

## **ATTACHMENT - 2**

### **PART A. STANDARDS IN GENERAL**

#### **1.1 PURPOSES AND SCOPE OF STANDARDS**

The Standards For Attorney Sanctions For Professional Misconduct (the “Standards”) are adopted by the Board of Trustees to 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. The Standards help fulfill the primary purposes of discipline, which include:

- (a) protection of the public, the courts and the legal profession; ~~[Deleted Text Ends]<sup>1</sup>[Deleted Text Ends]~~
- (b) maintenance of the highest professional standards; and
- (c) preservation of public confidence in the legal profession.

Rehabilitation can also be an objective in determining the appropriate sanction in a particular case, so long as it is consistent with the primary purposes of discipline.

The Standards are based on the State Bar Act and the longstanding decisions of the California Supreme Court, which maintains inherent and plenary authority over the practice of law in California. ~~[Deleted Text Begins]<sup>2</sup>[Deleted Text Ends]~~ Although not binding, the Standards are afforded great weight by the Supreme Court and should be followed whenever possible. ~~[Deleted Text Begins]<sup>3</sup>[Deleted Text Ends]~~ The Supreme Court will accept a disciplinary recommendation that is consistent with the Standards unless it has grave doubts about the propriety of the recommended sanction. ~~[Deleted Text Begins]<sup>4</sup>[Deleted Text Ends]~~ 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. Any disciplinary recommendation that deviates from the Standards

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~~[Deleted Text Begins]<sup>1</sup>[Deleted Text Ends]~~ ~~Business and Professions Code~~ ~~[Deleted Text Begins]~~ ~~§ 6001.1 [protection of the public is paramount].~~ ~~[Deleted Text Ends]~~

~~[Deleted Text Begins]<sup>2</sup>~~ ~~In re Attorney Discipline System (1998) 19 Cal.4<sup>th</sup> 582; California Rules of Court, rule 9.2; Business and Professions Code, § 6087.~~ ~~[Deleted Text Ends]~~

~~[Deleted Text Begins]<sup>3</sup>~~ ~~In re Silverton (2005) 36 Cal.4<sup>th</sup> 81, 92.~~ ~~[Deleted Text Ends]~~

~~[Deleted Text Begins]<sup>4</sup>~~ ~~Hipolito v. State Bar (1989) 48 Cal.3d 621, 630; Lawhorn v. State Bar (1987) 43 Cal.3d 1357, 1366.~~ ~~[Deleted Text Ends]~~

must include clear reasons for the departure. ~~[Deleted Text Begins]<sup>5</sup>[Deleted Text Ends]~~ The Standards do not apply to: non-disciplinary dispositions such as admonitions and agreements in lieu of discipline; resignations; involuntary inactive enrollments; interim suspensions after conviction of a crime; or suspensions for nonpayment of State Bar fees, failure to comply with child support orders, or tax delinquencies. ~~[Deleted Text Begins]<sup>6</sup>[Deleted Text Ends]~~

Eff. January 1, 1986. Revised: January 1, 2007; January 1, 2014.

## 1.2 DEFINITIONS

- (a) “Member” is a member of the State Bar of California. ~~[Deleted Text]<sup>7</sup>[Deleted Text Ends]~~
- (b) “Disbarment” is termination from the practice of law and from holding oneself out as entitled to practice law. Membership in the State Bar ceases and the member’s name is stricken from the roll of attorneys. ~~[Deleted Text Begins]<sup>8</sup>[Deleted Text Ends]~~
- (c) “Suspension” can include a period of actual suspension, stayed suspension, or both:
- (1) “Actual suspension” is a disqualification from the practice of law and from holding oneself out as entitled to practice law, subject to ~~[Inserted Text Begins]~~probation and attachment~~[Inserted Text Ends]~~ conditions. Actual suspension is generally for a period of thirty days, sixty days, ninety days, six months, one year, eighteen months, two years, ~~[Deleted Text Begins]~~or ~~[Deleted Text Ends]~~three years~~[Inserted Text Begins]~~, or until specific conditions are met~~[Inserted Text Ends]~~. Actual suspension for two years or more requires proof, satisfactory to the State Bar Court, of rehabilitation, fitness to practice, and present learning and ability in the general law before a member may be relieved of the actual suspension. ~~[Deleted Text Begins]<sup>9</sup>[Deleted Text Ends]~~ The State

