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

**PUBLIC MATTER**

|  |  |   |
|--|--|---|
| <p>Counsel For The State Bar</p> <p><b>Suzan J. Anderson</b><br/>Deputy Trial Counsel<br/>1149 S. Hill Street<br/>Los Angeles, California 90015<br/>(213) 765-1209</p> <p>Bar # 160559</p> | <p>Case Number (s)<br/>06-O-14076, 07-O-14019</p>  | <p>(for Court's use)</p> <p align="center"><b>FILED</b></p> <p align="center">FEB 15 2008 <i>[Signature]</i></p> <p align="center">STATE BAR COURT<br/>CLERK'S OFFICE<br/>LOS ANGELES</p> |
| <p>In Pro Per Respondent</p> <p><b>John William Millar</b><br/>2447 Mammoth Drive<br/>San Diego, California 92123<br/>(858) 427-6290</p> <p>Bar # 156804</p>                               | <p>Submitted to:</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND<br/>DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> |   |
| <p>In the Matter Of:<br/><b>John William Millar</b></p> <p>Bar # 156804</p> <p>A Member of the State Bar of California<br/>(Respondent)</p>  |  |   |

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 16, 1991**.
- (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."
- (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 284, Rules of Procedure.
  - costs 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 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - 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.
- (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.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (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. **Throughout this proceeding, Respondent cooperated fully with the State Bar and was willing to discuss this matter, answer any questions which were posed by the State Bar, and entered into this comprehensive stipulation.**
- (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. **Respondent immediately transferred funds into his client trust account in order to make his client whole.**
- (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.
- (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. **Please see attachment, pages 14 & 15.**
- (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. **Please see attachment, page 15.**
- (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**

Please see attachment, pages 14 & 15.

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **two (2) years**.

i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and 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:

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **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:

**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 learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

(3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and

conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: \_\_\_\_\_
- (9)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10)  The following conditions are attached hereto and incorporated:
- |   |  |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" 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 321(a)(1) & (c), Rules of Procedure.**

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

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- (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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Attachment language begins here (if any):  
Please see attachment pages 11 through 16.

In the Matter of  
John William Millar

Case number(s):  
06-O-14076, 07-O-14019

A Member of the State Bar

### 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 |
|-------|------------------|-----------------------|
|       |                  |                       |
|       |                  |                       |
|       |                  |                       |
|       |                  |                       |

- 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 reproval), 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 |
|---------------------------|------------------------|-------------------|
|                           |                        |                   |
|                           |                        |                   |
|                           |                        |                   |
|                           |                        |                   |

**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.
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.

In the Matter of  
John William Millar

Case number(s):  
06-O-14076, 07-O-14019

A Member of the State Bar

### Law Office Management Conditions

- a.  Within \_\_\_\_\_ days/ \_\_\_\_\_ months/ \_\_\_\_\_ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b.  Within \_\_\_\_\_ days/**six (6)** months/ \_\_\_\_\_ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **six (6)** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c.  Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for \_\_\_\_\_ year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

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

IN THE MATTER OF:        John William Millar

CASE NUMBER(S):        06-O-14076, 07-O-14019

**FACTS AND CONCLUSIONS OF LAW.**

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

**FACTS**

COUNT ONE - Case Number 06-O-14076

1. At all times mentioned herein, Respondent maintained a client trust account at Union Bank of California, Account Number 7340026831 ("Respondent's CTA").

2. On August 28, 2005, Respondent received \$208,615.00 into Respondent's CTA by way of an electronic transfer from the State of California on behalf of his client, Robert Barczewski ("Barczewski"). The agreement between Respondent and Barczewski was that Barczewski was to receive \$170,000.00 of these funds and the remainder was to be used to pay past attorney fees owed to Respondent by Barczewski.

3. On September 9, 2005, prior to any payment being made to Barczewski or anyone on his behalf, the balance in Respondent's CTA fell to \$167,771.95. On September 14, 2005, prior to any payment being made to Barczewski or anyone on his behalf, the balance in Respondent's CTA fell to \$167,738.95.

**CONCLUSIONS OF LAW**

By not maintaining at least \$170,000.00 on behalf of Barczewski in Respondent's CTA until payment was made to Barczewski, Respondent failed to maintain funds in trust in a client trust account in wilful violation of Rule 4-100(A) of the Rules of Professional Conduct.

