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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Alex Hackert Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1498	Case Number(s): 15-C-10306-YDR 15-C-10307 15-C-10308 15-C-13690 16-O-10084 16-C-10566	For Court use only <div style="text-align: center;">FILED</div> <div style="text-align: center;">JAN 18 2017</div> <div style="text-align: center;">  STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Bar # 267342	PUBLIC MATTER	
In Pro Per Respondent Adam J. Luetto 2271 W Malvern Ave. # 351 Fullerton, CA 92833 (562) 704-4807	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: ADAM J. LUETTO Bar # 264188 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 **July 31, 2009**.
- (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 **19** 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 immediately 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(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.
- (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.

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- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (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. See page 14.
- (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 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.

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- (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 page 14.

Emotional and Mental Health Difficulties, see page 14.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **3 years**.
- 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 **4 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 **2 years**.
- 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: .
- (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.

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- (10) The following conditions are attached hereto and incorporated:
- | | |
|--|---|
| <input checked="" 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: **October 13, 2015.**
- (5) **Other Conditions: Mental Health Treatment, see page 17-18.**

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In the Matter of: ADAM J. LUETTO	Case Number(s): 15-C-10306-YDR, 15-C-10307, 15-C-10308, 15-C-13690, 16-O-10084 and 16-C-10566
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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 4 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:

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: ADAM J. LUETTO

CASE NUMBERS: 15-C-10306, 15-C-10307, 15-C-10308, 15-C-13690,
16-O-10084 and 16-C-10566

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true, that the facts and circumstances surrounding the offenses for which he was convicted involved moral turpitude, and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 15-C-10306 (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 December 4, 2014, the Orange County District Attorney filed a criminal complaint in the Orange County Superior Court, case no. 14WM11730, charging respondent with one count of violation of Penal Code sections 484(a) and 488 [petty theft], a misdemeanor.
3. On July 28, 2015, the court entered respondent's guilty plea to one count of violation of Penal Code sections 484(a) and 488 [petty theft], a misdemeanor.
4. On July 28, 2015, the court suspended the imposition of the sentence, and placed respondent on three years of formal probation, with the condition that respondent serve one day in jail, with credit for time served. Respondent was ordered to complete the Opportunity Court program, a voluntary program for non-violent drug offenders with mental health issues.
5. Thereafter, respondent's conviction became final.
6. On October 16, 2015, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offenses for which Respondent was convicted in all case nos. 15-C-10306, 15-C-10307, 15-C-10308 and 15-C-13690 involved moral turpitude or other misconduct warranting discipline.

FACTS:

7. On November 5, 2014, respondent went into a Wal-Mart store in Garden Grove. Respondent went to the store's hardware department where he removed a toolbox from a display rack, and then proceeded to place other items of merchandise inside the toolbox.

8. Respondent walked to another section of the store, where he took the items he placed in the toolbox and concealed them in his front waistband. These items consisted of work gloves, bungee cords, tape, a laser pointer/level, padlocks and a para-cord survival bracelet, with a total retail value of \$127.69.

9. Respondent exited the store without paying for the items concealed on his person.

10. Wal-Mart employees observed respondent's conduct over the store's surveillance cameras and called the police.

11. Garden Grove police officers arrived at the store while respondent was still in the parking lot. After a store employee directed the officers to respondent, the officers detained and searched respondent, finding the stolen items concealed on his person.

12. Respondent was arrested and issued a citation for violation of Penal Code section 488 [petty theft].

13. After criminal charges were filed, the court referred respondent for a mental health court evaluation on January 27, 2015. The evaluating psychologist diagnosed respondent with major depressive disorder and polysubstance dependence, with the recommendation that respondent immediately begin treatment at a residential substance abuse treatment program.

14. The probation reports filed in respondent's case indicate that respondent admitted to a history of abusing prescription opiates. During the period of July through September 2015, respondent twice enrolled in a residential treatment program, but both times he left the facilities without authorization.

15. At a November 3, 2015 court hearing, respondent opted out of the court's alternative substance abuse treatment program. The court modified respondent's probation and sentenced him to 120 days in jail, among conditions including credit for time actually served.