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~~[Deleted Text Begins]<sup>5</sup>*In re Silvertown* (2005) 36 Cal.4<sup>th</sup> 81; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5; *In re Brown* (1995) 12 Cal.4<sup>th</sup> 205, 220.~~[Deleted Text Ends]~~~~

~~[Deleted Text Begins]<sup>6</sup>California Rules of Court, rules 9.21, 9.22, and 9.31(d); Business and Professions Code, §§ 494.5, 6007, 6070(a), 6102(a), 6143, 6143.5, and 6203(d).~~[Deleted Text Ends]~~~~

~~[Deleted Text Begins]<sup>7</sup>Business and Professions Code, § 6002.~~[Deleted Text Ends]~~~~

~~[Deleted Text Begins]<sup>8</sup>Business and Professions Code, § 6117 [member precluded from practicing law while disbarred or suspended].~~[Deleted Text Ends]~~~~

~~[Deleted Text Begins]<sup>9</sup>Rules of Procedure of the State Bar of California, rules 5.400-5.411.~~[Deleted Text Ends]~~~~

Bar Court can require this showing in other appropriate cases as well.

- (2) “Stayed suspension” is a stay of all or part of a suspension. Stayed suspension is generally for a period of at least one year. A suspension can be stayed only if it is consistent with the primary purposes of discipline.
- (d) “[Inserted Text BeginsPublic [Inserted Text Ends] Reproval” is a [Inserted Text Beginspublic[Inserted Text Ends] censure or reprimand. [~~Deleted Text Begins~~It can be either [~~Deleted Text Ends~~][Inserted Text BeginsA [Inserted Text Ends] public [~~Deleted Text Begins~~or private, and it[~~Deleted Text Ends~~][Inserted Text Beginsreproval[Inserted Text Ends] may include conditions.[~~Deleted Text Begins~~]<sup>10</sup>[~~Deleted Text Ends~~]

[Inserted Text Begins](e) “Private Reproval” is a censure or reprimand that is not a matter of public record unless imposed after the initiation of formal disciplinary proceedings. A private reproval may include conditions. [Inserted Text Ends]

[Inserted Text Begins](f) “Interim Remedies” are temporary restrictions imposed by the State Bar Court on a member’s ability to practice law. They are imposed in order to protect the public, the courts, and the legal profession until such time as the issues can be resolved through formal proceedings. [Inserted Text Ends]

([~~Deleted Text Begins~~][~~Deleted Text Ends~~][Inserted Text Beginsg[Inserted Text Ends]) “Prior record of discipline” is a previous imposition or recommendation of discipline. It includes all charges, stipulations, findings and decisions (final or not) reflecting or recommending discipline, including from another jurisdiction. [~~Deleted Text Begins~~]<sup>11</sup>[~~Deleted Text Ends~~]It can be discipline imposed for a violation of a term of probation or a violation of a Supreme Court order requiring compliance with rule 9.20 of the California Rules of Court.

([~~Deleted Text Begins~~][~~Deleted Text Ends~~][Inserted Text Beginsh[Inserted Text Ends]) “Aggravating circumstances” are factors surrounding a member’s misconduct that demonstrate that the primary purposes of discipline warrant a greater sanction than what is otherwise specified in a given Standard.

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[~~Deleted Text Begins~~]<sup>10</sup>~~California Rules of Court, rule 9.19; Rules of Procedure of the State Bar of California, rules 5.127 and 5.128.~~[~~Deleted Text Ends~~]

[~~Deleted Text Begins~~]<sup>11</sup>~~Business and Professions Code, § 6049.1; Rules of Procedure of the State Bar of California, rule 5.106.~~[~~Deleted Text Ends~~]

(~~[Deleted Text Begins]~~g~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~i~~[Inserted Text Ends]~~) “Mitigating circumstances” are factors surrounding a member’s misconduct that demonstrate that the primary purposes of discipline warrant a more lenient sanction than what is otherwise specified in a given Standard.

