

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION			PUBLIC MATTER
Counsel For The State Bar Timothy G. Byer Deputy Trial Counsel 1149 S. Hill St. Los Angeles, CA 90015 (213) 765-1325 Bar # 172472	Case Number(s): 12-C-17848-RAH	For Court use only FILED OCT 24 2013 STATE BAR COURT CLERK'S OFFICE LOS ANGELES	
Counsel For Respondent David C. Carr 530 B Street, Ste. #1410 San Diego, CA 92101 (619) 696-0526 Bar # 124510	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: YOUNG SIK CHO Bar # 239773 A Member of the State Bar of California (Respondent)			

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 6, 2005.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 15 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)

CRB
9/26/13



(Do not write above this line.)

- (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: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

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

- (1) **Prior record of discipline** [see standard 1.2(f)]
 - (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(Do not write above this line.)

- (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:

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.

(Do not write above this line.)

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

Additional mitigating circumstances:

Pre-trial stipulation. See Attachment, page 12.

D. Discipline:

- (1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of three 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 three 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 two 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:

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: .
- (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.**

(Do not write above this line.)

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: June 24, 2013.
- (5) **Other Conditions:**

(Do not write above this line.)

In the Matter of: YOUNG SIK CHO	Case Number(s): 12-C-17848-RAH
------------------------------------	-----------------------------------

Substance Abuse Conditions

- a. Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.

- b. Respondent must attend at least two meetings per month of:
 - Alcoholics Anonymous
 - Narcotics Anonymous
 - The Other Bar
 - Other program

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

- c. Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.

- d. Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.

- e. Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

(Do not write above this line.)

In the Matter of: YOUNG SIK CHO	Case Number(s): 12-C-17848-RAH
------------------------------------	-----------------------------------

Medical Conditions

- a. Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of _____ times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for _____ days or _____ months or _____ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

Respondent has been under the care of Dr. Eric C. Li, M.D. ("the physician") for depression, anxiety, and attention deficit disorder since September 26, 2011. Respondent must obtain treatment from the physician at Respondent's own expense. Respondent has selected the physician for the purpose of submitting to an evaluation and treatment. The physician will determine the course of treatment including how many times per month Respondent is to obtain treatment. Respondent must comply with the treatment recommended by the physician and must furnish evidence to the Office of Probation that Respondent is so complying with each quarterly report. Help/treatment should commence and/or continue immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue as required by the physician for the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

Within 45 days of signing this stipulation, Respondent shall provide a complete copy of this stipulation to the physician. Within 30 days of the effective date of the discipline in this matter, Respondent shall provide

(Do not write above this line.)

Within 45 days of signing this stipulation, Respondent shall provide a complete copy of this stipulation to the physician. Within 30 days of the effective date of the discipline in this matter, Respondent shall provide to the Office of Probation an original, signed declaration from the physician acknowledging receipt of a complete copy of this stipulation.

Within 45 days of signing this stipulation, Respondent shall execute all necessary waivers of confidentiality with the physician.

Within 30 days of the effective date of the discipline in this matter, Respondent shall provide to the Office of Probation a copy of the waiver provided to the physician. Also within 30 days of the effective date of the discipline in this matter, Respondent shall provide to the Office of Probation an original, signed declaration from the physician acknowledging receipt of the waiver.

Within 30 days of the effective date of the discipline in this matter, Respondent is to undergo an Evaluation with the physician. The Evaluation will be for the purposes of (a) determining whether Respondent has a current psychological diagnosis, (b) setting treatment conditions Respondent is to undertake as a result of the Evaluation, if any, and (c) obtaining a written report from the physician. Respondent shall bear all costs of the Evaluation, the resulting report, and any treatment conditions recommended by the physician. Respondent understands that his treatment conditions may change if the physician deems it necessary, and that he is to bear the cost of such treatment, which in some cases could include in-patient treatment. Respondent understands that (a) the treatment conditions, if any, shall become part of his probation conditions, (b) he must provide the Office of Probation with any proof of treatment compliance or waiver requested by the Office of Probation, and (c) any violation of the treatment conditions is a violation of the probation conditions.

Within 60 days of the effective date of the discipline in this matter, Respondent is to provide a copy of the physician's written report to the Office of Probation. If the physician requires additional information in order to propose treatment conditions, including, but not limited to, interviewing third parties, Respondent will make good faith efforts to timely provide the additional information. Respondent will provide proof of such good faith efforts to the Office of Probation within 10 days of any request.

Within 10 days of any change in treatment conditions, Respondent is to provide written notice to the Office of Probation specifically setting forth the changes. With that written notice, Respondent is to provide an original, signed declaration from the physician acknowledging receipt of the written notice and agreement with its accuracy.

Respondent shall report compliance with the treatment conditions by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to the discipline in this matter.

