specified in these Standards.

In this matter, respondent has a prior record of discipline. Standard 1.8(a) states that if a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust. The prior discipline is not remote in time because it was effective between December 28, 2006 and June 28, 2008, which was eight years and eight months prior to the misconduct that began in this matter on March 1, 2017. (See *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 703-713 [14 year-old reproof found not remote

where the discipline was imposed only seven years prior to the beginning of the current misconduct].) The prior misconduct was serious, and there are no factors demonstrating that imposing greater discipline than a one-year stayed suspension and 18-month probation would be manifestly unjust. Therefore, the sanction in this matter must be greater than the one-year stayed suspension and 18-month probation previously imposed pursuant to Standard 1.8(a).

In evaluating respondent's misconduct and assessing the level of discipline, Standard 1.7(c) provides that, if mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard. On balance, a lesser sanction is appropriate in cases of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession, and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future.

In a single client matter, respondent failed to account to a client and failed to refund promptly unearned fees. Aggravating circumstances include a prior record of discipline for similar misconduct, multiple acts of misconduct, and harm to the client, while mitigating circumstances include evidence of good character and community service.

Case law supports a period of actual suspension. In *Kelly v. State Bar* (1991) 53 Cal. 3d 509, Kelly committed misconduct in two client matters in which he commingled client funds, failed to deposit client funds in trust, misappropriated client funds, and failed to promptly pay out client funds. In mitigation, Kelly had no prior discipline in 13 years of practice at the time of the misconduct, and his actions immediately after the misconduct occurred suggested an absence of deceit or wrongful intent. There were no factors cited in aggravation. The Supreme Court relied heavily on the absence of deceit, the fact that the resulting harm was not significant, and the absence of evidence suggesting a wrongful intent, and imposed a three-year suspension, stayed, and three-year probation with conditions including a 120-day actual suspension.

Respondent's misconduct here is less severe than *Kelly* because it is limited to a single client matter of failing to account and refund unearned advance attorney's fees, and there was no misappropriation of client funds. However, the current misconduct is also more aggravated than *Kelly*, because the Supreme Court previously disciplined respondent for similar misconduct, and respondent's misconduct harmed his client. Consequently, a less severe discipline than *Kelly* is appropriate.

Considering the above, the appropriate level of discipline is a one-year suspension, stayed, and a two-year probation with conditions including that respondent actually be suspended for the first 60-days, passage of the Multistate Professional Responsibility Examination, and attendance at the State Bar's Ethics School with passage of the examination at the end of the course. This will achieve the purposes of attorney discipline, which include protection of the public, the courts, and the legal profession.

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of August 31, 2018, the discipline costs in this matter are \$3,857. 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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT**

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

NT  
0-15-18



(Do not write above this line.)

In the Matter of: MARK CHRISTOPHER ELLIS	Case Number(s): 17-O-06529-CV
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### SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

10-17-18  
Date

Respondent's Signature

Mark C. Ellis  
Print Name

Date

Respondent's Counsel Signature

Print Name

10-17-18  
Date

Deputy Trial Counsel's Signature

Charles T. Calix  
Print Name

(Do not write above this line.)

In the Matter of: MARK CHRISTOPHER ELLIS	Case Number(s): 17-O-06529-CV
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### ACTUAL SUSPENSION ORDER

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

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

On page 2 of the Stipulation, at paragraph B.(1)(a), "page 19" is deleted, and in its place is inserted "pages 12-13".