~~[Inserted Text Begins]~~(j) “Probation” is a period of time under which a member is subject to State Bar supervision. Probation may include conditions that further the primary purposes of discipline. ~~[Inserted Text Ends]~~

(~~[Deleted Text Begins]~~h~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~k~~[Inserted Text Ends]~~) “Conditions” are terms that ~~[Deleted Text Begins]~~may attach to a reproof~~[Deleted Text Ends]~~<sup>12</sup>~~[Deleted Text Ends]~~~~[Deleted Text Begins]~~or probation~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~a member must comply with as part of a disciplinary sanction~~[Inserted Text Ends]~~. They relate to ~~[Deleted Text Begins]~~the~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~a~~[Inserted Text Ends]~~ member’s misconduct and the facts and circumstances surrounding the misconduct and serve the primary purposes of discipline.

Eff. January 1, 1986. Revised: January 1, 2007; January 1, 2014.

### 1.3 DEGREES OF SANCTIONS ~~[Deleted Text Begins]~~<sup>13</sup>~~[Deleted Text Ends]~~

Subject to these Standards and the laws and rules governing the conduct of disciplinary proceedings, the following sanctions ~~[Deleted Text Begins]~~are available~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~may be imposed~~[Inserted Text Ends]~~ upon a finding of misconduct:

- (a) disbarment;
- (b) actual suspension;
- (c) stayed suspension;
- (d) ~~[Deleted Text Begins]~~reproof, ~~[Deleted Text Ends]~~public ~~[Deleted Text Begins]~~or private~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~reproof~~[Inserted Text Ends]~~~~[Deleted Text Begins]~~; or~~[Deleted Text Ends]~~

~~[Inserted Text Begins]~~(e) private reproof; or~~[Inserted Text Ends]~~

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~~[Deleted Text Begins]~~<sup>12</sup>~~Business and Professions Code, § 6003~~~~[Deleted Text Ends]~~

~~[Deleted Text Begins]~~<sup>13</sup>~~California Rules of Court, rule 9.10.~~~~[Deleted Text Ends]~~

(~~[Deleted Text Begins]~~~~[Deleted Text Ends]~~[Inserted Text Begins][Inserted Text Ends]) any interim remedies or other final discipline authorized by [Inserted Text Begins]the[Inserted Text Ends] Business and Professions Code~~[Deleted Text Begins]~~ section 6007(h)~~[Deleted Text Ends]~~.

Eff. January 1, 1986. Revised: January 1, 2014.

#### **1.4 CONDITIONS ATTACHED TO SANCTIONS**

Conditions attached to a reproof or probation may require a member to:

- (a) make specific restitution or file a satisfaction of judgment;
- (b) take and pass a professional responsibility examination;
- (c) undergo treatment, at the member's expense, for medical, psychological, or psychiatric conditions or for problems related to alcohol or substance abuse;
- (d) complete, at the member's expense, educational or rehabilitative work regarding substantive law, ethics, or law office management;
- (e) complete probation, subject to reporting requirements~~[Deleted Text Begins]~~ and supervision by a probation monitor~~[Deleted Text Ends]~~;
- (f) give notice to affected parties, including clients, co-counsel, opposing counsel, courts or other tribunals[Inserted Text Begins][Inserted Text Ends] or
- (g) comply with any other conditions consistent with the primary purposes of discipline.

Eff. January 1, 1986. Revised: January 1, 2014.

#### **1.5 AGGRAVATING CIRCUMSTANCES**

The State Bar must establish aggravating circumstances by clear and convincing evidence. Aggravating circumstances may include:

- (a) a prior record of discipline;
- (b) multiple acts of wrongdoing;

- (c) a pattern of misconduct;
- (d) intentional misconduct, bad faith~~;~~~~[Deleted Text Begins]~~~~;~~~~[Deleted Text Ends]~~  
[Inserted Text Begins]~~or~~[Inserted Text Ends] dishonesty~~;~~~~[Deleted Text Begins]~~~~;~~~~concealment, overreaching, or other~~~~[Deleted Text Ends]~~[Inserted Text Begins][Inserted Text Ends]

[Inserted Text Begins](e) misrepresentation; [Inserted Text Ends]

[Inserted Text Begins](f) concealment;[Inserted Text Ends]

[Inserted Text Begins](g) overreaching;[Inserted Text Ends]

[Inserted Text Begins](h) [Inserted Text Ends]uncharged violations of the  
Business and Professions Code or the Rules of Professional Conduct;

(~~[Deleted Text Begins]~~~~e~~~~[Deleted Text Ends]~~[Inserted Text Begins]i[Inserted Text Ends]) refusal or inability to account for entrusted funds or property;

