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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Robin Brune Senior Trial Counsel 180 Howard Street San Francisco, California 94105 (415) 538-2218 Bar # 149481	Case Number(s): 14-O-04056	For Court use only <div style="text-align: center; font-size: 24px; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 36px; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 24px; font-weight: bold;">JAN 12 2016</div> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Samuel C. Bellicini Lawyer 1005 Northgate Drive #240 San Rafael, California 94903 (415) 298-7284 Bar # 152191	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: JOHN T. SCHREIBER Bar # 131947 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 11, 1987**.
- (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."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- 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 discipline.** (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(h) & 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) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

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- (7) **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.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See Attachment, p 10.**
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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

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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. **See Attachment, p. 10.**
- (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:

Prefiling Stipulation, See Attachment, p. 10.
No Prior Discipline, See Attachment, p. 10.
Civic Service, See Attachment, p. 10.

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 fitness to practice and present learning and ability in the general 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 **thirty days**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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 present 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.
- (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: .

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

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation 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: .
- (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: Fee Arbitration Conditions, See Attachment, p. 12.**

7. On January 14, 2014, Hsu wrote a letter to respondent discussing the result of their January 10, 2014 meeting.

8. On January 31, 2014, Hsu wrote a letter to respondent and asked him about the deadline for filing an appeal, and asked if he should prepare the notice of appeal for the respondent's signature. Hsu also writes, "Thank you again for your assistance!" Respondent received the January 31, 2014 letter from Hsu. In response, respondent spoke to Hsu about the applicable deadline for filing an appeal.

9. On February 3, 2014, Hsu wrote a letter to respondent and provided him with a draft Notice of Appeal, Appellant's Notice Designating Record on Appeal, and Civil Case Information Statement. Hsu stated, "So, I hope that the Notice of Appeal matter can be finalized soon." Hsu also writes, "thank you again for your very kind assistance!" Hsu also requested that he meet with respondent. Respondent received the February 3, 2014 letter from Hsu.

10. The parties met on February 12, 2014, and again discussed the case. On February 18, 2014, Hsu wrote respondent a letter. In the letter he states, "Thank you very much for your input, analysis, and advice at our meeting on 2/12/2014." And, "Thank you again for your very kind and generous assistance." Hsu wrote that he calculated that April 15, 2014 was the date his Notice of Appeal was due for filing. Respondent received Hsu's letter, dated February 18, 2014, and did not respond to it.

11. On February 26, 2014, Hsu again wrote to respondent, stating, "In any case, from Counsel's assessment, it appears that my "Case in Chief" (pertaining to the Court's judgment on the pleadings) does have merit." Hsu again writes, "Thank you again for your very generous assistance." Respondent received Hsu's February 26, 2014 letter and did not respond to it.

12. On March 26, 2014, Hsu again wrote to respondent and updated him regarding the litigation in the case. He further indicated that he was enclosing a Notice of Appeal and Notice Designating Record on Appeal "should Counsel agree to sign them." Respondent received Hsu's March 26, 2014 letter, and did not respond to it.

13. On March 30, 2014, Hsu again wrote to respondent and notified respondent of the information Hsu had received from the court about the procedure for filing his appeal in pro per given the prior vexatious litigant order against Hsu. Hsu informed respondent he intended to file his Notice of Appeal on April 11, 2014. Respondent received Hsu's March 30, 2014 letter, and did not respond to it.

14. On April 11, 2014, Hsu filed his Notice of Appeal in propria persona, *Hsu v. La Belle*, case no. A141530 filed in the Court of Appeal, First Appellate District.

15. On April 25, 2014, Hsu filed an application to file his appeal in propria persona according to the instructions he received from the court.

16. On May 1, 2014, the court denied Hsu's request for permission to appeal two rulings issued by the Alameda Superior Court, the January 29, 2014 judgment, and the March 17, 2014 order awarding attorneys' fees and costs.