COUNT TWO - Case Number 06-O-14076

4. The stipulated facts of paragraphs 1 through 3 are incorporated by reference.

5. Respondent dishonestly misappropriated at least \$2,261.05 of the funds received on behalf of Barczewski.

**CONCLUSIONS OF LAW**

By misappropriating at least \$2,261.05 of the funds received on behalf of Barczewski, Respondent committed acts involving moral turpitude, dishonesty and/or corruption in wilful violation of Business and Professions Code section 6106.

COUNT THREE - Case Numbers 06-O-14076, 07-O-14019

6. The stipulated facts of paragraph 1 are incorporated by reference.

7. Between February 2005 and September 2007, Respondent issued the following checks drawn on and authorized the following electronic debits drawn on Respondent’s CTA against insufficient funds:

| <u>CHECK NUMBER</u>                     | <u>CHECK AMOUNT</u> | <u>DATE PRESENTED</u> | <u>BANK ACTION</u> | <u>RESULTING ACCOUNT BALANCE</u> |
|---|---------------------|-----------------------|--------------------|----------------------------------|
| 1028                                    | \$1,438.00          | 02/07/05              | Paid NSF           | \$ 603.76-                       |
| 1026                                    | 303.50              | 02/08/05              | Paid NSF           | 926.26-                          |
| (Check 1026 then reversed on 02/09/05)  |                     |                       |                    |                                  |
| 1026                                    | 303.50              | 02/10/05              | Paid NSF           | 947.26-                          |
| (Check 1026 again reversed on 02/11/05) |                     |                       |                    |                                  |
| 1050                                    | 2,000.00            | 05/25/05              | Paid NSF           | 1,783.84-                        |
| (Check 1050 then reversed on 05/26/05)  |                     |                       |                    |                                  |
| 1053                                    | 36.30               | 06/17/05              | Paid NSF           | 3.40-                            |
| Electronic                              | 6,092.89            | 08/15/05              | Paid NSF           | 2,115.72-                        |
| Electronic                              | 8.50                | 08/15/05              | Paid NSF           | 2,115.72-                        |
| 1063                                    | 170,000.00          | 09/13/05              | Paid NSF           | 2,228.05-                        |
| (Check 1063 then reversed on 09/14/05)  |                     |                       |                    |                                  |
| 1063                                    | 170,000.00          | 09/19/05              | Paid NSF           | 2,261.05-                        |
| 1111                                    | 180.00              | 090307                | Paid NSF           | 167.05-                          |

8. Respondent issued the checks set forth above when he knew or in the absence of gross negligence should have known that there were insufficient funds in Respondent’s CTA to pay them. As several of the checks were returned twice (numbers 1026 and 1063), Respondent made

no effort to ensure that there were sufficient funds in Respondent's CTA after Respondent issued the checks and authorized the electronic debits.

### CONCLUSIONS OF LAW

By issuing checks and authorizing electronic debits drawn upon Respondent's CTA when he knew or in the absence of gross negligence should have known that there were insufficient funds in the account to pay them and failing to ensure that there were sufficient funds in the account to pay the checks, Respondent committed acts of moral turpitude, dishonesty and/or corruption in wilful violation of Business and Professions Code section 6106.

#### COUNT FOUR - Case Number 06-O-14076

9. The stipulated facts of paragraph 1 are incorporated by reference.

10. During the period of February 2005 to September 2005, Respondent left personal funds in Respondent's CTA for the payment of office and/or personal expenses as needed.

11. During the same time period, Respondent made personal deposits into Respondent's CTA for a total of \$500.00 as follows:

| <u>DATE OF DEPOSIT</u> | <u>AMOUNT OF DEPOSIT</u> |
|------------------------|--------------------------|
| 02/15/05               | \$ 300.00                |
| 09/08/05               | 200.00                   |

12. During the same time period, Respondent repeatedly issued checks and authorized electronic debits drawn upon Respondent's CTA to pay his office and/or personal expenses as follows:

| <u>CHECK NUMBER</u> | <u>DATE PRESENTED</u> | <u>PAYEE</u>           | <u>CHECK AMOUNT</u> |
|---------------------|-----------------------|------------------------|---------------------|
| 1028                | 02/07/05              | Tawnie Makua           | \$1,438.00          |
| 1050                | 05/25/05              | Mission Valley Terrace | 2,000.00            |
| 1055                | 06/30/05              | Tawnie John            | 1,492.75            |
| 1054                | 07/01/05              | Steve Kosmata          | 30.00               |
| 1057                | 07/18/05              | BayHo                  | 400.00              |
| 1058                | 07/25/05              | Tawnie Makua           | 550.00              |
| Electronic          | 08/15/05              | AMC Mortgage Services  | 6,092.89            |
| Electronic          | 08/15/05              | AMC Mortgage Services  | 8.50                |

|               |          |                        |          |
|---------------|----------|------------------------|----------|
| 1062          | 09/08/05 | Mission Valley Terrace | 2,550.00 |
| Wire Transfer | 09/09/05 | Ameriquist Mortgage    | 8,096.22 |
| 1065          | 09/29/05 | Alex Tomaseirc         | 152.00   |

