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

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| <b>Counsel For The State Bar</b><br><br><b>Kevin Bucher</b><br><b>Supervising Attorney</b><br><b>845 S. Figueroa Street</b><br><b>Los Angeles, CA 90017</b><br><b>(213) 765-1630</b><br><br>Bar # 132003 | <b>Case Number(s):</b><br><b>17-O-01182-DFM</b>   | <b>For Court use only</b><br><br><b>PUBLIC MATTER</b><br><br><b>FILED</b><br><br><b>JUN 27 2018</b><br><br><b>STATE BAR COURT</b><br><b>CLERK'S OFFICE</b><br><b>LOS ANGELES</b> |
| <b>In Pro Per Respondent</b><br><br><b>Mark Levinson</b><br><b>16255 Ventura Boulevard</b><br><b>Suite 625</b><br><b>Encino, CA 91436</b><br><b>(818) 788-3059</b><br><br>Bar # 52084                    | <b>Submitted to: Settlement Judge</b>   |   |
| <b>In the Matter of:</b><br><b>MARK LAWRENCE LEVINSON</b><br><br>Bar # 52084<br><br>A Member of the State Bar of California<br>(Respondent)  | <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND<br/>DISPOSITION AND ORDER APPROVING</b><br><br><b>ACTUAL SUSPENSION</b><br><br><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 **April 24, 1972**.
- (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 **15** 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: **for the two billing cycles following the effective date of the Supreme Court Order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

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

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case
  - (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. **See page 11.**
- (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.
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution. See page 11.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

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

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

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product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**No Prior Discipline, see page 12.**

**Pre-trial Stipulation, see page 12.**

**D. Discipline:**

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

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- 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: .

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- (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 checked="" type="checkbox"/> Financial Conditions  |

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

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation 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:**

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| In the Matter of:<br><b>MARK LAWRENCE LEVINSON</b> | Case Number(s):<br>17-O-01182 |
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### Financial Conditions

#### a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

| Payee                          | Principal Amount | Interest Accrues From |
|--------------------------------|------------------|-----------------------|
| The Estate of Jerome Silverman | \$144, 850       | September 8, 2015     |
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- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

#### b. Installment Restitution Payments

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

| Payee/CSF (as applicable)      | Minimum Payment Amount | Payment Frequency  |
|--------------------------------|------------------------|--|
| The Estate of Jerome Silverman | \$5000                 | Quarterly on January 10, April 10, July 10, and October 10, following the effective date of the Supreme Court Order, during the period of probation. |
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If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

**c. Client Funds Certificate**

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";
  - b. Respondent has kept and maintained the following:
    - i. A written ledger for each client on whose behalf funds are held that sets forth:
      - 1. the name of such client;
      - 2. the date, amount and source of all funds received on behalf of such client;
      - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
      - 4. the current balance for such client.
    - ii. a written journal for each client trust fund account that sets forth:
      - 1. the name of such account;
      - 2. the date, amount and client affected by each debit and credit; and,
      - 3. the current balance in such account.
    - iii. all bank statements and cancelled checks for each client trust account; and,
    - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
  - c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
    - i. each item of security and property held;
    - ii. the person on whose behalf the security or property is held;
    - iii. the date of receipt of the security or property;
    - iv. the date of distribution of the security or property; and,
    - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.



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3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

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

IN THE MATTER OF:                                    MARK LAWRENCE LEVINSON  
CASE NUMBER:    17-O-01182

**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. 17-O-01182 (Complainant: Jerome Silverman)

FACTS:

1. In February 2012, respondent assisted his long-time friend and client Jerome Silverman (“Silverman”), in forming a Nevada based LLC, “Texzel, Ltd.” (“Texzel”).
2. On May 12, 2014, respondent and Silverman entered into a business transaction whereby Silverman transferred \$300,000 from his Texzel bank account into respondent’s client trust account, xxxx7215 (“CTA”), to be held in part for litigation Texzel would be pursuing against a Massachusetts based franchisor. The money belonged to Texzel and respondent was acting as a fiduciary custodian.
3. Respondent had an understanding that although the money was to be used for Texel’s litigation, he could use or borrow some of the funds for his own personal expenses. However, the terms of the transaction and the agreement were never fully disclosed in writing by respondent to Silverman, and the amount of the funds which respondent could use or borrow for his own purposes was not discussed with Silverman.
4. Respondent did not advise Silverman in writing the he could or should seek the advice of independent counsel of Silverman’s choice to discuss the business transaction. At no time did Silverman consent in writing to the terms of the transaction.
5. On or about August 8, 2014, respondent and Silverman travelled to Massachusetts to meet with an attorney who would be assisting Silverman in the Massachusetts litigation. Silverman signed an engagement letter with the Massachusetts attorney, and made an initial payment of \$10,000.00. Thereafter, the Massachusetts attorney filed a civil complaint in the Commonwealth of Massachusetts, *Silverman v. Radlo, et al.* Case No. 1584CV01581.
6. Between 2014 and 2015, a total of approximately \$53,704 of the funds being held by respondent for Silverman was disbursed to Silverman personally from the money being held in respondent’s CTA.

