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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		PUBLIC MATTER
Counsel For The State Bar Nancy C. Brown State Bar of California 1149 South Hill Street Los Angeles, CA 90015-2299 Bar # 102623	Case Number(s): 11-O-13575	For Court use only FILED JAN 10 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent David Glenn Currie 5230 "D" Street Chino, CA 91710 Bar # 153669	Submitted to: **Settlement Judge**	
In the Matter of: DAVID GLENN CURRIE Bar # 153669 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED	

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

A. Parties' Acknowledgments:

(1) Respondent is a member of the State Bar of California, admitted June 18, 1991.

(2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.

(3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 10 pages, not including the order.

(4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

(7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
- ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2013, 2014, 2015. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
- ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
- ☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

(1) ☒ **Prior record of discipline** [see standard 1.2(f)]

(a) ☒ State Bar Court case # of prior case 07-O-10314

(b) ☒ Date prior discipline effective October 29, 2009

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code section 6106; Rule of Professional Conduct, rule 3-110(A).

(d) ☒ Degree of prior discipline One (1) year stayed suspension, two (2) years probation with thirty (30) days actual suspension.

(e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.

(2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

Respondent was on State Bar probation at the time of the misconduct.

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

(1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.

(2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.

(3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.

(4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.

(5) ☐ **Restitution:** Respondent paid $ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.

(6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.

(7) ☐ **Good Faith:** Respondent acted in good faith.

(8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.

(9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

(10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.

(11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

(12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Respondent relied on his office staff to prepare his application for admission to the Tenth Circuit Court of Appeal, and his motion for extension of time and declaration, which contained misstatements of fact and law. When he became aware of the misrepresentations, he promptly took steps to remedy the problem. Respondent was remorseful in his dealings with the State Bar.

D. Discipline:

(1) ☒ **Stayed Suspension:**

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

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following: .

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

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

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of ninety (90) days.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following: .

E. Additional Conditions of Probation:

(1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

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

(4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

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

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

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

(7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

(8) ☐ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.

☒ No Ethics School recommended. Reason: Respondent has attended Ethics School within the last two years.

(9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.

(10) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☐ Financial Conditions

F. Other Conditions Negotiated by the Parties:

(1) ☐ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within

one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

☒ No MPRE recommended. Reason: Respondent has taken and passed the MPRE within the last two years.

(2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: .

(5) ☐ **Other Conditions:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:	David Glenn Currie
CASE NUMBER:	11-O-13575

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. 11-O-13575 (State Bar Investigation)

FACTS:

1. On or about March 9, 2011, Respondent filed an Application and Oath for Admission to the United States Court of Appeals for the Tenth Circuit. In the application, Respondent checked the box indicating that he had never been disbarred or suspended from practice by any state or federal court or governmental agency. Respondent also checked the box indicating that he had never been the subject of any discipline other than suspension or disbarment, including but not limited to, private or public censure or reprimand.

2. In truth, on September 29, 2009, Respondent had been subject to one (1) year suspension, stayed, two (2) years probation, and thirty (30) days actual suspension in State Bar Case No. 07-O-10314.

3. At the time Respondent filed the application that denied he had been previously disciplined by the State Bar, Respondent was still on State Bar probation.

4. On or about April 8, 2011, Respondent filed a Motion for Extension of Time to file Appellant's Opening Brief in the Tenth Circuit. In the motion, Respondent acknowledged that he was awaiting admission to the Tenth Circuit. In the motion, Respondent stated that he had "contacted Counsel for Appellee, Assistant United States Attorney Mark Barrett, who [did] not oppose this motion." This statement was false at the time it was made.

5. In his declaration in support of the motion, Respondent stated that he had contacted the Assistant United States Attorney, who did not oppose the motion. The declaration was signed under penalty of perjury. This statement in the declaration was false at the time it was made.

6. In truth, at the time Respondent filed the motion, he had not spoken with the Assistant United States Attorney Mark Barrett, or any other Assistant United States Attorney, nor had he been told by anyone that the United States did not oppose the motion.

CONCLUSIONS OF LAW:

7. By misstating in his application for admission to the Tenth Circuit Court of Appeal that he had never been suspended from practice, when he had been suspended for thirty (30) days by the State Bar of California, and, at the time of the application was still on State Bar probation, and by not adequately reviewing the entire application before executing it under penalty of perjury and submitting it for filing, Respondent filed an application for admission which he either knew, or was grossly negligent in not knowing, was false, in willful violation of Business and Professions Code section 6106.

8. By filing a motion for extension of time, and declaration in support of the motion, in the Tenth Circuit Court of Appeal that falsely stated that Respondent had contacted the Assistant United States Attorney, who did not oppose the motion, when, in fact, Respondent had not contacted the Assistant United States Attorney before filing the motion and declaration, and had not been told that the United States did not oppose the motion, Respondent knew, or was grossly negligent in not knowing, that the motion and declaration contained false statements, in willful violation of Business and Professions Code section 6106.

9. By filing a motion for extension of time, and declaration in support of the motion, containing statements of fact known by Respondent to be false, it is presumed that Respondent intended to secure a determination based upon them, in violation of Business and Professions Code section 6068(d).

AUTHORITIES SUPPORTING DISCIPLINE

Offenses involving moral turpitude or intentional dishonesty toward a court shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law. (Standard 2.3 of the Standards for Attorney Sanctions for Professional Misconduct.)

Where an attorney presents statements to a court that are untrue, and the attorney knows that they are untrue, it is presumed that the statements were made with the intent to secure an advantage based upon them, in violation of Business and Professions Code section 6068(d). In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Acts of moral turpitude include an attorney's false or misleading statements to a court. Bach v. State Bar (1987) 36 Cal. 3d 848, 855. Violations of Business and Professions Code sections 6068(d) and 6106 have resulted in discipline of various periods of actual suspension and or disbarment. See, e.g., In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774; In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490; and Davis v. State Bar (1983) 33 Cal. 3d 231, 239-40.

Misconduct in making misstatements of fact and law in pleadings is compounded when pleadings are signed under penalty of perjury "which gave the additional imprimatur of veracity to [the] misstatements and should have put reasonable persons on notice to take care that their pleadings were accurate, complete and true." In the Matter of Maloney and Virsik, supra at 4 Cal. State Bar Ct. Rptr. 774.

A finding of gross negligence in creating a false impression is sufficient for violation of Business and Professions Code section 6106. In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798 (attorney culpable of moral turpitude when he made misleading statements in order to induce a witness to sign a confession.)

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was December 15, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of November 29, 2011, the prosecution costs in this matter are $2,797.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of	Case number(s):
DAVID GLENN CURRIE	**11-O-13575**

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

12-16-11 Date	David Currie Respondent's Signature	David Glenn Currie Print Name
Date	Respondent's Counsel Signature	Print Name
12/21/11 Date	Nancy Brown Deputy Trial Counsel's Signature	Nancy C. Brown Print Name

(Do not write above this line.)

In the Matter of: DAVID GLENN CURRIE	Case Number(s): 11-O-13575

ACTUAL SUSPENSION ORDER

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

- [x] 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.)**

1/5/12
Date

RHonn
RICHARD A. HONN
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 January 10, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

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

DAVID G CURRIE ESQ
5230 D ST
CHINO, CA 91710

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

Nancy C. Brown, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 10, 2012.

Julieta E. Gonzales

Julieta E. Gonzales
Case Administrator
State Bar Court