**LEGAL CONCLUSIONS**

By leaving personal funds in and/or depositing personal funds into Respondent's CTA for withdrawal as needed to pay office and/or personal expenses, and by issuing checks and authorizing electronic debits as needed for office and/or personal expenses, Respondent improperly used Respondent's CTA as a personal account and commingled funds belonging to Respondent in a client trust account in wilful violation of Rule 4-100(A) of the Rules of Professional Conduct.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was January 11, 2008.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of December 4, 2007, the costs in this matter are \$1,983.00. 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.

**MITIGATING CIRCUMSTANCES**

**FACTS SUPPORTING MITIGATING CIRCUMSTANCES.**

**No Prior Discipline:** Respondent has been a licensed attorney for over 16 years with no prior record of discipline.

**Remorse:** Several days after Respondent learned that check number 1063 to Mr. Barczewski had been returned for insufficient funds, Respondent purchased a cashier's check for the amount so Mr. Barczewski received his funds several days later. Respondent made sure the Mr. Barczewski received his funds without the threat or force of disciplinary, civil or criminal proceedings. Mr. Barczewski never complained to the State Bar, the misconduct was discovered due to an insufficient funds check from Respondent's client trust account.

**Severe Financial Stress:** In May 2004, Respondent left his employment with the firm

where he had been working for several years because the firm owed him a substantial sum of money and refused to pay. Respondent sued the firm in pro per for the funds owed and in early 2006, Respondent won substantial judgment from the firm after a five-day trial. Since Respondent represented himself, this litigation against the firm took a major amount of his time and expenses to bring the case to trial. Respondent was involved in this litigation during the time of the misconduct. As it has now concluded, this will no longer be a problem for Respondent, and he is no longer under financial stress since winning the judgment.

**Family Problems:** At the time of the misconduct, Respondent and his wife were determining that their marriage was no longer viable and decided to terminate the marriage. Respondent has two children who were greatly affected by this decision and the entire family was under severe stress and suffered emotional difficulties until the details of the termination were worked out. Each family member has learned to adapt to the new situation, and the stress level had subsided considerably, so Respondent is no longer dealing with the emotional difficulties of the entire family.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

Pursuant to standard 1.3, the primary purposes of disciplinary proceedings and imposing sanctions for professional misconduct are, “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.”

Standard 2.2(a) provides that culpability of a member of wilful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances.

Standard 2.2(b) provides that culpability of a member of commingling of entrusted funds or property with personal property which does not result in wilful misappropriation of entrusted funds or property shall result in at least a three-month actual suspension from the practice of law, irrespective of mitigating circumstances.

Standard 2.3 provides that culpability of a member of an act of moral turpitude shall result in actual suspension to disbarment depending upon the extent of the harm caused by the act of moral turpitude.

The Supreme Court gives the standards “great weight,” and will reject a recommendation consistent with the standards only where the Court entertains “grave doubts” as to its propriety. *In re Naney* (1990) 51 Cal. 3d 186, 190; *see also In re Silvertown* (2005) 36 Cal. 4<sup>th</sup> 81, 91, 92.

Further, although the standards are not mandatory, it is well established that the standards may be deviated from only when there is compelling, well-defined reason to do so. *See Aronin v. State Bar* (1990) 52 Cal. 3d 276, 291; *see also Bates v. State Bar* (1990) 52 Cal. 3d 1056, 1060, fn. 2.

In *Edwards III v. State Bar* (1990) 52 Cal.3d 28, the Supreme Court stated that a period of one year of actual suspension was sufficient discipline for an attorney found culpable of commingling personal and client funds in a trust account and had on at least one occasion willfully misappropriated a client's settlement funds from the account, given the attorney's good faith in refraining from acts of deceit towards the client, making full repayment within three months after the misappropriation and before the attorney was aware of the complaint to the State Bar, cooperating candidly throughout the proceedings, and voluntarily taking steps to improve his management of entrusted funds.