7. Between 2014 and 2015, a total of approximately \$85,400 of the funds being held by respondent for Silverman was disbursed from the money being held in respondent's CTA to cover Silverman's legal expenses and legal fees related to the Massachusetts litigation.

8. Between 2014 and 2015, a total of approximately \$145,400 of the funds being held by respondent for Silverman was disbursed from the money being held in respondent's CTA to respondent himself. Respondent used the money for his own personal expenses.

9. In August 2015, Silverman presented respondent with a legal bill to respondent to be paid from the money being held by respondent on Silverman's behalf, at which time respondent told Silverman there wasn't enough money to pay the invoice. On August 31, 2015, the balance in Respondent's CTA was \$579.69.

10. Silverman and respondent met in September at which time Silverman expressed that, while it was understood that respondent could use or borrow some of the funds held in trust, Silverman had not contemplated respondent would borrow or use as much of Silverman's money as he did. On September 8, 2015, respondent signed a note promising to repay \$144,850, to be paid without interest.

11. Respondent's misuse of Silverman's funds for his own purpose was the result of a lack of a clear, written agreement as to the amount of funds respondent was entitled to use or borrow.

12. Before respondent could repay the funds, Silverman died. Since Silverman's death, respondent has not paid to Silverman's estate or successors any of the funds that he promised to repay.

#### CONCLUSIONS OF LAW:

13. By entering into a business transaction with Silverman to deposit \$300,000 of Silverman's money into respondent's CTA for the joint purpose of being an unspecified loan to respondent and payment for Silverman's litigation expenses, without fully disclosing in writing to Silverman the terms of the business transaction in a manner which should have been reasonably understood by Silverman, without advising Silverman in writing that he may seek the advice of an independent lawyer of his choice, and not allowing Silverman a reasonable opportunity to seek that advice and to consent in writing to the terms of the transaction, respondent willfully violated Rules of Professional Conduct, rule 3-300.

#### AGGRAVATING CIRCUMSTANCES.

**Failure to Make Restitution (Std. 1.5(m)):** To date, Respondent has failed to make restitution to his client, or to his client's estate or successors in interest, in the amount of \$144,850.

**Harm (Std 1.5(j)):** Respondent's misconduct significantly harmed his client. By depriving his client of money in excess of what was anticipated by their oral agreement, without entering into a written agreement for the business transaction, respondent caused actual harm to his client by depriving him of possession and use of funds to which he was entitled.

## MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent was admitted to practice law in California on April 24, 1972. At the time of the misconduct, Respondent had practiced law for just over 42 years without a prior record of discipline. Respondent is entitled to significant weight in mitigation. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

**Pre-trial Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

## AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, the sanction applicable to respondent's misconduct is found in Standard 2.4 which applies to respondent's violation of Rules of Professional Misconduct rule 3-300 regarding business transactions with a client. Standard 2.4 provides that suspension is the presumed sanction for improperly entering into a business transaction with a client or knowingly acquiring a pecuniary interest adverse to a client, unless the extent of the misconduct and any harm it caused to the client are minimal, in which case

reproval is appropriate. If the transaction or acquisition and its terms are unfair or unreasonable to the client, then disbarment or actual suspension is appropriate.

Here, respondent violated Rules of Professional Misconduct rule 3-300 when he entered into a unfair and unreasonable business transaction with his client, Silverman. As part of the business transaction, respondent received a bank wire transfer in the sum of \$300,000 to hold in trust for future litigation, and a portion of which respondent thereafter used for personal expenses. However, at no point did respondent (1) fully disclose in writing to Silverman the terms of the business transaction in a manner which should have been reasonably understood by Silverman, (2) advise Silverman in writing that he may seek the advice of an independent lawyer of Silverman's choice, and (3) give Silverman a reasonable opportunity to seek that advice to consent in writing to the terms of the transaction.

In aggravation, respondent failed to make restitution to his client in the amount of \$144,850 and caused harm to his client. However, respondent's conduct is mitigated by the fact that respondent, with this stipulation, acknowledged the wrongfulness of his misconduct. Additionally, respondent had more than 42 years in practice with no prior discipline at the time this misconduct occurred.

Balancing the nature of the misconduct, and the aggravating and mitigating circumstances, a level of discipline at the middle of the range of discipline set forth in Standard 2.4 is consistent with the purposes of discipline. A one-year suspension, stayed, and a two-year period of probation with conditions, including a six month actual suspension, will adequately serve to protect the public, the courts, and the legal profession, maintain high standards by attorneys, and maintain public confidence in the legal profession.