17. On May 15, 2014, Hsu filed a petition for rehearing of the court's denial of his request for permission to appeal the January 29, 2014 judgment and the March 17, 2014 order awarding attorneys'

fees and costs. In addition, Hsu filed a request for permission to appeal the trial court's May 29, 2009 and June 3, 2009 orders declaring him to be a vexatious litigant.

18. On May 17, 2014, Hsu again wrote a letter to respondent. In his letter Hsu stated, "While so far the First Appellate District still has not granted its permission for my Application for Permission to Appeal in pro per, the law does not say that the appeal cannot proceed with legal representation, does it? So far, Counsel still has not indicated to me that my proposed appeal does not have merit." And, "So, can counsel now represent me on appeal?" And, "Looking forward to hearing back from you soon." Respondent received Hsu's letter of May 17, 2014 and did not respond to it.

19. On May 20, 2014, the First Appellate District Court of Appeal issued an order in *Hsu v. LaBelle*, case no. A14530, denying Hsu's petition for rehearing of the court's denial of his request for permission to appeal the January 29, 2014 judgment and the March 17, 2014 order awarding attorneys' fees and costs. The court further denied Hsu's request to appeal the trial court's May 29, 2009 and June 3, 2009 orders declaring him to be a vexatious litigant.

20. At no time did respondent provide Hsu with respondent's opinion as to whether Hsu's appeal was meritorious. At no time did respondent represent Hsu on his appeal.

21. On June 17, 2014, Hsu wrote a letter to respondent. In the letter Hsu asked respondent for a copy of his retainer agreement and a billing statement. Respondent received Hsu's June 17, 2014 letter, and did not respond to it.

22. On July 4, 2014, Hsu made a complaint to the State Bar.

23. On August 21, 2014, the State Bar Investigator sent respondent a letter asking for the respondent's response to the complaint.

24. On February 4, 2015, respondent sent Hsu an email an itemized billing statement covering the period of November 4, 2013 through March 27, 2014.

25. On February 7, 2015, Hsu notified respondent that he disputed the fees.

CONCLUSIONS OF LAW:

26. By failing to provide Hsu with his opinion as to whether or not Hsu's appeal was meritorious or not, and by failing to represent Hsu on appeal, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

27. By failing to provide an accounting to Hsu for the \$30,000 in advanced fees that respondent received from Hsu until February 4, 2015, over seven months after Hsu requested an accounting on June, 17, 2014, respondent failed to timely account to the client regarding the funds, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).

28. By failing to respond to Hsu's letters of February 26, 2014, March 26, 2014, March 30, 2014, May 17, 2014, and June 17, 2014, that respondent received in a matter in which respondent had agreed to provide legal services, respondent failed to communicate, in wilful violation of Business and Professions Code, section 6068(m).

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): Respondent's client Hsu was significantly harmed. Hsu paid respondent a substantial sum, \$30,000 but did not receive respondent's legal opinion on the merits of his appeal, nor did respondent represent Hsu on appeal.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed three disciplinary violations, indicating multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Good Character (Std. 1.6(f)): Respondent has provided 7 character references from a wide range within the legal community. Each of the character references attested to the respondent's good character and stated that they were aware of the nature of the charges against the respondent.

Additional Mitigating Circumstances:

No Prior Record of Discipline: Respondent has been a member of the State Bar since December 11, 1987. Respondent has practiced law for over 26 years without a prior record of discipline when the misconduct herein occurred. (*Hawes v. State Bar* (1990) 51 Cal. 3d. 587, 596 [more than ten years of discipline-free practice entitled to significant mitigation].)

Prefiling Stipulation: Respondent is entering into a stipulation in this matter prior to the filing of a Notice of Disciplinary Charges, thereby saving the State Bar and the Court time and resources. Further, by entering into the stipulation, respondent has acknowledged his wrongdoing and is taking steps to atone for it. (*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].)