(~~[Deleted Text Begins]~~~~f~~~~[Deleted Text Ends]~~[Inserted Text Begins]j[Inserted Text Ends]) significant harm to the client, the public, or the administration of justice;

(~~[Deleted Text Begins]~~~~g~~~~[Deleted Text Ends]~~[Inserted Text Begins]k[Inserted Text Ends]) indifference toward rectification or atonement for the consequences of the misconduct;

(~~[Deleted Text Begins]~~~~h~~~~[Deleted Text Ends]~~[Inserted Text Begins]l[Inserted Text Ends]) lack of candor and cooperation to [Inserted Text Begins]the[Inserted Text Ends] victims of the misconduct or [Inserted Text Begins]to[Inserted Text Ends] the State Bar during disciplinary ~~[Deleted Text Begins]~~~~investigation~~~~[Deleted Text Ends]~~[Inserted Text Begins]investigations[Inserted Text Ends] or proceedings;~~[Deleted Text Begins]~~~~or~~~~[Deleted Text Ends]~~

(~~[Deleted Text Begins]~~~~k~~~~[Deleted Text Ends]~~[Inserted Text Begins]m[Inserted Text Ends]) failure to make restitution~~[Deleted Text Begins]~~~~.~~~~[Deleted Text Ends]~~[Inserted Text Begins]; or[Inserted Text Ends]

[Inserted Text Begins](n) high level of vulnerability of the victim.[Inserted Text Ends]

Eff. January 1, 1986. Revised: January 1, 2007; January 1, 2014.

## 1.6 MITIGATING CIRCUMSTANCES

A member must establish mitigating circumstances by clear and convincing evidence. Mitigating circumstances may include:

- (a) absence of any prior record of discipline over many years of practice coupled with present misconduct, which is [Inserted Text Begins]aberrational and[Inserted Text Ends] not ~~[Deleted Text Begins]deemed serious[Deleted Text Ends]~~[Inserted Text Begins]likely to recur[Inserted Text Ends];
- (b) good faith belief that is honestly held and reasonable;
- (c) lack of harm to the client, the public, or the administration of justice;
- (d) extreme emotional difficulties or physical or mental disabilities suffered by the member at the time of the misconduct and established by expert testimony as directly responsible for the misconduct, provided that such difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the member established by clear and convincing evidence that the difficulties or disabilities no longer pose a risk that the member will commit misconduct;
- (e) spontaneous candor and cooperation displayed to the victims of the misconduct or to the State Bar;
- (f) extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct;
- (g) prompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement;
- (h) remoteness in time of the misconduct and subsequent rehabilitation;
- (i) excessive delay by the State Bar in conducting disciplinary proceedings causing prejudice to the member; or
- (j) restitution was made without the threat or force of administrative, disciplinary, civil or criminal proceedings.

Eff. January 1, 1986. Revised: January 1, 2014.

## **1.7 DETERMINATION OF APPROPRIATE SANCTIONS**

- (a) If a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.
- (b) If aggravating circumstances are found, they should be considered alone and in balance with any mitigating circumstances, and if the net effect demonstrates that a greater sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a greater sanction than what is otherwise specified in a given Standard. On balance, a greater sanction is appropriate in cases where there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the member is unwilling or unable to conform to ethical responsibilities.
- (c) If mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard. On balance, a lesser sanction is appropriate in cases of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future.

Eff. January 1, 1986. Revised: January 1, 2014.

## **1.8 EFFECT OF PRIOR DISCIPLINE**

- (a) If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.
- (b) If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:
  - 1. Actual suspension was ordered in any one of the prior disciplinary matters;
  - 2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or



3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.
- (c) Sanctions may be imposed, including disbarment, even if a member has no prior record of discipline.

Eff. January 1, 2014.

## **PART B. SANCTIONS FOR SPECIFIC MISCONDUCT** ~~[Deleted Text Begins]~~<sup>14</sup>~~[Deleted Text Ends]~~[Inserted Text Begins]<sup>1</sup>[Inserted Text Ends]

[Inserted Text Begins]The presumed sanction for any specific act of misconduct is a starting point for the imposition of discipline, but can be adjusted up or down depending on the application of mitigating and aggravating circumstances set forth in Standards 1.5 and 1.6, and the balancing of these circumstances as described in Standard 1.7(b) and (c). For any specific act of misconduct not listed in Part B, please refer to Standards 2.18 and 2.19.[Inserted Text Ends]

