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| State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION | | kwiktag® 183 822 598  |
| Counsel For The State Bar Shane C. Morrison Deputy Trial Counsel 845 S Figueroa St Los Angeles, CA 90017-2515 (213) 765-1000 Bar # 284115 | Case Number(s): 13-O-11145-DFM | For Court use only <div style="text-align: center;"> FILED DEC 23 2014 <i>HC</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div> |
| In Pro Per Respondent Lawrence P. Adamsky 9701 Wilshire Blvd. 1000 Beverly Hills, CA 90212 (310) 974-6739 Bar # 188680 | PUBLIC MATTER | |
| In the Matter of: JIMMIE DEAN CULP Bar # 208020 A Member of the State Bar of California (Respondent) | Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> 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 2, 2000**.
- (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 **14** 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".

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

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.

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

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- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment to Stipulation, p. 11.**
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

**Pretrial Stipulation (See Attachment to Stipulation, p. 11);
No Prior Discipline (See Attachment to Stipulation, p. 11);
Military Service (See Attachment to Stipulation, p. 11);
Emotional Difficulties (See Attachment to Stipulation, p. 12).**

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following: .
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **two 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 **30 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 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following: .

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 1.2(c)(1), 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.

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- (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:
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| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

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further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

No MPRE recommended. Reason:

- (2) **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:**

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| In the Matter of: JIMMIE DEAN CULP | Case Number(s): 13-O-11145-DFM |
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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 must obtain psychiatric or psychological treatment from a duly licensed psychiatrist or psychologist ("mental health practitioner") at respondent's own expense. The mental health practitioner 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 mental health practitioner 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 mental health practitioner 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 mental health practitioner. 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 mental health practitioner acknowledging receipt of a complete copy of this stipulation.

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Within 45 days of signing this stipulation, respondent shall execute all necessary waivers of confidentiality with the mental health practitioner, as well as any other treatment providers.

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 mental health practitioner, as well as all other treatment providers. 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 mental health practitioner, as well as all other treatment providers, 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 mental health practitioner. 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 mental health practitioner. Respondent shall bear all costs of the Evaluation, the resulting report, and any treatment conditions recommended by the psychiatrist. Respondent understands that his treatment conditions may change if the mental health practitioner 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 requirements, (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 requirements.

Within 60 days of the effective date of the discipline in this matter, respondent is to provide a copy of the mental health practitioner's written report to the Office of Probation. If the mental health practitioner 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 condition, 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 mental health practitioner 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 mental health practitioner submit to the Office of Probation an original, signed declaration that respondent is in compliance with the treatment of 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, such as a criminal probation, 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 mental health practitioner 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 mental health practitioner by affidavit or penalty of perjury, in support of the proposed modification.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JIMMIE DEAN CULP

CASE NUMBER: 13-O-11145-DFM

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 13-O-11145-DFM

FACTS:

1. In November 2009, the complainant employed respondent to defend him against allegations that led to an adverse General Officer Memorandum of Reprimand (“Memorandum of Reprimand”) and Officer Evaluation Report (“Evaluation Report”) being placed in the complainant’s official military personnel file (“personnel file”).

2. On May 19 and 20, 2011, respondent represented the complainant at a two-day hearing in front of the U.S. Army Board of Inquiry. The purpose of the hearing was to investigate the facts and circumstances contained within the adverse Memorandum of Reprimand and Evaluation Report. The Board of Inquiry found that the allegations contained in the Memorandum of Reprimand and Evaluation Report were not substantiated by evidence.

3. On July 11, 2011, the complainant employed respondent to petition for the removal of the Memorandum of Reprimand and Evaluation Report from the complainant’s personnel file, in order that the complainant would have a better chance of obtaining a promotion and continuing his career in the military. The complainant paid respondent \$1,250 in advanced fees for these services.

4. The complainant was required to be mandatorily retired from the U.S. Army on June 30, 2014, unless he obtained a promotion to the next higher grade within the U.S. Army. The adverse Memorandum of Reprimand and Evaluation Report were factors in the U.S. Army’s evaluation of the complainant’s suitability for promotion.

5. At no time did respondent petition for the removal of the Memorandum of Reprimand and Evaluation Report from the complainant’s personnel file.

