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State Bar Court of California Hearing Department Los Angeles PUBLIC MATTER STAYED SUSPENSION		
Counsel For The State Bar Rizamari C. Sitton Senior Trial Counsel 845 South Figueroa Street Los Angeles, California 90017 (213) 765-1364 Bar # 138319	Case Number(s): 13-O-10628-DFM	For Court use only FILED JUN 11 2014 <i>P.B.</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent John 'Jack' W. Nelson Weisenberg & Nelson 12437 Lewis Street Garden Grove, California 92840 (714)703-7070 Bar # 73958	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: STEVEN MARK BISHOP Bar # 81618 A Member of the State Bar of California (Respondent)		

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 **November 29, 1978**.
- (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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(Effective January 1, 2014)

Stayed Suspension

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs are added to membership fee for calendar year following effective date of discipline.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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(f) & 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 or a separate attachment entitled "Prior Discipline."
- (2) **Dishonesty:** Respondent's misconduct was intentional, 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.

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- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances

C. Mitigating Circumstances [see standards 1.2(g) & 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 deemed serious.
- (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 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 with a good faith belief that was honestly held and reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct. **See Attachment page 11-12.**
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.

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(13) No mitigating circumstances are involved.

Additional mitigating circumstances

No Prior Discipline. See Attachment page 11.

Pre-trial Stipulation. See Attachment page 11.



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 present fitness to practice and present learning and ability in the 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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

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

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

(3) Within 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.

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

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

(5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

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- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input 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 within one year. **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) **Other Conditions:**

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In the Matter of: STEVEN MARK BISHOP	Case Number(s): 13-O-10628-DFM
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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

- 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 revocation), 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:
- 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";

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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.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: STEVEN MARK BISHOP
CASE NUMBER: 13-O-10628-DFM

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. 13-O-10628 (Complainant: Amy Applebaum)

FACTS:

1. In 2009, marital dissolution proceedings entitled, *In re the Marriage of Amy Applebaum and Stephen Applebaum* ("marital dissolution case") was pending in San Diego County Superior Court.

2. On August 21, 2009, after the parties's family residence was sold, the court issued the following orders in the marital dissolution case:

- "1. All proceeds generated from the sale of the community residence located at 12666 Monterey Cypress Way upon receipt at Legends Escrow are to be placed into a segregated account at Citibank, FSB set up through Respondent's Counsel [Lorie Nachlis] for future distribution.
2. No disbursement of those proceeds shall be provided to either party without further written agreement or additional Court order.
3. Any interest generated by said escrow account will be divided equally between parties."

3. On August 21, 2009, Amy Applebaum (Applebaum) was representing herself *in propria persona*; Stephen Applebaum was represented by an attorney.

4. On August 2, 2010, Applebaum hired Steven Mark Bishop (Respondent) to substitute into the ongoing marital dissolution case as her attorney, and to represent her until conclusion of the matter. Applebaum paid Respondent \$5,000, as advanced fees.

5. At all pertinent times, Respondent had a lien agreement with Applebaum, authorizing Respondent to collect fees and costs from any recovery obtained on behalf of Applebaum, including advance payment from any funds held on deposit or received on behalf of Applebaum.

6. On October 8, 2010, without prior notice to and without consent from Applebaum, Respondent's office charged and collected from Applebaum's credit card account \$2,500, and applied the funds as his fees. It was later discovered that the charge and collection of the \$2,500, was inadvertently done in error. The error was due, in part, to the fact that a previous bill had been paid by

the client with a credit card, and the credit card account information remained on file with Respondent's office.

7. On November 2, 2010, the court ordered that the remainder of the sale proceeds, which were the subject of its August 21, 2009, order, continue to be held in segregated bank accounts pending a determination of disbursements, specifically directing:

"1. The balance of the attorney-client trust funds held in the trust account of [Stephen Applebaum]'s former attorney, LORIE S. NACHLIS, is to be transferred forthwith, with an accounting, one-half payable to a segregated, attorney-client trust account under the control of Petitioner's current attorney, STEVEN M. BISHOP and one-half payable to a segregated attorney-client trust account under the control of Respondent's attorney, LOWENSTEIN-BROWN.