CONCLUSIONS OF LAW:

16. The facts and circumstances surrounding the above-described violation involved moral turpitude.

Case No. 15-C-10307 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

17. 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.

18. On December 19, 2014, the Orange County District Attorney filed a criminal complaint in the Orange County Superior Court, case no. 14WM12389, charging respondent with one count of violation of Penal Code sections 484(a) and 488 [petty theft], a misdemeanor.

19. On July 28, 2015, the court entered respondent's guilty plea to one count of violation of Penal Code sections 484(a) and 488 [petty theft], a misdemeanor.

20. On July 28, 2015, the court suspended the imposition of the sentence, and placed respondent on three years of formal probation, with the condition that respondent serve one day in jail, with credit for time served. Respondent was ordered to complete the Opportunity Court program, a voluntary program for non-violent drug offenders with mental health issues.

21. Thereafter, respondent's conviction became final.

22. On October 16, 2015, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offenses for which Respondent was convicted in all case nos. 15-C-10306, 15-C-10307, 15-C-10308 and 15-C-13690 involved moral turpitude or other misconduct warranting discipline.

FACTS:

23. On October 13, 2014 respondent went into a Target store in Garden Grove. While in the store, respondent used a magnetic "merchandise key," designed to remove security devices from retail items, to remove a video game from a loss-prevention device. He then hid the video game along with three DVD sets inside his waistband. This merchandise had a retail value of \$137.96.

24. Garden Grove police officers were dispatched to the store while respondent was still inside, after store employees noticed respondent's conduct. Officers arrived as respondent was making his way towards the front of the store. After respondent walked past the cash registers, he was detained by a police officer. The merchandise was recovered from respondent, along with the magnetic "merchandise key." Respondent was arrested for violation of Penal Code 459 [commercial burglary].

25. Officers transported respondent to the Garden Grove police station, where he was interviewed after receiving a *Miranda* advisement. Respondent admitted to putting the DVDs in his waistband. Respondent claimed that he did not consider that he was shoplifting until after he put the merchandise in his waistband, and that he was going to put the items back after using the bathroom at the front of the store, near where the registers were located. Respondent admitted that he did not have the money to pay for the DVDs. Respondent refused to answer any questions about removing the video game from the anti-theft device, or the magnetic "merchandise key."

26. Paragraph 13 through 15, above, are incorporated herewith.

CONCLUSIONS OF LAW:

27. The facts and circumstances surrounding the above-described violation involved moral turpitude.

Case No. 15-C-10308 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

28. 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.

29. On January 9, 2015, the Anaheim City Attorney filed a criminal complaint in the Orange County Superior Court, case no. 15NM00325, charging respondent with one count of violation of Penal Code sections 484(a) and 488 [petty theft], a misdemeanor.

30. On July 28, 2015, respondent plead guilty to one count of violation of Penal Code sections 484(a) and 488 [petty theft], a misdemeanor.

31. On July 28, 2015, the court suspended the imposition of the sentence, and placed respondent on three years of formal probation, with the condition that respondent serve one day in jail, with credit for time served. Respondent was ordered to complete the Opportunity Court program, a voluntary program for non-violent drug offenders with mental health issues.

32. Thereafter, respondent's conviction became final.

33. On October 16, 2015, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offenses for which Respondent was convicted in all case nos. 15-C-10306, 15-C-10307, 15-C-10308 and 15-C-13690 involved moral turpitude or other misconduct warranting discipline.

FACTS:

34. On December 10, 2014 respondent went into a Home Depot store in Anaheim. Respondent walked through the store and picked up a cordless drill set packaged in a cardboard box with a retail value of \$229. Respondent then ducked into an enclosure on another aisle, where he removed the drills and rechargeable batteries from the box and concealed them on his person, leaving the box and battery charger behind in the enclosure.

35. Respondent exited the store to the parking lot without paying for the drill set, where he put the drills and batteries into his car.

36. Respondent went back inside the store and returned to where he left the box from the drill set. Respondent removed the battery charger from the box and conceal it in his waistband.

37. Respondent walked back outside the store to the parking lot, where two loss prevention employees detained him, having observed respondent's conduct inside the store.