In *Murray v. State Bar* (1985) 40 Cal.3d 575, the attorney commingled and misappropriated funds entrusted to him, unilaterally determined and withdrew his fees from those funds, made disbursements without court approval, and failed to account to the executors of an estate in face of their repeated demands. The attorney was suspended for two years stayed, and placed on probation for two years to include one year actual suspension.

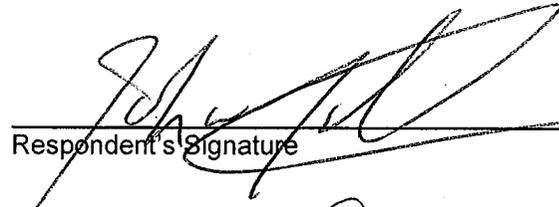
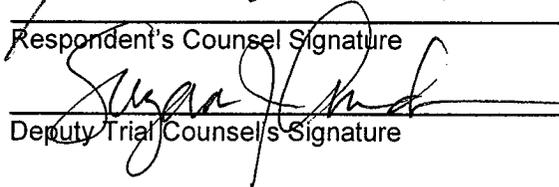
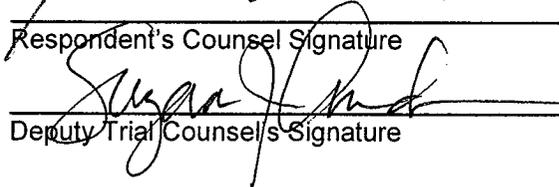
The stipulated discipline in this matter clearly falls within the standards and case law as mentioned above.

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|   |   |
|---|---|
| In the Matter of<br>John William Millar | Case number(s):<br>06-O-14076, 07-O-14019 |
|---|---|

### 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>1/22/08</u><br>Date | <br>Respondent's Signature           | JOHN WILLIAM MILLAR<br>Print Name |
| <u>1/28/08</u><br>Date | <br>Respondent's Counsel Signature   | Print Name                        |
| <u>1/28/08</u><br>Date | <br>Deputy Trial Counsel's Signature | SUZAN J. ANDERSON<br>Print Name   |

(Do not write above this line.)

In the Matter Of  
John William Millar

Case Number(s):  
06-O-14076, 07-O-14019

### ORDER

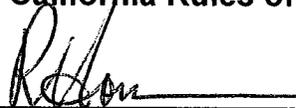
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 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 9.18(a), California Rules of Court.)**

2-15-08

Date



Judge of the State Bar Court

**RICHARD A. HONN**

1 DECLARATION OF SERVICE BY REGULAR MAIL

2 **CASE NUMBER: 06-O-14076, 07-O-14019**

3 I, the undersigned, over the age of eighteen (18) years, whose business address and place  
4 of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California  
5 90015, declare that I am not a party to the within action; that I am readily familiar with the State  
6 Bar of California's practice for collection and processing of correspondence for mailing with the  
7 United States Postal Service; that in the ordinary course of the State Bar of California's practice,  
8 correspondence collected and processed by the State Bar of California would be deposited with  
9 the United States Postal Service that same day; that I am aware that on motion of party served,  
10 service is presumed invalid if postal cancellation date or postage meter date on the envelope or  
11 package is more than one day after date of deposit for mailing contained in the affidavit; and that  
12 in accordance with the practice of the State Bar of California for collection and processing of  
13 mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on  
14 the date shown below, a true copy of the within

10 **STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND  
11 ORDER APPROVING ACTUAL SUSPENSION**

11 in a sealed envelope placed for collection and mailing at Los Angeles, on the date shown below,  
12 addressed to:

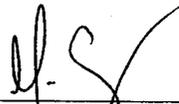
13 **John William Millar**  
14 **2447 Mammoth Drive**  
15 **San Diego, CA 92123**

16 in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

17 N/A

18 I declare under penalty of perjury under the laws of the State of California that the  
19 foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

20 DATED: January 28, 2008

21 SIGNED:   
22 Max Caranza  
23 Declarant  
24  
25  
26  
27  
28

**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 Los Angeles, on February 15, 2008, 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:

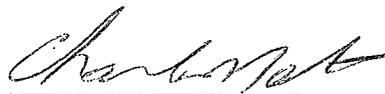
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JOHN W. MILLAR  
LAW OFFICE OF JOHN W MILLAR  
2750 WHEATSTONE ST SPC 197  
SAN DIEGO, CA 92111**

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

**Suzan J. Anderson, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 15, 2008**.



---

**Charles Nettles**  
Case Administrator  
State Bar Court