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 Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order. (See Cal. Rules of Court, rule 9.18(a).)**

November 13, 2018  
Date

Rebecca Meyer Rosenberg  
REBECCA MEYER ROSENBERG JUDGE PRO TEM  
Judge of the State Bar Court

EX. 1

(State Bar Court Case No. 04-O-15351)

S146926

**SUPREME COURT  
FILED**

NOV 28 2006

IN THE SUPREME COURT OF CALIFORNIA

Frederick K. Ohlrich Clerk

EN BANC

DEPUTY

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IN RE MARK CHRISTOPHER ELLIS ON DISCIPLINE

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It is ordered that MARK CHRISTOPHER ELLIS, State Bar No. 170295, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for 18 months subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on July 26, 2006. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and one-half of said costs be paid with membership fees for the next two billing cycles following the effective date of this order. It is further ordered that if the respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

I, Frederick K. Ohlrich, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

28 day of November 20 06

Clerk


Deputy

**GEORGE**

Chief Justice

ORIGINAL

(Do not write above this line.)

State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
<b>Counsel for the State Bar</b> SHARI SVENINGSON DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, CA 90015 Telephone: (213) 765-1004  Bar # 195298	Case number(s)  04-0-15351	(for Court's use)  <b>PUBLIC MATTER</b>  <b>FILED</b>   JUL 26 2006  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent Mark C. Ellis P.O. Box 30212 San Bernardino, CA 92413 (916) 549-0774  Bar # 170295	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge	
In the Matter of Mark C. Ellis  Bar # 170295 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  STAYED SUSPENSION; NO 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 7, 1994  
(date)
- (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 and order consist of 13 pages.
- (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.

(Do not write above this line.)

- (8) **Payment of Disciplinary Costs**—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- (a) ☐ costs added to membership fee for calendar year following effective date of discipline
  - (b) ☒ costs to be paid in equal amounts prior to February 1 for the following membership years:  
for the next two(2) billing cycles following the effective date of the--  
(hardship, special circumstances or other good cause per rule 282, Rules of Procedure) Superior Court
  - (c) ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs" Order.
  - (d) ☐ costs entirely waived

**B. Aggravating Circumstances** [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
- (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 or a separate attachment entitled "Prior Discipline".
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **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.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See page 11.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(Do not write above this line.)

- (6) ☐ Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

**C. Mitigating Circumstances [see standard 1.2(e)]. 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 deemed serious.
- (2) ☐ No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ Remorse: Respondent promptly took objective steps spontaneously demonstrating 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 in good faith.
- (8) ☒ Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities. See page 11.
- (9) ☐ 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.

(Do not write above this line.)

- (10) ☐ **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.
- (11) ☐ **Good Character:** Respondent's 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:

#### D. Discipline

1. ☒ Stayed Suspension.

(a) ☒ Respondent must be suspended from the practice of law for a period of one (1) year

- I. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- II. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this Stipulation.
- III. ☐ and until Respondent does the following: \_\_\_\_\_

The above-referenced suspension is stayed.

2. ☒ Probation.

Respondent is placed on probation for a period of Eighteen (18) month, which will commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)



(Do not write above this line.)

**E. Additional Conditions of Probation:**

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

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

- (5) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (6) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) ☒ Within one (1) year of the effective date of the discipline herein, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: \_\_\_\_\_
- (8) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) ☐ The following conditions are attached hereto and incorporated:

- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

(Do not write above this line.)

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

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.

☐ No MPRE recommended. Reason: \_\_\_\_\_

- (2) ☐ **Other Conditions:**

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

IN THE MATTER OF:      MARK C. ELLIS

CASE NUMBER(S):      04-O-15351

**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.

**FACTS**

1. On or about March 30, 2002, Insa Sutherland ("Sutherland") employed Respondent to represent her minor son and daughter in two separate matters. Sutherland employed Respondent to represent her son, Jason LeBleu, in a juvenile delinquency case pending in Placer County Superior Court, Juvenile Division, case number 52-001382. Sutherland also employed Respondent to represent her in an ongoing, child support and custody matter concerning her daughter, Brigid, including getting the case transferred from Louisiana to California.

2. Sutherland paid Respondent \$1,700.00 as advanced fees. Respondent told Sutherland he would bill at a rate of \$170.00 per hour.

3. Respondent requested that Sutherland provide all documents pertinent to the cases and Sutherland complied with Respondent's request.

