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State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>William Todd Deputy Trial Counsel 1149 S Hill Street Los Angeles, California 90015 213-765-1491</p> <p>Bar # 259194</p>	<p>Case Number(s): 11-O-18026-RAP</p>	<p>For Court use only</p> <p><b>FILED</b></p> <p>DEC 21 2012</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>kwiktag® 152 143 759</p> 
<p>Counsel For Respondent</p> <p>Paul J. Virgo 9909 Topanga Blvd # 282 Chatsworth, California 91311 310-666-9701</p> <p>Bar # 67900</p>	<p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: DON LEE SLAYTON</p> <p>Bar # 75052</p> <p>A Member of the State Bar of California (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 June 28, 1977.
- (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: the two billing cycles immediately following the effective date of the Supreme Court order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

**B. Aggravating Circumstances [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. Please see "Attachment to Stipulation", Page 11.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. Please see "Attachment to Stipulation", Page 11.

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- (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. Please see "Attachment to Stipulation", Page 10.
- (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.
- (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 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 to Stipulation", Page 11.

**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:
- (b)  The above-referenced suspension is stayed.

- (2)  **Probation:**

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

- (3)  **Actual Suspension:**

- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of thirty (30) days.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and 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 the 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

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information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

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

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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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**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
Anthony Magnanimo	\$5,000.00	September 16, 2010

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

**b. Installment Restitution Payments**

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

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

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

**c. Client Funds Certificate**

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



However, Respondent did not include all of the supporting schedules and documentation required to complete the bankruptcy filing.

6. On December 17, 2010, the clerk for the Bankruptcy Court in which Magnanimo's bankruptcy petition was filed advised Respondent in writing that the bankruptcy petition was deficient because the supporting schedules and documentation filed with the petition were incomplete.

7. On December 22, 2010, DSSS One Capital ("DSSS"), one of Magnanimo's creditors, filed a motion for relief from the automatic stay triggered by the December 17, 2010 bankruptcy filing. The motion would ultimately be set for hearing on February 2, 2011, with Respondent's opposition due by January 26, 2011.

8. In January 2011, Magnanimo became concerned his bankruptcy case might be dismissed due to Respondent's failure to file the appropriate schedules and documentation. Magnanimo spoke with the U.S. bankruptcy trustee assigned to Magnanimo's case, who advised Magnanimo to seek new counsel.

9. Respondent failed to file an opposition to DSSS's motion for relief by January 26, 2011, leading DSSS to file a notice of failure to file a response on January 27, 2011.

10. On January 28, 2011, Magnanimo retained new counsel, and Respondent filed an opposition to the motion for relief from stay on Magnanimo's behalf.

11. Respondent did not supervise Dozier's service or communication with Magnanimo.

12. Respondent did not communicate with Magnanimo at any point, and instead received all information regarding Magnanimo's case from Dozier.

13. On February 18, 2011, Dozier issued a cashier's check for \$7,500.00 to Respondent which Respondent deposited in Respondent's own account.

#### CONCLUSIONS OF LAW:

14. By allowing Dozier to use Respondent's law office to acquire clients under the guise of providing legal services and by failing to supervise Dozier's work with Magnanimo or otherwise directly communicate with Magnanimo, Respondent aided a person in the unauthorized practice of law in willful violation of Rules of Professional Conduct rule 1-300(A).

15. By sharing with Dozier the legal service fees Magnanimo paid to Dozier, Respondent shared legal fees with a person who is not a lawyer in willful violation of Rules of Professional Conduct rule 1-320(A).

16. By failing to communicate in any way with Magnanimo regarding the chapter 13 bankruptcy petition deficiencies and failing to advise Magnanimo of DSSS' motion for relief, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

#### FACTS RE ADDITIONAL AGGRAVATING CIRCUMSTANCES

**Multiple Acts of Misconduct, Standard 1.2(b)(ii)** – Respondent committed multiple acts of misconduct, specifically violations of Rules of Professional Conduct rules 1-300(A) and 1-320 (A) as well as Business and Professions Code section 6068(m). *In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93.