2. Each attorney will keep \$5,000 in a segregated trust account for the purpose of paying bills pursuant to the court's orders on January 13, 2010.
3. Either attorney will pay the bills for the parenting coordinator, as well as the bills from those collateral services recommended by the parenting coordinator from funds held in trust.
4. Copies of bills submitted for payment to Petitioner's counsel will be provided to Respondent's counsel within five (5) days of receipt, and copies of bills submitted for payment to Respondent's counsel will be provided to Petitioner's counsel within five (5) days of receipt.
5. Each attorney will provide a monthly statement to Petitioner and Respondent with details of deposits and disbursements for each account held by them.
6. When the funds reach \$500 in the segregated trust account, each attorney has the authority to transfer whatever funds are necessary, to bring the balance back to \$5000.
7. Each party shall receive an advance of \$20,000 against their respective community property share of the proceeds of the sale of the family home currently held in trust by Nachlis & Fink.
8. The court reserves jurisdiction to make additional appropriate orders and to enforce the provision of this order upon noticed application by either party.
9. All existing orders not in conflict with the provisions set forth herein shall remain in full force and effect.
10. This Stipulation may be signed by fax, and such faxed signatures shall operate as originals."

8. On November 15, 2010, and November 17, 2010, pursuant to the court order, Respondent received from former opposing counsel a total of \$84,915.59, of the proceeds from the sale of community property of Applebaum and Stephen Applebaum. Respondent promptly deposited the funds into a court-ordered segregated bank account.

9. In early December 2010, Applebaum terminated Respondent's services. Respondent promptly filed, on December 15, 2010, a substitution of attorney withdrawing as counsel of record for Applebaum.

10. Between December 15, 2010, and February 24, 2011, the parties sought and awaited further court orders authorizing transfers of the entrusted funds to successor counsel. On February 24, 2011, the

court issued orders that included authorization to transfer the remaining entrusted funds from Respondent to Applebaum's successor counsel, Timothy Smith (Smith).

11. On March 16, 2011, on behalf of Applebaum, Smith sent to Respondent a copy of the February 24, 2011, court order, and requests for the transfer of funds and an accounting. Respondent received a copy of the order and Smith's requests.

12. On March 22, 2011, Respondent sent a check to Smith in the amount of \$61,337.51, and a letter of accounting with an explanation that Respondent withdrew from the entrusted funds his outstanding fees and costs.

13. As of March 22, 2011, there was a dispute between Respondent and Applebaum as to whether Respondent was entitled to withdraw the fees and costs from the entrusted funds. Respondent knew of the dispute.

14. After Respondent received notice of the State Bar investigation into this matter, he returned the disputed funds to his client trust account on April 17, 2013, pending the outcome of the investigation.

15. On April 25, 2014, Respondent refunded to Applebaum \$5,578.89, which represents the \$2,500, that he had erroneously collected from her credit card account on October 8, 2010, plus the \$3,578.08, that he withdrew from the court-ordered segregated trust account on March 22, 2011.

CONCLUSIONS OF LAW:

16. On March 22, 2011, Respondent unilaterally determined to apply and applied entrusted funds as his fees and costs which were the subject of a lien agreement with his client when he knew that the client disputed his claim to the fees and costs, instead of placing the disputed funds into a client trust account, in wilful violation of Rules of Professional Conduct, rule 4-100(A).

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Discipline: Respondent was admitted to State Bar membership on November 29, 1978. At the time he committed the misconduct herein, Respondent had practiced law for over 32 years with no prior discipline. Although Respondent's misconduct is serious, he is entitled to significant mitigating credit for his many years of practice without discipline. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106 fn. 13; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Pretrial Stipulation: Respondent has acknowledged his misconduct and entered into a stipulation of facts, conclusions of law, and disposition prior to the Office of the Chief Trial Counsel's presentation of its case-in-chief, thereby avoiding the need of a full trial and saving State Bar Court time and resources. (See *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

Good Character (Std. 1.6(f)): Respondent provided sworn statements from five witnesses (two retired judges, two seasoned attorneys experienced in family law, and a reverend from Respondent's

church) attesting to Respondent's integrity, honesty, and professionalism. Each character witness affirmed their knowledge of the full extent of Respondent's misconduct, and opined, based on specific incidents and experiences, that Respondent has good morals and character despite his misconduct in this matter.

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

The sanction applicable to Steven Mark Bishop's misconduct is found in standard 2.2(b), which applies to his violation of Rules of Professional Conduct, rule 4-100(A). Standard 2.2(b) provides that "[s]uspension or reproof is appropriate for any other violation of Rule 4-100."

Steven Mark Bishop (Respondent) withdrew his fees and costs from entrusted funds when he knew that the client disputed his fees. Because Respondent's client disputed the fees, and Respondent was aware of the dispute, Respondent had a duty under Rules of Professional Conduct, rule 4-100(A), to maintain the disputed portion of the fees in a client trust account until the dispute was resolved. Respondent did not comply with that duty until two years later, after he received notice of the State Bar investigation into the matter.