4. On or about July 2, 2002, Sutherland also asked Respondent to review a prenuptial agreement and advise her regarding its validity. She provided Respondent with a copy of the proposed prenuptial agreement.

5. On May 6, 2002, Respondent wrote to Sutherland's former attorney, Grant Pegg ("Pegg"), informing him that he had been retained by Sutherland and requesting a complete copy of the file and information relating to both the delinquency and child support matter so that he could file a substitution of attorney. Eventually, Sutherland obtained the documents from both Jason's and Brigid's cases from Pegg and gave them to Respondent.

6. After sending the May 6, 2002 letter to Pegg, Respondent took no action on the Brigid matter.

7. On May 7, 2002, Sutherland spoke with Respondent by telephone to discuss Jason's case. In that conversation, Sutherland told Respondent to put Brigid's matter on the "back burner" to concentrate on Jason's case.

8. Respondent attended four hearings in Jason's case which was eventually resolved by a referral to probation on July 9, 2002.

9. On May 14, 2002, Sutherland sent Respondent a copy of a letter she had sent to her Louisiana attorney. In the letter, Sutherland informed Marlene Samuel, the Louisiana attorney, that Respondent was her new attorney and would contact her regarding Brigid's case soon.

10. On August 27, 2002, Sutherland called Respondent on his cellular phone to determine the status of the Brigid matter, leaving a message for him to return her call. Respondent failed to return the call.

11. Between September 6 and 23, 2002, Sutherland called Respondent on his cellular or office phone to determine the status of the Brigid matter, leaving messages for him to return her calls. Respondent failed to return her calls.

12. On November 2 and 21, 2002, Sutherland called Respondent on his cellular phone to determine the status of the Brigid matter, leaving messages for him to return her calls. Respondent failed to return her calls.

13. On November 22 and December 19, 2002, Sutherland sent letters via facsimile to Respondent to determine the status of the Brigid matter. Respondent failed to respond to the letters.

14. On February 15, 2003, Sutherland sent a letter to Respondent certified mail, return receipt requested, to determine the status of the Brigid matter. Respondent received the letter and failed to respond to it.

15. In the September 23, 2002, letter Sutherland requested that Respondent return her prenuptial agreement as she no longer needed his advice on it.

16. On March 11, 2003, Sutherland sent Respondent a letter via certified mail terminating his services and requesting that he return all documents pertaining to the delinquency matter, the child support matter and the prenuptial agreement.

17. On March 20, 2003, Respondent wrote to Sutherland acknowledging receipt of her March 11, 2003 letter. In the letter Respondent stated that he would be sending an invoice and all relevant file documents under separate cover. Thereafter, Respondent failed to return the

documents or provide an accounting.

18. Sutherland sent letters to Respondent on April 13 and 28, and May 13 and 23, 2003 requesting her file documents and an accounting. Respondent failed to return the documents or provide an accounting.

19. On July 16, 2003, Respondent sent Sutherland a letter and returned the file documents from Jason's case. In the letter, Respondent told Sutherland that documents from her other files would follow.

20. On November 20, 2003, Sutherland sent a letter to Respondent requesting her remaining file documents and an accounting.

21. On May 26, 2006, Respondent mailed a the remaining file documents and an accounting of his fees to Sutherland.

### **CONCLUSIONS OF LAW**

By not taking steps to pursue Brigid's case including not transferring the case from Louisiana to California, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

By not responding to Sutherland's numerous phone calls and letters requesting the status of the Brigid case, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code section 6068(m).

By not promptly returning the file regarding the Brigid matter and not returning the prenuptial agreement despite numerous requests by Sutherland, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property in wilful violation of Rules of Professional Conduct, rule 3-700(D)(1).

By not promptly providing an accounting to Sutherland, Respondent failed to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was by letter dated May 26, 2006.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 26, 2006, the estimated prosecution costs in this matter are approximately **\$3,654**. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

## **AUTHORITIES SUPPORTING DISCIPLINE.**

Standards 2.2(b), 2.4(b) and 2.6(a) of the Standards for Attorney Sanctions for Professional Misconduct, Title IV of the Rules of Procedure of the State Bar of California.