**Significant Harm to Client, Standard 1.2(b)(iv)** – Magnanimo paid Respondent \$5,000.00, yet Magnanimo received only a partially-completed bankruptcy petition. To date, Magnanimo has not received any refund, and was forced to hire another attorney to complete the bankruptcy filing begun by Respondent. *In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117.

**Indifference and Lack of Insight, Standard 1.2(b)(v)** – Respondent’s failure to return any of the attorney fees paid by Magnanimo in the two-plus years since those fees were paid is demonstrative of indifference. Additionally, Respondent’s insistence (during the investigation of this matter) that there had been no wrongdoing on his part suggests a lack of insight into his own misconduct. *In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117.

## **FACTS RE ADDITIONAL MITIGATING CIRCUMSTANCES**

**Candor/Cooperation** - Respondent has cooperated with the State Bar in drafting this stipulation, including stipulation to all relevant facts, aggravation, and mitigation. However, cooperation with State Bar disciplinary proceedings is required, and the stipulations offered here are of facts easily proven, which limits the weight available in mitigation. See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41.

**No Prior Discipline** - Though Respondent has no prior discipline in 33 years of practice, the serious nature of his current misconduct limits the weight of this fact in mitigation. See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41.

## **AUTHORITIES SUPPORTING DISCIPLINE**

The Standards for Attorney Sanctions for Professional Misconduct provide a “process of fixing discipline” pursuant to a set of written principles to “better discharge the purposes of attorney discipline as announced by the Supreme Court.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed 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.” (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

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.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent committed three (3) acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent's misconduct is found in standard 2.6, which applies to Respondent's violation of Business and Professions Code section 6068(m) (failure to communicate). Standard 2.6 provides that culpability of a member of a violation of Business and Professions Code section 6068 shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim. (Standard 2.10, which governs violations of Rules of Professional Conduct rule 1-300(A) and 1-320(A), considers the same factors but sets a disciplinary range of reproof to suspension.)

In this instance, Respondent's misconduct is serious. Respondent aided in the unauthorized practice of law by entering into a business agreement with Dozier, which allowed Dozier to use Respondent's name to recruit and communicate with Magnanimo. Dozier then split the fees received from Magnanimo with Respondent in return for Respondent to file a bankruptcy petition. However, Respondent failed to communicate with Magnanimo despite agreeing to provide legal services and accepting Magnanimo's funds. In fact, though Respondent had agreed to file a complete bankruptcy petition on Magnanimo's behalf, Respondent failed to make any contact with Magnanimo at all. Respondent then filed an incomplete bankruptcy petition that he failed to amend in a timely fashion, thus forcing Magnanimo to seek new counsel in order to complete the bankruptcy proceeding. Respondent's effort was so poor that Magnanimo had to replace him within weeks of Respondent filing the bankruptcy petition, thus confirming the near complete lack of confidence Magnanimo had in Respondent. Therefore, Respondent's conduct is serious and caused harm to his client.

As demonstrated by Respondent's participation in the drafting of this stipulation as well as his agreement to refund the \$5,000.00 paid to him by Magnanimo, Respondent now recognizes it was professional misconduct to enter into an agreement with Dozier to share clients and legal fees. Respondent also recognizes that his failure to communicate with Magnanimo was itself professional misconduct. Though Respondent's recognition of these facts is commendable, discipline remains necessary to protect the public, the courts, and the legal profession. Therefore, the appropriate level of discipline here is a one-year suspension, stayed, with an actual suspension of 30 days and until \$5,000.00 in restitution is paid to Magnanimo, along with two years of probation. Respondent will also be required to attend State Bar Ethics School, pass the Multi-State Professional Responsibility Exam and pay required disciplinary costs.

#### AGGRAVATION AND MITIGATION

There is both aggravation and mitigation in this instance. The aggravation includes Respondent's multiple acts of misconduct as described in standard 1.2 (b)(ii), as Respondent committed three acts of misconduct. Respondent's conduct also harmed Magnanimo consistent with standard 1.2(b)(iv) by causing delay in the completion of Magnanimo's legal matter and forcing Magnanimo to hire another

attorney. Respondent also demonstrated an indifference towards Magnanimo consistent with standard 1.2(b)(v) by failing to take any steps to rectify his misconduct, along with his insistence during the investigation of this matter that he had not committed any misconduct.