There were extenuating circumstances surrounding Respondent's misconduct that clearly show that there was no dishonesty or moral turpitude involved. Respondent had a reasonable belief that he was entitled to the funds based on a lien agreement with the client. Accordingly, the Supreme Court's analysis of a case wherein the gravamen of the attorney's misconduct is the unilateral-taking-of-fees should be applied in this case. (See *Sternlieb v. State Bar* (1990) 52 Cal.3d 317.)

In addition, there are strong mitigating factors for which Respondent should receive extensive credit, such as, lack of prior record of discipline in over 35 years of practice, and good character and community service. These circumstances, along with the fact that this case involves a single client matter, indicate that Respondent's misconduct was aberrational and is unlikely to recur. There is no evidence that would suggest that Respondent is unwilling or unable to conform to ethical responsibilities in the future. Balancing such mitigating factors with the lack of aggravating factors, actual suspension would not be necessary to serve the purposes of attorney discipline. However, because the misconduct involved entrusted funds, some period of suspension is warranted for the 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.

In *Sternlieb v State Bar* (supra) 52 Cal. 3d 317, the Supreme Court reduced the level of discipline recommended by the Review Department from the two-year suspension to a probationary period of one year with an actual suspension of thirty days. The attorney in *Sternlieb* represented the wife in a marital dissolution action in which community assets were placed in a trust account, and the attorney appropriated fees from the trust. The attorney testified at the disciplinary trial that she believed that her use of the trust funds was authorized by her client, and that her client had the power to give such authorization. The Court held that the evidence was insufficient to support a finding that the attorney acted dishonestly in misappropriating the funds, but it found that the attorney's beliefs regarding authorization to be unreasonable. Because there was no dishonesty, and given the attorney's compelling mitigation, the Court explained that deviation from the Standards was appropriate, and imposing a 30-day actual suspension was adequate for public protection.

Unlike the attorney in *Sternlieb*, Respondent's belief that he had authorization to take the entrusted funds was reasonably based on a lien agreement with the client. Respondent also has had a significantly longer period of discipline-free practice (over 35 years) than the attorney in *Sternlieb*, who had been admitted to the practice of law for less than nine years when her misconduct began. Therefore, discipline lower than that imposed in *Sternlieb* is appropriate. Given the nature of the misconduct, and in light of the extensive and strong mitigating factors which includes restitution payment, it would be appropriate to recommend imposition of one-year suspension, stayed, and a one-year period of probation.

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>
13-O-10628	ONE	Business and Professions Code § 6103
13-O-10628	TWO	Business and Professions Code § 6106
13-O-10628	THREE	Business and Professions Code § 6016

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 12, 2014, the prosecution costs in this matter are \$7,088. 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, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

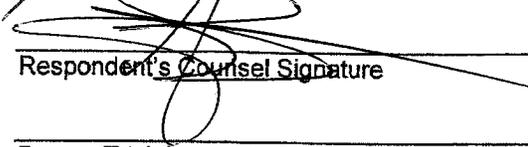
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In the Matter of: STEVE MARK BISHOP	Case number(s): 13-O-10628-DFM
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SIGNATURE OF THE PARTIES

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.

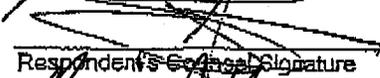
<u>5/12/14</u> Date	 Respondent's Signature	<u>Steven Mark Bishop</u> Print Name
<u>05/12/2014</u> Date	 Respondent's Counsel Signature	<u>John 'Jack' W. Nelson</u> Print Name
 Date	 Deputy Trial Counsel's Signature	<u>Rizamari C. Sitton</u> Print Name

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5/12/14 Date	 Respondent's Signature	Steven Mark Bishop Print Name
05/12/2014 Date	 Respondent's Counsel Signature	John 'Jack' W. Nelson Print Name
6/14/2014 Date	 Deputy Trial Counsel's Signature	Rizarnari C. Sitton Print Name

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In the Matter of: STEVEN MARK BISHOP	Case Number(s): 13-O-10628
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STAYED SUSPENSION ORDER

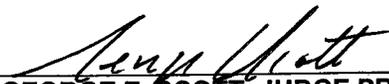
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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 13, the references to Bishop's 35 years of practice without prior discipline in the first and third paragraphs are modified to reflect that he had practiced law for over 32 years with no prior discipline, as noted on page 11.

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 9, 2014
Date


GEORGE E. SCOTT, JUDGE PRO TEM
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 11, 2014, 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 WILLIAM NELSON
WEISENBERG & NELSON, INC.
12437 LEWIS ST STE 204
GARDEN GROVE, CA 92840**

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

Rizamari C. Sitton, Enforcement, Los Angeles

Terrie Goldade, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 11, 2014.



Paul Barona
Case Administrator
State Bar Court