Civic Service. Respondent has contributed volunteer work to the legal community. He volunteered as a member of the Board of Governors of the Alameda-Contra-Costa County Trial Lawyers Association from 2009-2015, a period of six years. He volunteers for monthly board meetings and prepares and presents information on new cases of interest at the meetings. He is also currently a Director of the Contra Costa County Bar Association's Appellate Section and has served as Past President and Program Director of the Appellate Section. Respondent also served as a member of the State Bar of California's Committee on Appellate Courts from 2007-2009. This was a volunteer position in which he met 6-7 times per year, each meeting 1-2 hours long. The Committee addressed potential changes to State Bar rules, and prepared comments to the proposed changes to the California rules of Court, and organized programs for the State Bar Annual Meeting. The respondent also presented a two hour program on appeals at the 2008 State Bar Annual Meeting, including moderating a speaker's panel with three justices from the Third District Court of Appeal. Respondent also volunteered as a judge in moot court competitions at Boalt Hall School of Law's McBaine Moot Court Competition in 2001, 2007, and 2012. ["Civic service can deserve recognition as a mitigating circumstance under this standard." *In the Matter of Respondent K* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 335 [mitigating credit given for fundraising, organizational, educational and lobbying work since 1981 on behalf of paralyzed citizens], citing to *Porter v. State Bar* (1990) 52 Cal. 3d. 518, 529 [mitigative credit given for history of community involvement and participation].

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 Silverton* (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 three 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.” The most severe sanction applicable to Respondent’s misconduct is found in Standard 2.7, which applies to respondent’s violation(s) of Rules of Professional Conduct, rule 3-110(A) and Business and Professions Code, section 6068(m). Standard 2.7 specifies suspension or reproof for performance, communication, or withdrawal violations. The degree of sanction depends upon the extent of the misconduct and the degree of harm to the client.

Here, the client hired respondent and paid him \$30,000 to render an opinion regarding the merits of his appeal, and, if meritorious, to represent him on the appeal. Because the client had been declared a vexatious litigant, and was subject to a pre-filing order, it was unlikely that he would be able to pursue the appeal absent representation by counsel. The client met with the respondent on four occasions. The client sent the respondent several follow-up letters, and, in four of them, thanked the respondent for either his advice or assistance. However, the respondent never answered the fundamental question posed by the client, regarding the merit, or lack thereof, of the client’s appeal, and whether the respondent would represent the client for his appeal, despite the clients repeated requests made in letters dated February 26, 2014, March 26, 2014, March 30, 2014, and May 17, 2014. Respondent failed to respond to the client and the client’s matter was thereafter dismissed. Respondent also failed to timely respond to the client’s June 17, 2014 request for a billing statement and provided one seven months after the client’s request, and only after the State Bar intervened. The client disputes the billing. In aggravation, the client suffered significant harm. In mitigation, the respondent has been practicing 26

years at the time of the misconduct without prior discipline; has provided seven character reference letters from the legal community; has conducted volunteer work on behalf of the legal community; and has entered into a stipulation prior to the filing of a Notice of Disciplinary Charges. Respondent's four mitigating factors must be weighed against the aggravating factor of significant harm to the client. Under these circumstances, considering the sum of money paid and respondent's inaction on the matter, the aggravation outweighs the mitigation and the higher end of discipline is warranted. A one year suspension, stayed, with two years of probation, and thirty days actual suspension is warranted to protect the public and the profession. In addition, the respondent has agreed to attend fee arbitration, and abide by the decision of the arbitrator.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of December 22, 2015, the prosecution costs in this matter are \$3,066. 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.

FEE ARBITRATION CONDITIONS OF PROBATION:

A. Respondent's Duty to Initiate and Participate in Fee Arbitration

Respondent must initiate fee arbitration within thirty (30) days from the effective date of this matter, including making any payment(s) and filing fees required by the organization conducting the fee arbitration to start the process. The fee arbitration will be for the \$30,000 in fees that John Hsu paid respondent on November 4, 2013. Respondent must not request more fees than have already been paid by, or on behalf of, John Hsu.

Respondent must provide the Office of Probation with a copy of the conformed filing within forty-five (45) days from the effective date of this matter. Respondent must immediately provide the Office of Probation with any information requested regarding the fee arbitration to verify respondent's compliance.

