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ORIGINAL

State Bar Court of California
Hearing Department
Los Angeles
STAYED SUSPENSION

<p>Counsel For The State Bar</p> <p>Hugh G. Radigan Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017-2515 213-765-1206</p> <p>Bar # 94251</p>	<p>Case Number(s): 13-O-12215 DFM</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED</p> <p>SEP 25 2014 <i>[Signature]</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Michael G. Gerner 425 South Beverly Drive Suite 210 Beverly Hills, California 90212 310-556-1300</p> <p>Bar # 65906</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: OMID ALEX TOFER</p> <p>Bar # 212308</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.

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A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **January 10, 2001**.
- (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 **13** 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):
- 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: **two (2) billing cycles 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 [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.
- (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

See page 9 of the attachment.

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 1.2(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 **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.)

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 checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input 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: OMID ALEX TOFER	Case Number(s): 13-O-12215 DFM
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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 **90** days/ 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 **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.

Other:

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: OMID ALEX TOFER

CASE NUMBER: 13-O-12215

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-12215 (Complainant: Marina Nunez)

FACTS:

1. Respondent was retained by a mother and daughter (Elena Magdaleno and Carmen Magdaleno) to pursue their bodily injury/property damage claims arising out of a motor vehicle accident which occurred May 19, 2010. The defendant's carrier was Mercury Insurance ("Mercury").
2. The Mercury adjustor, Marina Nunez, was transferred these claims on August 22, 2012, to negotiate resolution with Respondent's office.
3. As early as August 9, 2011, based upon a review of each plaintiff's medical records, Mercury evaluated the claims at \$7,000 and \$5,500 for the daughter and mother, respectively. The evaluation remained relatively static for the next year since no additional medical records were forthcoming from Respondent in spite of representations from his office that additional records existed that would impact upon Mercury's evaluation.
4. Unable to settle the matter, Respondent filed a Superior Court action on May 1, 2012, to preserve the statute of limitations.
5. On July 19, 2012, Respondent's law clerk, Michael Greenslade ("Greenslade"), contacted Mercury and advised that the mother's health was deteriorating and that Mercury should consider offering more in settlement.
6. On July 27, 2012, Mercury advised Greenslade at Respondent's office of their last best unchanged offers of \$7,500 and \$5,500 for the daughter and mother respectively. Upon receipt of this information, Greenslade indicated that he would talk to the clients to see if they want to accept the last best offers.
7. On August 22, 2012, Greenslade, after again trying to extract a better offer from Mercury based upon his representation of Elena Magdaleno's alleged steadily deteriorating condition, requested that Mercury "send a dismissal/release over."
8. On August 23, 2012, Mercury sent Respondent the requested releases and dismissal.

9. On September 5, 2012, Respondent sent an executed release purportedly signed by Elena Magdaleno dated August 31, 2012, to Mercury accepting the last offer of \$5,500 in full and final settlement of her claims. The release was allegedly witnessed by Greenslade.

10. Shortly thereafter, in February 2013, Marina Nunez discovered that Elena Magdaleno had in reality died July 19, 2012, a few hours prior to Greenslade contacting Mercury that same afternoon.

11. On March 18, 2013, Ms. Nunez confronted Greenslade with the fact that the mother's release was executed six weeks after she died.

12. During the course of the investigation of this matter, Respondent's office staff created a declaration for the daughter Carmen which she executed May 6, 2013, which stated that she was present in Respondent's office together with her mother who executed the subject release on June 27, 2012.

13. The mother's release was a Mercury prepared form which was not in existence and not transmitted to Respondent until August 23, 2012.

14. Respondent or someone in his office knew of the mother's death at least as of August 27, 2012, yet nevertheless forwarded to Mercury a release dated August 31, 2012.

15. At no time was Mercury advised during the negotiation process subsequent to August 27, 2012, that Elena Magdaleno was deceased. On the contrary, Respondent's office staff continued to represent that Elena's condition was deteriorating as they attempted to settle her claim.

16. Respondent allowed his office staff, including Greenslade, to negotiate with Mercury. During this time he provided little to no oversight of Elena Magdaleno's claim with Mercury, other than filing suit to protect against the statute of limitations. During the negotiation of Elena Magdaleno's claim, Respondent failed to supervise his office staff properly which allowed them to negotiate this resolution without his oversight and guidance.

CONCLUSIONS OF LAW:

17. By failing to properly supervise his office staff, who negotiated the final settlement of Elena Magdaleno's claim even after they knew of her death without informing Mercury, incorrectly dated the subject release and prepared a declaration attesting to an act that did not occur, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances: Although his misconduct is serious, Respondent is entitled to significant mitigation by virtue of his thirteen years of discipline free practice. (*Hawes v. State Bar* (1990) 51 Cal. 3rd 587, 596. See also *In re Naney* (1990) 51 Cal. 3rd 186, 196; *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn. 13, citing *Rodgers v. State Bar* (1989) 48 Cal. 3rd 300, 317; *Cooper v. State Bar* (1987) 43 Cal. 3rd 1016, 1029 and noting that, standard 1.2(e)(i), the Supreme Court has repeatedly given mitigation for no prior record of discipline in cases in which the misconduct was serious.)