6. On May 2, 2012, respondent falsely stated in an e-mail to the complainant that he had filed a petition for the removal of the Memorandum of Reprimand and Evaluation Report from the complainant’s personnel file in January 2012. Respondent knew that the statement was false at the time that he made it.

7. Between May 8, 2012, and January 7, 2013, the complainant sent six e-mails to respondent requesting updates on the status of the petition that respondent claimed to have filed. Respondent received the e-mails but failed to respond.

8. In January 2013, the complainant learned from the Department of the Army Suitability Board ("Suitability Board") that no petitions for removal of the Memorandum of Reprimand and Evaluation Report from his personnel file were filed on his behalf.

9. On January 11, 2013, the complainant terminated respondent's employment, requested a refund of the \$1,250 advanced fee, and requested the release of his client file.

10. On February 11, 2013, the complainant filed a complaint with the State Bar alleging that respondent had failed to file the petitions for removal of the Memorandum of Reprimand and Evaluation Report from the complainant's personnel file, and that respondent misrepresented to the complainant that he had filed such petitions.

11. On March 15, 2013, a State Bar investigator mailed a letter to respondent advising him of the allegations by the complainant and requesting respondent's written response to those allegations.

12. On April 11, 2013, respondent emailed the State Bar investigator and acknowledged that the substance of the complainant's complaint against respondent was true.

13. On April 29, 2013, respondent provided the complainant with a full refund of the \$1,250 advanced fee.

14. On June 3, 2013, respondent released the client file to the complainant.

15. On February 28, 2013, the complainant petitioned the Suitability Board for removal of the Memorandum of Reprimand and Evaluation Report from his personnel file.

16. On June 18, 2013, the Suitability Board denied the complainant's petition on grounds that there was insufficient evidence to justify removal of the Memorandum of Reprimand and Evaluation Report from the complainant's personnel file and granted no relief to the complainant.

17. On October 29, 2013, the complainant appealed the Suitability Board's decision denying his petition to the Army Board for Correction of Military Records. On April 15, 2014, the complainant's appeal was denied.

CONCLUSIONS OF LAW:

18. By failing to petition for the removal of the Memorandum of Reprimand and Evaluation Report from the complainant's personnel file, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

19. By misrepresenting to the complainant that he had filed a petition for the removal of the Memorandum of Reprimand and Evaluation Report from the complainant's personnel file in January

2012 when he knew that the statement was false, respondent committed an act involving moral turpitude, dishonesty, or corruption in willful violation of Business and Professions Code section 6106.

20. By failing to respond to the complainant's e-mails sent between May 8, 2012, and January 7, 2013, respondent failed to respond promptly to reasonable status inquiries of a client, in willful violation of Business and Professions Code section 6068(m).

21. By delaying until April 29, 2013, to refund unearned fees that he received from the complainant, respondent failed to refund promptly, upon respondent's termination of employment, any part of the fee that was unearned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

22. By delaying until June 3, 2013, to release the client file to the complainant, respondent failed to release promptly, after termination of respondent's employment, all of the complainant's papers and property to the client following the client's request for his file, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent has engaged in multiple acts of misconduct by making a misrepresentation to his client, failing to perform, failing to respond to client inquiries, failing to promptly return unearned fees upon termination, and failing to promptly release his client's file upon the client's request.

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances.

Pretrial Stipulation: Respondent is entitled to mitigation for cooperating with the State Bar by candidly admitting his misconduct to the State Bar investigator and entering into this stipulated settlement without the need of a trial to resolve this matter, thereby saving State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

No Prior Discipline: Although respondent's misconduct is serious, respondent practiced law for 12 years without discipline prior to the acts of misconduct described herein and is entitled to some mitigation. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr 41 [attorney's practice of law for more than 17 years considered to be mitigating even when misconduct at issue was serious].)

Military Service: Respondent served as a parachute infantryman in the U.S. Army between 1987 and 1991 and received an honorable discharge. Respondent's enlisted military service included service in Occupied Berlin during the Cold War. Respondent later served as a Judge Advocate in the U.S. Army between 2000 and 2007, which included combat deployments to Bosnia in 2002 and to Iraq in 2006. Respondent received an honorable discharge. Respondent is entitled to some mitigation for his military service. (Cf. *In re Giddens* (Review Dept. 1981) 30 Cal.3d 110 [wherein the California Supreme Court acknowledged that an attorney's military record was a mitigating factor].)