Case law also supports this result. In *In the Matter of Hultman* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297, the attorney, as trustee of a testamentary trust, made two loans to himself, which amounted to most of the corpus of the trust, without complying with the Rule of Professional Conduct which prohibits an attorney from improperly obtaining an interest in a client's property and/or entering into a business transaction with a client. One of the loans was unsecured and both loans provided for payment of interest only with no due date for payment of the principal. Furthermore, the Review Department found that the attorney, through gross neglect, filed a false pleading with a court and therefore was culpable of moral turpitude. In aggravation, the Review Department agreed with the Hearing Department that the attorney was culpable of recklessly failing to perform services competently in his handling of the trust which led to the submission of a false accounting to the probate court. In mitigation, the Hearing Department found that the attorney had 13 years of discipline-free practice; that the attorney had made restitution of the \$5,000 loan before the notice to show cause in this matter was filed; that the attorney had made restitution of the \$25,000 loan, which even though not made until after the notice to show cause was filed, was still deserving of some weight in mitigation; and that the attorney had demonstrated his good character through the testimony of seven character witnesses and through his community service; that the attorney was remorseful; and that the attorney was candid and cooperative in the disciplinary proceeding. Based on the seriousness of the misconduct, which included repeated improper self-dealing by a fiduciary and grossly inadequate record keeping, the Review Department recommended discipline of three years stayed suspension, three year probation, and 60 days actual suspension.

The seriousness of respondent's misconduct is greater than the misconduct found in *Hultman*. First, most of the money loaned in *Hultman* was secured and the unsecured loan was apparently not at risk as the attorney had the ability to repay it. The attorney also repaid the loans with interest. In contrast, the

respondent did not borrow money from Silverman as a secured loan, and has not repaid any portion of the borrowed funds. Thus, respondent should receive a discipline greater than *Hultman's* because his misconduct is more serious and he has significantly less mitigation.

**DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

| <u>Case No.</u> | <u>Count</u> | <u>Alleged Violation</u>                     |
|-----------------|--------------|--|
| 17-O-01182      | One          | Business and Professions Code, section 6106  |
| 17-O-01182      | Two          | Rules of Professional Conduct, rule 4-100(A) |

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of **DATE**, the discipline costs in this matter are \$7,998. 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**

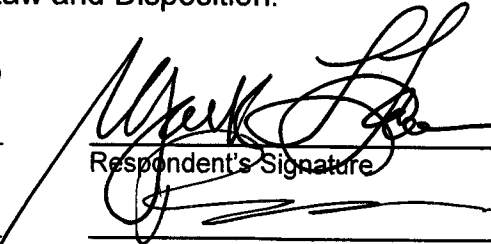
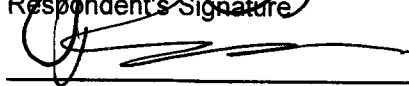
Respondent may not receive MCLE credit for completion of State Bar Ethics School or State Bar Client Trust Accounting School to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

|   |                                      |
|---|--------------------------------------|
| In the Matter of<br><b>MARK LAWRENCE LEVINSON</b> | Case number(s):<br><b>17-O-01182</b> |
|---|--------------------------------------|

**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 Fact, Conclusions of Law and Disposition.

|                             |   |   |
|-----------------------------|---|---|
| <u>14 June 2018</u><br>Date | <br>Respondent's Signature           | <u>Mark Lawrence Levinson</u><br>Print Name |
| <u>6-14-18</u><br>Date      | <br>Deputy Trial Counsel's Signature | <u>R. Kevin Bucher</u><br>Print Name        |

(Do not write above this line.)

In the Matter of:  
**MARK LAWRENCE LEVINSON**

Case Number(s):  
**17-O-01182**

### 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.

1. On page 4 of the stipulation, an "X" is INSERTED in the box for paragraph D(1) to provide that Respondent is placed on one year's stayed suspension.
2. On page 7 of the stipulation, under subdivision b (Installment Restitution Payments), the payment-frequency terms of Respondent's required installment restitution payments to the Estate of Jerome Silverman are MODIFIED to provide as follows:

Quarterly on January 10, April 10, July 10, and October 10, following the effective date of the Supreme Court order, during the period of probation. In addition to the required minimum-quarterly-restitution payments, Respondent must make, no later than 30 days before the expiration of his two-year period of probation, a final payment to the Estate of Jerome Silverman in whatever amount is necessary to comply with his restitution probation condition by paying the Estate a total of \$144,850 plus 10 percent interest thereon from September 8, 2016.

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.)**

June 27, 2018  
Date

Yvette D. Roland  
YVETTE D. ROLAND  
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 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 June 27, 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:

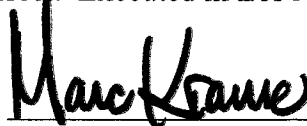
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MARK LAWRENCE LEVINSON  
LAW OFC MARK L LEVINSON  
16255 VENTURA BLVD  
STE 625  
ENCINO, CA 91436 - 2307

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

RONALD K. BUCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 27, 2018.



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Marc Krause  
Court Specialist  
State Bar Court