### **2.1. MISAPPROPRIATION**

- (a) Disbarment is ~~[Deleted Text Begins]~~ appropriate~~[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for intentional or dishonest misappropriation of entrusted funds or property, unless the amount misappropriated is insignificantly small or ~~[Deleted Text Begins]~~the most~~[Deleted Text Ends]~~[Inserted Text Begins]sufficiently[Inserted Text Ends] compelling mitigating circumstances clearly predominate, in which case actual suspension ~~[Deleted Text Begins]~~of one year~~[Deleted Text Ends]~~is appropriate.
- (b) ~~[Deleted Text Begins]~~Disbarment or ~~[Deleted Text Ends]~~Actual suspension is ~~[Deleted Text Begins]~~appropriate~~[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for misappropriation involving gross negligence.
- (c) Suspension or reproof is ~~[Deleted Text Begins]~~appropriate~~[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for misappropriation that does not involve intentional misconduct or gross negligence.

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~~[Deleted Text Begins]~~<sup>14</sup>~~[Deleted Text Ends]~~[Inserted Text Begins]<sup>1</sup>[Inserted Text Ends]For purposes of Part B, the term "suspension" includes actual and/or stayed suspension, unless a Standard specifies only actual suspension.[Inserted Text Begins] The term "reproof" includes public or private reproof.[Inserted Text Ends]

Eff. January 1, 1986. Revised: January 1, 2014.

## **2.2 COMMINGLING AND OTHER TRUST ACCOUNT VIOLATIONS** ~~[Deleted Text Begins]~~<sup>15</sup>~~[Deleted Text Ends]~~

- (a) Actual suspension of three months is ~~[Deleted Text Begins]~~appropriate~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~the presumed sanction~~[Inserted Text Ends]~~ for commingling or failure to promptly pay out entrusted funds.
- (b) Suspension or reproof is ~~[Deleted Text Begins]~~appropriate~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~the presumed sanction~~[Inserted Text Ends]~~ for any other violation of Rule 4-100.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014.

## **2.3 ILLEGAL OR UNCONSCIONABLE FEE** ~~[Deleted Text Begins]~~<sup>16</sup>~~[Deleted Text Ends]~~

- (a) Actual suspension of at least six months is ~~[Deleted Text Begins]~~appropriate~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~the presumed sanction~~[Inserted Text Ends]~~ for entering into an agreement for, charging, or collecting an unconscionable fee for legal services.
- (b) Suspension or reproof is ~~[Deleted Text Begins]~~appropriate~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~the presumed sanction~~[Inserted Text Ends]~~ for entering into an agreement for, charging, or collecting an illegal fee for legal services.

Eff. January 1, 1986. Revised: January 1, 2014.

## **2.4 BUSINESS TRANSACTIONS, PECUNIARY INTERESTS ADVERSE TO A CLIENT** ~~[Deleted Text Begins]~~<sup>17</sup>~~[Delete Text Ends]~~

Suspension is ~~[Deleted Text Begins]~~appropriate~~[Deleted Text Ends]~~~~[Inserted Text Begins]~~the presumed sanction~~[Inserted Text Ends]~~ for improperly entering

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~~[Deleted Text Begins]~~<sup>15</sup>~~[Deleted Text Ends]~~ ~~Rules of Professional Conduct, rule 4-100.~~ ~~[Deleted Text Ends]~~

~~[Deleted Text Begins]~~<sup>16</sup>~~[Deleted Text Ends]~~ ~~Rules of Professional Conduct, rule 4-200.~~ ~~[Deleted Text Ends]~~

~~[Deleted Text Begins]~~<sup>17</sup>~~[Deleted Text Ends]~~ ~~Rules of Professional Conduct, rule 3-300.~~ ~~[Deleted Text Ends]~~

into a business transaction with a client or knowingly acquiring a pecuniary interest adverse to a client, unless the extent of the misconduct and any harm it caused to the client are minimal, in which case reproof is appropriate. If the transaction or acquisition and its terms are unfair or unreasonable to the client, then disbarment or actual suspension is appropriate.

Eff. January 1, 1986. Revised: January 1, 2014.