Emotional Difficulties: Expert testimony would establish: that prior to the time of the misconduct described herein, respondent suffered from a serious mood disorder stemming from his combat service in Iraq; that the underlying mood disorder had been improving prior to the time of the misconduct; but that at the time of the misconduct, respondent was suffering from extreme emotional distress related to personal and familial issues that exacerbated his underlying mood disorder; and that respondent's misconduct was the result of the extreme emotional distress he was experiencing at that time. Expert testimony would further establish that respondent has sought treatment for his emotional difficulties and that continued therapy would be of benefit to respondent in continuing to control his disorder. (*In re Naney* (1990) 51 Cal.3d 186, 197 [wherein the California Supreme Court held that a psychological disorder which has caused or contributed to misconduct is mitigating if the attorney shows that he has so overcome or controlled the disorder that it is unlikely to cause further misconduct].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

In this matter, respondent admits to committing five acts of professional misconduct. Standard 1.7(a) requires that where a respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

Respondent's misrepresentation to his client in violation of section 6106 is governed by Standard 2.7, calling for actual suspension to disbarment, depending on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim. This is the most severe sanction applicable to respondent's misconduct, which is limited to a single client matter. The complainant hired respondent to file a petition to remove the Memorandum of Reprimand and Evaluation Report from his

personnel file. Respondent misled the complainant into believing that he filed the petition. Respondent knew his statement to the complainant regarding the status of the petition was false. It was not until eight months later that the complainant learned, by his own inquiries, that respondent never filed the petition. The complainant later filed the petition without any involvement or assistance from respondent. Although respondent's multiple acts of misconduct delayed the filing of the petition, respondent's mitigating circumstances, including no prior discipline, military service, emotional difficulties, and the fact that he has acknowledged his misconduct by entering into a pretrial stipulation, suggest that discipline at the low end of the range of discipline provided in Standard 2.7 is appropriate. Discipline including a one-year stayed suspension and two years' probation with conditions including a 30-day actual suspension will serve to protect the public, the courts, and the legal profession; maintain high standards by attorneys; and preserve public confidence in the legal profession.

A level of discipline including a period of actual suspension is further supported by comparable case law. In *Gold v. State Bar* (1989) 49 Cal.3d 908, the attorney misrepresented to his client that her case had been settled, when in fact respondent had allowed the limitations period to expire without filing or resolving the client's case. The Review Department recommended that the attorney be placed on actual suspension for 90 days, but the Supreme Court found that 30 days was appropriate based on the attorney's lack of a prior record of discipline over the 25 years that he had practiced law.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 19, 2014, the prosecution costs in this matter were \$7,088. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

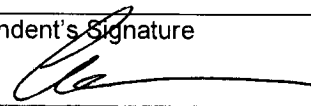
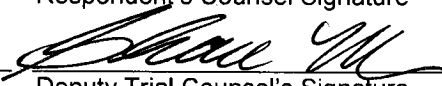
Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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| In the Matter of: JIMMIE DEAN CULP | Case number(s): 13-O-11145-DFM |
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SIGNATURE OF THE PARTIES

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

| | | |
|-----------|---|---------------------|
| _____ | _____ | Jimmie Dean Culp |
| Date | Respondent's Signature | Print Name |
| 12.2.2014 |  | _____ |
| _____ | _____ | Lawrence P. Adamsky |
| Date | Respondent's Counsel Signature | Print Name |
| 12/12/14 |  | _____ |
| _____ | _____ | Shane C. Morrison |
| Date | Deputy Trial Counsel's Signature | Print Name |

(Do not write above this line.)

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| In the Matter of: JIMMIE DEAN CULP | Case Number(s): 13-O-11145-DFM |
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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.

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 12/22/2014



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 December 23, 2014, I deposited a true copy of the following document(s):

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

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:

**LAWRENCE P. ADAMSKY
LAWRENCE P. ADAMSKY, ESQ.
9701 WILSHIRE BLVD 1000
BEVERLY HILLS, CA 90212**

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

SHANE MORRISON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 23, 2014.



Tammy Cleaver
Case Administrator
State Bar Court