38. Anaheim polices arrived thereafter. Respondent declined to give a statement to the officers, but allowed them to recover the merchandise from his car. Respondent was arrested for violating Penal Code section 488 [petty theft] and transported to jail, since he did not have any identification with him.

39. Paragraph 13 through 15, above, are incorporated herewith.

CONCLUSIONS OF LAW:

40. The facts and circumstances surrounding the above-described violation involved moral turpitude.

Case No. 15-C-13690 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

41. 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.

42. On May 19, 2015, the Orange County District Attorney filed a criminal complaint in the Orange County Superior Court, case no. 15NM06322, charging respondent with one count of violation of Penal Code section 466 [possession of burglary tools], a misdemeanor, and one count of violation of Vehicle Code 23103(a) [reckless driving], a misdemeanor.

43. On July 28, 2015, the court entered respondent's plea of nolo contendere to one count of violation of Penal Code section 466 [possession of burglary tools], a misdemeanor, and one count of violation of Vehicle Code 23103(a) [reckless driving], a misdemeanor, and based thereon, the court found respondent guilty of those counts.

44. On July 28, 2015, the court suspended the imposition of sentence and placed respondent on formal probation, with the condition that respondent serve five days in jail, which was stayed pending respondent's completion of the Opportunity Court program, a voluntary program for non-violent drug offenders with mental health issues.

45. Thereafter, respondent's conviction became final.

46. On October 16, 2015, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offenses for which Respondent was convicted in all case nos. 15-C-10306, 15-C-10307, 15-C-10308 and 15-C-13690 involved moral turpitude or other misconduct warranting discipline.

FACTS:

47. On October 24, 2014, Orange County Sherriff's Deputies pulled over respondent in his car for a traffic stop in Yorba Linda, after respondent entered an intersection against a red light, proceeding straight from a left turn lane and into lanes for oncoming traffic. Other cars had to stop or swerve to avoid colliding with respondent.

48. Respondent told the deputies that he was looking at his phone and not paying attention to the road. He gave the deputies permission to search his car and his person. During the search, deputies found a small magnetic device used to apply and remove security devices on retail items, a lock pick set and a book on lock picking.

49. Respondent told the deputies he was going to meet a friend at a nearby motel, but text messages on his phone suggested that he was going to a nearby mall. The deputies were concerned that respondent was going to the mall to shoplift, having discovered respondent's October 13, 2014 arrest at a Target store in Anaheim where respondent used a magnetic device to remove a security device from an item.

50. Respondent was issued a citation for violations of Penal Code section 466 [possession of burglary tools] and Vehicle Code 23103(a) [reckless driving]. Respondent was released at the scene.

51. Paragraph 13 through 15, above, are incorporated herewith.

CONCLUSIONS OF LAW:

52. The facts and circumstances surrounding the above-described violations did not involve moral turpitude but did involve other misconduct warranting discipline.

Case No. 16-O-10084 (State Bar Investigation)

FACTS:

53. On September 25, 2015, the State Bar Court Review Department issued an order suspending respondent from the practice of law, effective October 13, 2015, pending final disposition of case nos. 15-C-10306, 15-C-10307, 15-C-10308 and 15-C-13690. The order also required respondent to comply with California Rules of Court, rule 9.20 and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days of the effective date of the suspension.

54. On October 6, 2015, the Office of Probation sent a reminder letter to respondent's membership records address regarding the suspension order. The letter stated respondent's 9.20 compliance declaration was due by November 22, 2015.

55. As of October 13, 2015, respondent was incarcerated at the Orange County Jail. He was released on or about December 1, 2015.

56. Respondent failed to file a rule 9.20 compliance affidavit with the State Bar Court by November 22, 2015.

57. On December 10, 2015, the State Bar Office of Probation sent a letter to respondent at his membership record address by U.S. mail, regarding his failure to file his rule 9.20 compliance affidavit. Respondent received this letter.

58. Respondent was alerted to the issue of the Review Department's order requiring compliance with rule 9.20 during a January 15, 2016 status conference in case nos. 15-C-10306, 15-C-10307, 15-C-10308 and 15-C-13690.