~~[Deleted Text Begins]2.5 FAILURE TO PERFORM OR COMMUNICATE-  
20[Deleted Text Ends]~~

[Inserted Text Begins]2.5 REPRESENTATION OF ADVERSE INTERESTS  
[Inserted Text Ends]

[Inserted Text Begins](a) Actual suspension is the presumed sanction when a member accepts or continues simultaneous representation of clients with actual adverse interests, where the member: (1) fails to obtain informed written consent of each client, and (2) causes significant harm to any of the clients. Suspension or reproof is the presumed sanction where the misconduct results in minimal or no harm to any of the clients.[Inserted Text Ends]

[Inserted Text Begins](b) Actual suspension is the presumed sanction when a member accepts employment that is actually adverse to a client or former client, where the member: (1) fails to obtain informed written consent, (2) breaches the duty to maintain confidential information material to the employment, and (3) causes significant harm to the client or former client. Suspension or reproof is appropriate where the misconduct results in minimal or no harm to the client or former client.[Inserted Text Ends]

[Inserted Text Begins]2.6 BREACH OF CONFIDENTIALITY[Inserted Text Ends]

(a) [Inserted Text Begins]Suspension is the presumed sanction when a member intentionally reveals client confidences or secrets.[Inserted Text Ends]

(b) [Inserted Text Begins]Reproof is the presumed sanction when a member recklessly or through gross negligence reveals client confidences or secrets. [Inserted Text Ends]

[Inserted Text Begins]2.7 PERFORMANCE, COMMUNICATION OR WITHDRAWAL VIOLATIONS[Inserted Text Ends]

- (a) ~~{Deleted Text Begins}(a) {Deleted Text Ends}~~ Disbarment is ~~{Deleted Text Begins}~~appropriate for failing ~~{Deleted Text Ends}~~to perform legal services ~~{Deleted Text Begins}~~with clients,~~{Deleted Text Ends}~~[Inserted Text Begins]the presumed sanction for performance, communication, or withdrawal violations[Inserted Text Ends] demonstrating a pattern of misconduct.
- (b) ~~{Deleted Text Begins}(b) {Deleted Text Ends}~~ Actual suspension is ~~{Deleted Text Begins}~~appropriate for failing to perform legal services or properly communicate~~{Deleted Text Ends}~~[Inserted Text Begins]the presumed sanction for performance, communication, or withdrawal violations[Inserted Text Ends] in multiple client matters, not demonstrating a pattern of misconduct.
- (c) [Inserted Text Begins]Suspension or[Inserted Text Ends] reproof is ~~{Deleted Text Begins}~~appropriate for failing to perform legal services or properly communicate in a single~~{Deleted Text Ends}~~[Inserted Text Begins]the presumed sanction for performance, communication, or withdrawal violations, which are limited in scope or which occur over an isolated period of time. The degree of sanction depends on the extent of the misconduct and the degree of harm to the[Inserted Text Ends] client~~{Deleted Text Begins}matter[Deleted Text Ends]~~[Inserted Text Begins]or clients[Inserted Text Ends].

~~{Deleted Text Begins}~~ ~~{Deleted Text Ends}~~  
Eff. January 1, 1986. Revised: January 1, 2014.

## [Inserted Text Begins]2.8 FEE-SPLITTING WITH NON-LAWYERS [Inserted Text Ends]

[Inserted Text Begins]Actual suspension is the presumed sanction when a member shares legal fees with a non-lawyer. The degree of sanction depends upon the extent to which the misconduct interfered with an attorney-client relationship and the extent to which the member failed[Inserted Text Ends] to perform legal services [Inserted Text Begins]for which he or she was employed. [Inserted Text Ends]

## [Inserted Text Begins]2.9 FRIVOLOUS LITIGATION [Inserted Text Ends]

- (a) [Inserted Text Begins]Actual suspension is the presumed sanction when a member counsels or maintains a frivolous claim or action for an improper purpose, resulting in significant harm to an individual or the administration of justice. Disbarment is appropriate if the misconduct demonstrates a pattern.[Inserted Text Ends]

- (b) [Inserted Text Begins]Suspension or reproof is the presumed sanction when a member counsels or maintains a frivolous claim or action for an improper purpose, resulting in harm to an individual or the administration of justice. [Inserted Text Ends]

~~[Deleted Text Begins]2.6[Deleted Text Ends]~~[Inserted Text Begins]2.10[Inserted Text Ends] **UNAUTHORIZED PRACTICE OF LAW** ~~[Deleted Text Begins]<sup>18</sup>[Deleted Text Ends]~~

- (a) Disbarment or actual suspension is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on actual suspension for disciplinary reasons or involuntary inactive enrollment under Business and Professions Code section 6007(b)-(e). The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.
- (b) Suspension or reproof is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on inactive status or actual suspension for non-disciplinary reasons, such as non-payment of fees or MCLE non-compliance. The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.