Respondent shall have his physician submit to the Office of Probation an original, signed declaration that Respondent is in compliance with the treatment conditions by each January 10, April 10, July 10, and October 10 covered by this discipline. Respondent understands that the declarations and reports may be shared with the Office of the Chief Trial Counsel and the State Bar Court.

Respondent understands that treatment conditions associated with other issues or entities may not satisfy treatment conditions required by this section.

If treatment providers are added or changed, Respondent must notify the Office of Probation of the name, address, and telephone number of all such treatment providers within ten days of the retaining of each one. Within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an original signed declaration from the treatment provider stating that it received a complete copy of this stipulation. Also within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an executed waiver of confidentiality as well as an original, signed declaration from the treatment providers acknowledging receipt of the waiver.

If the treating physician determines that there has been a substantial change in Respondent's condition, Respondent or the Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the physician by affidavit under penalty of perjury, in support of the proposed modification.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: YOUNG SIK CHO

CASE NUMBER: 12-C-17848

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offense for which he was convicted involved moral turpitude.

Case No. 12-C-17848 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On November 15, 2012, the Los Angeles County District Attorney filed a criminal complaint in the Los Angeles County Superior Court, case no. BA 404728, charging Respondent with one count of violating Penal Code section 118 (a) [Perjury Under Oath], a felony, and one count of violating Penal Code section 148.5(a) [False Report of a Criminal Offense], a misdemeanor.
3. On February 22, 2013, Respondent entered a plea of no contest to the count of violating Penal Code section 148.5(a) [False Report of a Criminal Offense], a misdemeanor, and based thereon, the court found Respondent guilty of that count.
4. Also on February 22, 2013, the court dismissed the count of violating Penal Code section 118 (a) [Perjury Under Oath], a felony, sentenced Respondent to serve 120 days in Los Angeles County Jail or, in lieu thereof, to 30 days in a private jail, and suspended the imposition thereof. The court placed Respondent on summary probation, with terms including that Respondent enroll in and attend psychological or psychiatric counseling one time per week for one year, and that Respondent enroll in and attend meetings of "The Other Bar" twice weekly for two years.
5. On May 23, 2013, the Review Department of the State Bar Court issued an order suspending Respondent from the practice of law effective June 24, 2013, pursuant to Business and Professions Code section 6102, since he had been convicted of a misdemeanor involving moral turpitude, and referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed.

FACTS:

6. On April 4, 2012, at about 8:45 p.m., Respondent called the Los Angeles Police Department to report that he had been the victim of an attempted robbery as he was approaching an automatic teller machine to make a bank deposit. Respondent told police that two individuals were involved in an attempt to rob him, one who Respondent said had tried to wrest his deposit envelope from him, and the other who Respondent told police had acted as a lookout for the first. Respondent described the

individuals and the vehicle in which they drove away from the scene. The alleged perpetrators were strangers to Respondent, and Respondent had no financial or other motive to falsely accuse them of a crime.

7. In response to Respondent's call, officers of the Los Angeles Police Department located and detained two individuals, who Respondent identified as the alleged perpetrators. The officers arrested the individuals and took them into custody. They were subsequently charged with attempted robbery.

8. On April 13, 2012, a deputy public defender representing one of the defendants issued a subpoena for the surveillance videotape from the bank where the attempted robbery was alleged to have been committed.

9. On April 19, 2012, a Los Angeles County Superior Court Commissioner conducted a preliminary hearing in the attempted robbery matter. In that hearing, Respondent testified, consistent with the account of events that he had provided to police, that one of the defendants had tried to wrest his deposit envelope from him as he tried to make an ATM deposit, and that the other defendant had acted as a lookout.

10. After cross-examining Respondent, the deputy public defender requested that the commissioner view the surveillance videotape from the bank. The commissioner granted that request, and in chambers with the attorneys, the commissioner watched the videotape, which recorded one of the defendants approaching Respondent and engaging him in brief conversation, but which showed no attempt by that defendant to take Respondent's deposit envelope.

11. The commissioner dismissed the charges against both defendants.

12. At the time of the interaction between Respondent and the individual at the bank, Respondent was being treated for depression with prescription amphetamine (brand name Adderall). One potential side effect of Adderall is paranoia. Respondent had consumed alcohol with Adderall on the evening of his alleged attempted robbery, which increased the potential for side effects.

CONCLUSIONS OF LAW:

13. Respondent's violation of Penal Code section 148.5(a) [False Report of a Criminal Offense], was a crime of moral turpitude per se.

ADDITIONAL FACTS RE ADDITIONAL MITIGATING CIRCUMSTANCES.