Pretrial Stipulation: Respondent has stipulated to misconduct and thereby demonstrated his cooperation with the State Bar and saved the State Bar's resources. (*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].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

The most severe sanction applicable to Respondent's misconduct is found in Standard 2.4(b), which applies to Respondent's violation of Rules of Professional Conduct, rule 3-110(A). Standard 2.4(b) provides that culpability of a member of willfully failing to perform services in an individual client matter not demonstrating a pattern of misconduct shall result in reproof or suspension depending on the extent of the misconduct and the degree of harm to the client.

Analyzed under the standards, the misconduct which Respondent committed is limited to one individual client matter. Arguably, there was no harm to either the client or the carrier, Mercury, occasioned by this conduct since both implicitly agreed upon the amounts appropriate to settle these claims. Moreover, Elena's claim would have survived her death had the appropriate amendment to add the estate as party plaintiff been made. The office staff failed to appreciate that the death of client could have no adverse impact upon the negotiated value or resolution of the mother's claim. Nevertheless, they continued to misrepresent her status as deteriorating during negotiations so as to extract a nominally better offer, when they knew that the woman was deceased. The staff then incorrectly entered a date upon an otherwise undated release and proffered it to Mercury to resolve the claim. The staff then misconstrued the date the deceased executed the release and prepared a declaration for the daughter to sign that does not accurately reflect what transpired. Respondent failed to properly oversee his office staff during this

negotiation process, Respondent's lack of oversight allowed them to prepare deceptive and misleading documents to facilitate the settlement of the decedent's claim.

Respondent is entitled to significant mitigation by virtue of his thirteen years of discipline free practice that would justify the level of discipline herein. This history of discipline free practice suggests that this is an aberrational act of misconduct, not likely to be repeated. A stayed suspension, together with probationary conditions, is appropriate.

Case law supports this same proposition. In *In the Matter of Riordan* (Review Dept.) 5 Cal. State Bar Ct. Rptr. 41, Riordan failed to perform with competence when he failed to file an appellate brief, failed to obey a court order, and failed to report sanctions to the State Bar, all arising out of a single client matter. The court acknowledged Riordan's 17 years of discipline free practice, his character witnesses and his cooperation in entering into a stipulation with the State Bar prior to trial. In aggravation the court noted multiple acts of misconduct and harm to the client. After finding Riordan's misconduct appeared to be limited to this one case and a situation which was described as him "in over his head" from which he failed to extricate himself, the court imposed six months of stayed suspension and one year of probation. Respondent's slightly higher discipline is appropriate given the greater amount of mitigation in *Riordan*.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notice of Disciplinary Charges filed in this matter on January 13, 2014, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charges not included in the pending Notice of Disciplinary Charges.

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-12215	One	Business and Professions Code section 6106 [moral turpitude/misrepresentation]
13-O-12215	Two	Business and Professions Code section 6106 [moral turpitude/misrepresentation]
13-O-12215	Three	Business and Professions Code section 6106 [moral turpitude/misrepresentation]
13-O-12215	Four	Business and Professions Code section 6106 [moral turpitude/misrepresentation]

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 12, 2014, the prosecution costs in this matter are approximately \$7252. 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

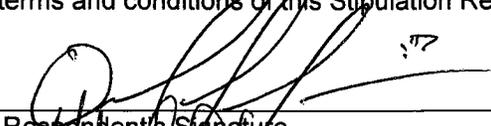
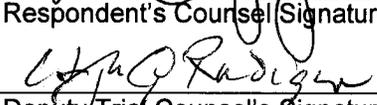
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: OMID ALEX TOFER	Case number(s): 13-O-12215 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>09/15/2014</u> Date	 Respondent's Signature	<u>Omid Alex Tofer</u> Print Name
<u>9-15-14</u> Date	 Respondent's Counsel Signature	<u>Michael G. Gerner</u> Print Name
<u>September 15 '14</u> Date	 Deputy Trial Counsel's Signature	<u>Hugh G. Radigan</u> Print Name

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In the Matter of: OMID ALEX TOFER	Case Number(s): 13-O-12215 DFM
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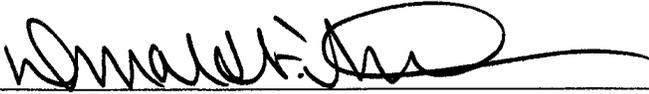
STAYED SUSPENSION ORDER

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.

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.)**

9/25/14
Date


DONALD F. MILES
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 September 25, 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:

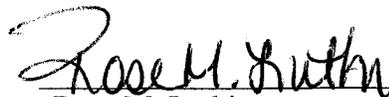
KEVIN P. GERRY
711 N SOLEDAD ST
SANTA BARBARA, CA 93103

courtesy copy:
MICHAEL GALEN GERNER
MICHAEL G GERNER
305 PINE FOREST TRACE
HENDERSONVILLE, NC 28739

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

HUGH RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 25, 2014.



Rose M. Luthi
Case Administrator
State Bar Court