Eff. January 1, 1986. Revised: January 1, 2014.

~~[Deleted Text Begins]2.7[Deleted Text Ends]~~[Inserted Text Begins]2.11[Inserted Text Ends] **MORAL TURPITUDE, DISHONESTY, FRAUD, CORRUPTION, OR CONCEALMENT** ~~[Deleted Text Begins]<sup>19</sup>[Deleted Text Ends]~~

Disbarment or actual suspension is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for an act of moral turpitude, dishonesty, fraud, corruption[Inserted Text Begins]. intentional or grossly negligent misrepresentation.[Inserted Text Ends] or

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~~[Deleted Text Begins]<sup>18</sup>Business and Professions Code, §§ 6125 and 6126.[Deleted Text Ends]~~

~~[Deleted Text Begins]<sup>19</sup>Business and Professions Code, § 6106.[Deleted Text Ends]~~

concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct~~[Deleted Text Begins] and [Deleted Text Ends]~~[Inserted Text Begins]; [Inserted Text Ends] the extent to which the misconduct harmed or misled the victim~~[Deleted Text Begins] and [Deleted Text Ends]~~[Inserted Text Begins], which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct [Inserted Text Ends] related to the member's practice of law.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014.

~~[Deleted Text Begins]2.8[Deleted Text Ends]~~[Inserted Text Begins]2.12 [Inserted Text Ends] **VIOLATION OF OATH OR DUTIES OF AN ATTORNEY** ~~[Deleted Text Begins]<sup>20</sup>[Deleted Text Ends]~~

- (a) Disbarment or actual suspension is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for disobedience or violation of a court order related to the member's practice of law, the attorney's oath, or the duties required of an attorney under Business and Professions Code section 6068(a)~~[Deleted Text Begins] [Deleted Text Ends]~~[Inserted Text Begins](b)(d)(e)(f) or [Inserted Text Ends](h).
- (b) Reprimand is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for a violation of the duties required of an attorney under Business and Professions Code section 6068(i),(j),(l) or (o).
- (c) Violations of the duties required of an attorney under Business and Professions Code section 6068(m) or (n) are covered in Standard ~~[Deleted Text Begins]2.5[Deleted Text Ends]~~[Inserted Text Begins]2.7[Inserted Text Ends].

[Inserted Text Begins](d) Violations of the duties required of an attorney under[inserted Text Ends] Business and Professions Code [Inserted Text Begins]section 6068(c) or (g) are covered in Standard 2.9.[Inserted Text Ends]

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014.

~~[Deleted Text Begins]2.9[Deleted Text Ends]~~[Inserted Text Begins]2.13[Inserted Text Ends] **SEXUAL RELATIONS WITH CLIENTS** ~~[Deleted Text Begins]<sup>21</sup>[Deleted Text Ends]~~

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~~[Deleted Text Begins]<sup>20</sup> Business and Professions Code, §§ 6103, 6067, and 6068. [Deleted Text Ends]~~

~~[Deleted Text Begins]<sup>21</sup> Business and Professions Code, § 6106.8; Rules of Professional Conduct, rule 3-120. [Deleted Text Ends]~~

- (a) Disbarment is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] when a member requires or demands sexual relations with a client incident to or as a condition of professional representation or employs coercion, intimidation, or undue influence in entering into sexual relations with a client.
- (b) Suspension or reproof is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for any other violation of Rule 3-120.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014.

~~[Deleted Text Begins]2.10[Deleted Text Ends]~~[Inserted Text Begins]2.14[Inserted Text Ends] **VIOLATION OF CONDITIONS ATTACHED TO DISCIPLINE**  
~~[Deleted Text Begins]<sup>22</sup>[Deleted Text Ends]~~

Actual suspension is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for failing to comply with a condition of discipline. The degree of sanction depends on the nature of the condition violated and the member's unwillingness or inability to comply with disciplinary orders.

Eff. January 1, 1986. Revised: January 1, 2014.