59. Respondent filed a fully compliant rule 9.20 compliance affidavit with the State Bar Court on February 8, 2016, after making unsuccessful attempts to file a compliance affidavit on January 22 and 25, 2016.

CONCLUSIONS OF LAW:

60. By failing to timely comply with the September 25, 2015 order of the Review Department of the State Bar Court to comply with rule 9.20 of the California Rules of Court in case nos. 15-C-10306, 15-C-10307, 15-C-10308 and 15-C-13690, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear, in willful violation of Business and Professions Code section 6103.

Case No. 16-C-10566 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

61. 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.

62. On September 30, 2015, the Los Angeles County District Attorney filed a criminal complaint in the Los Angeles County Superior Court, case no. LB 5LG07745-01, charging respondent with one count of violation of Penal Code section 484(a) and 490.2 [petty theft], a misdemeanor, and one count of violation of Penal Code section 466 [possession of burglary tools], a misdemeanor.

63. On December 2, 2015, the court entered respondent's plea of nolo contendere to the count of violation of Penal Code section 484(a) and 490.2 [petty theft], a misdemeanor, and based thereon, the court found respondent guilty of that count. Pursuant to a plea agreement, the court dismissed the remaining count in the furtherance of justice.

64. On December 2, 2015, the court suspended the imposition of sentence and placed Respondent on summary probation for a period of thirty-six months, with the condition that respondent serve 109 days in the Los Angeles County Jail, with credit for 55 days of actual custody and 54 days for good conduct.

65. On April 6, 2016, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed for the offense(s) for which Respondent was convicted which the Review Department determined involved moral turpitude as a matter of law.

FACTS:

66. On December 6, 2014, respondent went into a Target store in Signal Hill. Respondent selected several items of clothing from the men's department and placed them into his shopping cart. Respondent went into another section of the store, where he removed the clothes hangers from the items, and then placed the items into his messenger bag. Respondent then walked out of the store with the items concealed in his messenger bag. These items had a retail value of \$212.85.

67. Store security confronted respondent just outside the store and escorted him to the store's security office. The merchandise was recovered from respondent's messenger bag.

68. Signal Hill police officers arrived to the store to investigate the incident. An officer searched respondent and found a magnetic device used to open anti-theft device on retail merchandise.

69. Respondent was arrested for violating Penal Code section 490.2 [larceny/petty theft] and taken to the Signal Hill police station for booking.

70. At the police station respondent was given a *Miranda* advisement and consented to be interviewed by the police. Respondent admitted to stealing the items of clothing he placed in his messenger bag.

71. Prior to this incident, on or about November 26, 2014 respondent was caught leaving the same Target store without paying for a videogame. At that time, Target employees recovered the videogame and released respondent without pursuing prosecution.

CONCLUSIONS OF LAW:

72. The facts and circumstances surrounding the above-described violation involved moral turpitude.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent was convicted of petty theft regarding four separate shoplifting incidents, in addition to his conviction for possession of burglary tools. Respondent also failed to timely comply with the Review Department's September 25, 2015 order. This constitutes multiple acts of wrongdoing. (See generally *In the Matter of Lenard* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250, 260.)

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent is entitled to mitigation for entering into this stipulation prior to trial, thereby preserving State Bar time and resources, as well as acknowledging and accepting responsibility for his misconduct. (*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].)

Emotional and Mental Health Difficulties: Respondent previously received treatment for substance abuse problems prior to the misconduct at issue, and he had been maintaining his sobriety prior to the instant misconduct. However, respondent also suffered from untreated depression, generalized anxiety, bi-polar type-2 disorder and post-traumatic stress disorder. In 2013 respondent began experiencing difficulties in his marriage and he lost his job in 2014. These problems resulted in respondent self-medicating with alcohol, which soon escalated to his use of and addiction to opioid drugs. Respondent turned to stealing to alleviate his financial distress, which was exacerbated by his substance abuse habit.

After his release from jail in December 2015, respondent voluntarily enrolled in an in-patient substance abuse treatment program in Grand Prairie, Texas in January 2016. After successfully completing this program, respondent voluntarily enrolled himself in an outpatient treatment program in Boca Raton, Florida, in March 2016 for treatment of opioid and amphetamine-type substance use disorders. Respondent completed his program in Florida and returned to California in June 2016. Respondent is currently in a sober living home, attends weekly meetings of Alcoholics Anonymous and is under the care of a psychiatrist.