Pre-trial Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to trial, thereby saving State Bar Court time and resources. (*In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993-994.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the

courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.” (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Standard 3.2 provides that “[f]inal conviction of a member of a crime which involves moral turpitude...shall result in disbarment. Only if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a two-year actual suspension, prospective to any interim suspension imposed, irrespective of mitigating circumstances.” Nevertheless, in *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222, the Court stated opined that it “is not bound to follow the standards in a talismanic fashion. As the final and independent arbiter of attorney discipline, [the Court is] permitted to temper the letter of the law with considerations peculiar to the offense and the offender.”

Upon consideration of the “offense and offender” in the instant case, it would be manifestly unjust to apply greater discipline than the two-year minimum actual suspension under standard 3.2, despite the absence of “most compelling mitigating circumstances clearly predominat[ing.]” Although Respondent pled no contest to an offense which involved moral turpitude, it must also be acknowledged that Respondent’s report of the attempted robbery, while false, was not motivated by any pecuniary advantage or personal agenda on Respondent’s part. It must also be recognized that, at the time Respondent made the false report, he was under the influence of a prescribed medication with a known side effect of paranoia, a side effect that may have influenced Respondent’s perception of the events, and a side effect potentially exacerbated by Respondent’s concurrent abuse of alcohol. Because of Respondent’s possibly diminished mental state at the time he formed the perception of the attempted robbery of which he testified, it would be manifestly unjust to impose disbarment despite the fact that his offense was one of moral turpitude per se.

The Supreme Court has, on occasion, deviated from Standard 3.2 in cases of attorneys convicted of crimes of moral turpitude. In *In the Matter of Chadwick* (1989) 49 Cal.3d 103, an attorney who lied to the Securities and Exchange Commission in order to cover up insider trading received one year of actual suspension. The attorney made “a strong showing of mitigation, [as] it was [the attorney] who came forward to [confess his crimes to] the SEC and convinced [his co-conspirator] to do the same.” The court considered this to be a “commendable action” and that it satisfied the “spontaneous candor and cooperation to victims of misconduct and to the State Bar” entitled to mitigation under Standard 1.2(e)(v). In *In the Matter of Chernik* (1989) 49 Cal.3d 467, an attorney who was convicted of conspiracy to commit tax fraud received one year of actual suspension. In that matter, the attorney’s misconduct was mitigated by 20 years of practice without prior discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 30, 2013, the prosecution costs in this matter are \$5,026. 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.

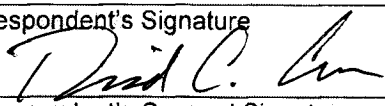
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, and/or any other educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: YOUNG SIK CHO	Case number(s): 12-C-17848-RAH
------------------------------------	-----------------------------------

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.

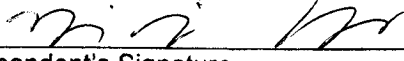
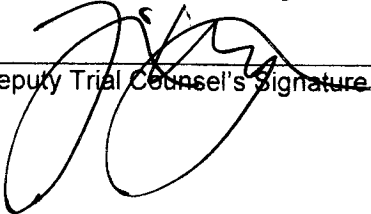
_____ Date	_____ Respondent's Signature	Young S. Cho Print Name
9/26/13 Date	 Respondent's Counsel Signature	David C. Carr Print Name
_____ Date	_____ Deputy Trial Counsel's Signature	Timothy G. Byer Print Name

(Do not write above this line.)

In the Matter of: YOUNG SIK CHO	Case number(s): 12-C-17848-RAH
------------------------------------	-----------------------------------

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>9/26/13</u> Date	 Respondent's Signature	<u>Young S. Cho</u> Print Name
<u> </u> Date	<u> </u> Respondent's Counsel Signature	<u>David C. Carr</u> Print Name
<u>9.27.13</u> Date	 Deputy Trial Counsel's Signature	<u>Timothy G. Byer</u> Print Name

(Do not write above this line.)

In the Matter of: YOUNG SIK CHO	Case Number(s): 12-C-17848-RAH
------------------------------------	-----------------------------------

ACTUAL SUSPENSION ORDER

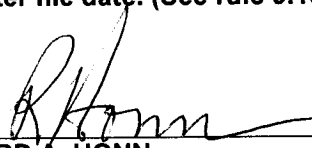
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

At the bottom of page 8 of the stipulation, the last two lines of text, which begin "Within 45 days" and "the physician," respectively, are DELETED.

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.)**

Date 10/23/13


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 October 24, 2013, 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:

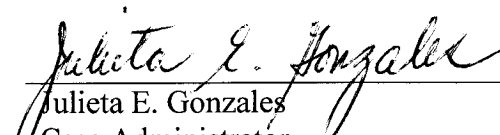
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID C. CARR
LAW OFFICE OF DAVID CAMERON CARR PLC
525 B ST STE 1500
SAN DIEGO, CA 92101

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

Timothy G. Byer, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 24, 2013.



Julieta E. Gonzales
Case Administrator
State Bar Court