Respondent must fully and promptly participate in the fee arbitration as directed by the organization conducting the fee arbitration. Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration. Respondent understands and agrees that the Office of Probation may contact the entity conducting the fee arbitration for information.

Respondent must accept binding arbitration on the arbitration request form. If the arbitration proceeds as non-binding, however, respondent must abide by the arbitration award and forego the right to file an action seeking a trial de novo in court to vacate the award.

B. Respondent's Duty to Comply with the Arbitration Award

Within fifteen (15) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter, respondent must provide a copy of said award, judgment or stipulated award to the Office of Probation.

Respondent must abide by any award, judgment or stipulated award of any such fee arbitrator and agrees to provide proof thereof to the Office of Probation within thirty (30) days after compliance with any

such award, judgment or stipulated award. If the award, judgment or stipulated award does not set forth a deadline for any payment, respondent is to make full payment within thirty (30) days of the issuance of any such award, judgment or stipulated award. Respondent must provide proof thereof to the Office of Probation within thirty (30) days after payment.

To the extent that respondent has paid any fee arbitration award, judgment or stipulated award prior to the effective date of this matter, respondent will be given credit for such payment(s) provided satisfactory proof of such payment(s) is or has been provided to the Office of Probation.

C. Fee Arbitration Conditions can be Satisfied by Respondent's Full Payment to John Hsu

The Fee Arbitration Conditions can also be satisfied by respondent's full payment of \$30,000. in fees that John Hsu paid respondent on November 4, 2013, plus interest of 10% per annum from November 4, 2013, within thirty (30) days from the effective date of this matter. Satisfactory proof of payment must be received by the Office of Probation within forty-five (45) days from the effective date of this matter.

If the Client Security Fund ("CSF") has reimbursed John Hsu for all or any portion of the principal amount(s), respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs. To the extent the CSF has paid only principal amounts, respondent will still be liable for interest payments to John Hsu. Any restitution to the CSF is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d). Respondent must pay all restitution to John Hsu before making payment to CSF. Satisfactory proof of payment(s) to CSF must be received by the Office of Probation within thirty (30) days of any payment.

D. Effect of Respondent's Failure to Comply with Fee Arbitration Conditions

Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in this Court imposing additional discipline (with attendant costs) and conditions upon respondent, including ordering respondent to pay back the full amount of \$30,000 paid to respondent by John Hsu plus 10% interest from November 4, 2013.

EXCLUSION FROM MCLE CREDIT

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

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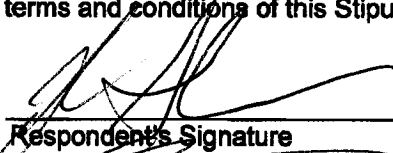
In the Matter of:
JOHN T. SCHREIBER

Case number(s):
14-O-04056

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.

12/28/16
Date


Respondent's Signature

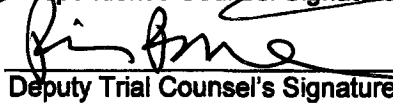
JOHN T. SCHREIBER
Print Name

20 Dec 2015
Date


Respondent's Counsel Signature

SAMUEL C. BELLICINI
Print Name

12/30/2015
Date


Deputy Trial Counsel's Signature

ROBIN BRUNE
Print Name

(Do not write above this line.)

In the Matter of: JOHN T. SCHREIBER	Case Number(s): 14-O-04056
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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

Jan. 12, 2016

Pat McElroy

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 San Francisco, On January 12, 2016, 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:

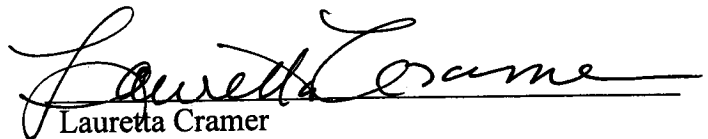
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

SAMUEL C. BELLICINI
SAMUEL C. BELLICINI, LAWYER
1005 NORTHGATE DR # 240
SAN RAFAEL, CA 94903

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

Robin B. Brune, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 12, 2016.



Laretta Cramer
Case Administrator
State Bar Court