Standard 2.2(b) provides for a three month actual suspension irrespective of mitigating circumstances for a member's violation of rule 4-100 when the violation does not involve misappropriation of client funds or property.

A deviation from this standard is appropriate here because case law supports it and because Respondent did ultimately provide his client with an accounting of the fees she had paid him. Respondent's delay in providing the accounting was partly caused by the fact the client had moved and Respondent was not aware of the new address.

Standard 2.4(b) provides for reproof or suspension when a member fails to perform services in an individual matter or fails to communicate.

Standard 2.6(a) provides for suspension or disbarment for a violation of Business and Professions Code section 6068.

*Van Sloten v. State Bar*, 48 Cal. 3d 921:

Van Sloten failed to perform by failing to use diligence in procuring a client's marital dissolution, by not properly withdrawing from the case and failing to communicate with the client. The court concluded that the misconduct which was aggravated by his failure to appreciate the discipline process (he failed to appear at the R.D. Hearing proceedings) warranted 6 mo stayed suspension, one year probation, no actual suspension.

*In the Matter of Aguiluz*, (1992) 2 Cal State Bar Ct Rptr. 32

Aguiluz was found culpable of abandoning his client, failing to communicate and failing to return the client's file. Aguiluz received one year stayed suspension and 2 years probation.

**AGGRAVATING CIRCUMSTANCES**

Respondent's failure to perform caused a significant delay in his client's child custody and child support matter.

**MITIGATING CIRCUMSTANCES.**

During the time of the misconduct Respondent suffered from depression. Respondent has since been diagnosed with Major Depression and Alcohol Dependence. Respondent is currently being treated by a psychiatrist and is attending Alcoholics Anonymous meetings regularly.

Respondent had attempted to provide Sutherland with the remaining file documents and an accounting of his fees by mail in November 2005, but Sutherland had moved and the mailing was returned to Respondent as "unable to forward." Respondent obtained Sutherland's current address in May 2006 and promptly mailed the remaining file documents and the accounting to Sutherland.

(Do not write above this line.)

In the Matter of  MARK C. ELLIS	Case number(s):  04-0-15351
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### SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law and Disposition.

Date 6-20-06

Respondent's signature

MARK C. ELLIS  
Print name

Date ~~6/23/06~~

Respondent's Counsel's signature

Print name

Date 6/23/06

Deputy Trial Counsel's signature

SHARI SVENINGSON  
Print name



(Do not write above this line.)

In the Matter of <b>MARK C. ELLIS</b>	Case number(s): <b>04-O-15351</b>
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### 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 2, section A(8)(b) instead of Superior Court order it must read Supreme Court order.

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 135(b), 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 953(a), California Rules of Court.)

Date

July 25, 2006

Pat McElroy

PAT McELROY

Judge of the State Bar Court

**CERTIFICATE OF SERVICE**  
**[Rule 62(b), Rules Proc.; 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 San Francisco, on July 26, 2006, 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:

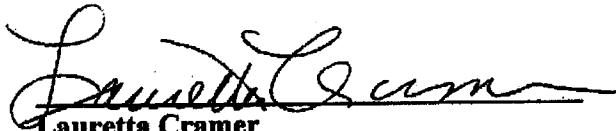
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**MARK CHRISTOPHER ELLIS  
PO BOX 30212  
SAN BERNARDINO, CA 92413**

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

**SHARI SVENINGSON, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 26, 2006.

  
**Laretta Cramer**  
Case Administrator  
State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 13, 2018, 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:

MARK CHRISTOPHER ELLIS  
ELLIS LAW OFFICE  
31566 RAILROAD CANYON RD  
STE 2 PMB #127  
CANYON LAKE, CA 92587

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

CHARLES T. CALIX, Enforcement Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 13, 2018.



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Paul Songco  
Court Specialist  
State Bar Court