~~[Deleted Text Begins]2.11[Deleted Text Ends]~~[Inserted Text Begins]2.15[Inserted Text Ends] **CRIMINAL CONVICTIONS INVOLVING MORAL TURPITUDE**

- (a) Summary disbarment is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for final conviction of a felony in which an element of the offense involves the specific intent to deceive, defraud, steal, or make or suborn a false statement, or ~~[Deleted Text Begins]involved[Deleted Text Ends]~~[Inserted Text Begins]involves[Inserted Text Ends] moral turpitude. ~~[Deleted Text Begins]<sup>23</sup>[Deleted Text Ends]~~
- (b) Disbarment is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for

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~~[Deleted Text Begins]<sup>22</sup>~~[Deleted Text Ends] ~~Business and Professions Code, § 6068(k); Rules of Professional Conduct, rule 1-110.~~  
~~[Deleted Text Begins]<sup>23</sup>~~[Deleted Text Ends] ~~Business and Professions Code, § 6102(c).~~[Deleted Text Ends]

final conviction of a felony in which the facts and circumstances surrounding the offense involve moral turpitude, unless the most compelling mitigating circumstance clearly predominate, in which case actual suspension ~~[Deleted Text Begins]<sup>24</sup>[Deleted Text Ends]~~ of at least two years is appropriate.

- (c) Disbarment or actual suspension is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for final conviction of a misdemeanor involving moral turpitude. ~~[Deleted Text Begins]<sup>25</sup>[Deleted Text Ends]~~

Eff. January 1, 2014.

~~[Deleted Text Begins]2.12[Deleted Text Ends]~~[Inserted Text Begins]2.16[Inserted Text Ends] **CRIMINAL CONVICTIONS NOT INVOLVING MORAL TURPITUDE**

- (a) Actual suspension is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for final conviction of a felony not involving moral turpitude, but involving other misconduct warranting discipline.
- (b) Suspension or reproof is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for final conviction of a misdemeanor not involving moral turpitude but involving other misconduct warranting discipline.

Eff. January 1, 2014.

~~[Deleted Text Begins]2.13[Deleted Text Ends]~~[Inserted Text Begins]2.17[Inserted Text Ends] **CRIMINAL CONVICTION FOR SPECIFIC MISDEMEANORS**

- (a) Disbarment is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for final conviction of a misdemeanor specified in Business & Professions Code section 6131, where a public prosecutor aids in the defense of a defendant.
- (b) Disbarment or actual suspension is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for final conviction of a misdemeanor specified in Business and Professions Code sections 6128-

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~~[Deleted Text Begins]<sup>24</sup>Business and Professions Code, §§ 6101(a) and 6102(e).~~<sup>[Deleted Text Ends]</sup>

~~[Deleted Text Begins]<sup>25</sup>Business and Professions Code, § 6101(a).~~<sup>[Deleted Text Ends]</sup>



~~[Deleted Text Begins]6130[Deleted Text Ends]~~[Inserted Text Begins]6129[Inserted Text Ends] and 6153~~[Deleted Text Begins]-6155[Deleted Text Ends]~~.

Eff. January 1, 2014.

~~[Deleted Text Begins]2.14[Deleted Text Ends]~~[Inserted Text Begins]2.18[Inserted Text Ends] **VIOLATION OF OTHER ARTICLE 6 STATUTES** ~~[Deleted Text Begins]<sup>26</sup>[Deleted Text Ends]~~

Disbarment or actual suspension is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in these Standards.

Eff. January 1, 2014.

~~[Deleted Text Begins]2.15[Deleted Text Ends]~~[Inserted Text Begins]2.19[Inserted Text Ends] **VIOLATION OF RULES IN GENERAL** ~~[Deleted Text Begins]<sup>27</sup>[Deleted Text Ends]~~

Suspension not to exceed three years or reproof is ~~[Deleted Text Begins]appropriate[Deleted Text Ends]~~[Inserted Text Begins]the presumed sanction[Inserted Text Ends] for a violation of a provision of ~~[Deleted Text Begins]the Business and Professions Code or [Deleted Text Ends]~~ the Rules of Professional Conduct not specified in these Standards.

Eff. January 1, 2014.

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~~[Deleted Text Begins]<sup>26</sup>-Business and Professions Code, §§ 6100, et seq.~~[Deleted Text Ends]

~~[Deleted Text Begins]<sup>27</sup>-Business and Professions Code, § 6077.~~[Deleted Text Ends]