However, Respondent's 33 years of discipline-free practice at the time of the misconduct is mitigating under standard 1.2(e)(i), though not enough to overcome the multiple factors in aggravation. Therefore, the net effect of the aggravation and mitigation in this matter is aggravating.

#### JUDICIAL PRECEDENT

In *Layton v. State Bar* (1990) 50 Cal.3d 889, the Supreme Court imposed a 30-day actual suspension on an attorney who, over more than a five-year period, failed to conserve the assets and obtain the distribution of an estate for which he was the attorney and executor. Due to his neglect, the probate court removed the attorney as estate executor. The attorney's misconduct significantly harmed a beneficiary by denying her distribution from the estate at a time when she was experiencing extreme financial need and also harmed the estate by depriving it of interest and causing it to incur tax penalties. The attorney was also indifferent toward rectification or atonement. In mitigation, the attorney had practiced law for over 30 years without discipline and had been under considerable emotional and physical strain due to the need to care for his terminally-ill mother.

Though the misconduct in *Layton* was sustained over a longer period of time and was more serious, especially in terms of client harm, the respondent in *Layton* also benefited from mitigation that is more compelling than that seen here. Therefore, the 30-day actual suspension imposed in *Layton* is appropriate in this matter in order to protect the public, the courts, and the legal profession.

#### CONCLUSION

The primary purposes of attorney discipline are to protect the public, the courts, and the legal profession. Therefore, in light of the facts of this case, the aggravating and mitigating circumstances and judicial precedent, the appropriate level of discipline here is a one-year suspension, stayed, with an actual suspension of 30 days and-until \$5,000.00 in restitution is paid to Magnanimo, along with two years probation. Respondent will also be required to attend State Bar Ethics School, pass the Multi-State Professional Responsibility Exam and pay required disciplinary costs.

#### PENDING PROCEEDINGS

The disclosure date referred to, on page 2, paragraph A(7), was November 28 2012.

#### COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 28, 2012, the prosecution costs in this matter are \$5,308.00. 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.

**EXCLUSION FROM MCLE CREDIT**

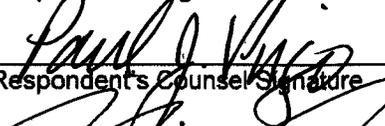
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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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.

<u>11/28/2012</u> Date	<u></u> Respondent's Signature	<u>Don Lee Slayton</u> Print Name
<u>11/28/2012</u> Date	<u></u> Respondent's Counsel Signature	<u>Paul J. Virgo</u> Print Name
<u>12/5/12</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>William Todd</u> Print Name

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In the Matter of: DON LEE SLAYTON	Case Number(s): 11-O-18026-RAP
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**ACTUAL SUSPENSION ORDER**

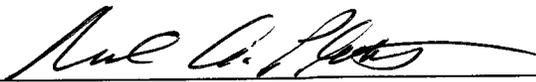
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

*PAGE 4 - ITEM E.(1) - PLACE CHECKMARK IN BOX.  
PAGE 6 - ITEM F.(3) - PLACE CHECKMARK IN BOX.*

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.)**

12-13-2012  
Date

  
RICHARD A. PLATEL  
Judge of the State Bar Court

RICHARD A. PLATEL

**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 21, 2012, 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:

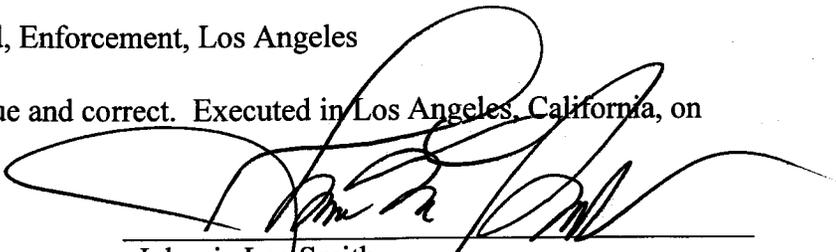
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

PAUL JEAN VIRGO  
9909 TOPANGA BLVD # 282  
CHATSWORTH, CA 91311

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

William S. Todd, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 21, 2012.



Johnnie Lee Smith  
Case Administrator  
State Bar Court