While these issues were a contributing factor towards respondent's behavior surrounding his misconduct, at this time there is no evidence of a prognosis for his recovery, respondent is only entitled to limited mitigation under this factor. (See *In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273, 280-281; *In the Matter of Spaith, supra*, 3 Cal. State Bar Ct. Rptr. 511, 519.)

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).)

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.” In these consolidated matters, at issue are respondent’s convictions in five separate criminal cases and his failure to timely file a declaration in compliance with California Rules of Court, rule 9.20 per the terms of the Review Department’s interim suspension order. Looking to respondent’s criminal convictions, the convictions are conclusive evidence of guilt of the elements of the crimes committed. (Bus. & Prof. Code, § 6101(a); *In re Duggan* (1976) 17 Cal.3d 416, 423; *In the Matter of Stewart* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 52, 60.)

Respondent was convicted of four counts of petty theft, one count of possession of burglary tools and one count of reckless driving, all misdemeanors. It is well settled that petty theft is a criminal offense involving moral turpitude. (See *In re Rothrock* (1944) 25 Cal.2d 588.) Because respondent’s misdemeanor convictions for petty theft involve moral turpitude, Standard 2.16(c) is applicable. Standard 2.16(c) provides that, “Disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor involving moral turpitude.” As to respondent’s belated compliance with rule 9.20, both section 6103 and California Rules of Court, rule 9.20(d) contemplate a sanction of disbarment or suspension, but belated compliance with rule 9.20(c) generally merits discipline of less than disbarment. (See *Shapiro v. State Bar* (1990) 51 Cal.3d 251.) It is worth noting that respondent’s delay in filing his declaration was partially due to his incarceration in county jail. Since the crux of this matter is respondent’s criminal conduct, the level of discipline should be analyzed under Standard 2.16(c).

Respondent committed multiple acts of shoplifting at large retail stores between October and December 2014. Each time, respondent was caught by store security and the items he attempted to steal were recovered. This misconduct is serious and demonstrates a conscious disregard for the law. While respondent’s misconduct did not involve the practice of law, respondent was convicted of four separate

crimes involving moral turpitude, making a lengthy period of actual suspension appropriate. Nevertheless, disbarment is not required to protect the public under these circumstances. Taking into account the mitigating credit for entering into a pre-trial stipulation, and limited mitigation for his emotional and mental health difficulties, the appropriate level of discipline is three years suspension, stayed, four years of probation, with a two-year actual suspension, thus requiring a showing under Standard 1.2(c)(1) to terminate the actual suspension. Additional conditions of substance abuse and mental health monitoring are also necessary for public protection.

While there are no reported cases addressing multiple acts of petty theft, case law concerning crimes involving moral turpitude is still instructive on establishing a range for the level of discipline in this matter. In *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, the attorney was disbarred after two felony convictions for accepting client referrals, where the clients intended to make false insurance claims. (*Id.* at 924.) This misconduct occurred during Oheb's 14-month relationship with a former attorney who had resigned with charges pending, relating to convictions for grand theft and forgery. (*Id.*) Oheb's convictions, and the surrounding conduct, were found to have involved moral turpitude. (*Id.* at 935-937.) Aggravating factors were multiple acts of wrongdoing, acting for personal gain, harm to the clients and the victim insurance companies, and failure to make restitution to the insurance companies. (*Id.* at 938.) The attorney was given minimal mitigating credit for cooperation and good character. (*Id.* at 938-939.) Given the minimal mitigation and severe misconduct, disbarment was appropriate. (*Id.* at 941-942.)

At the lower end of the disciplinary range is *Chadwick v. State Bar* (1989) 44 Cal.3d 103, 106-107, where the attorney was found to have committed acts of moral turpitude for violating federal insider trading statutes and lying to the Securities Exchange Commission ("SEC"). Respondent was given mitigating credit for confessing his wrongdoing to the SEC, his remorsefulness and recognition of wrongdoing, having no prior record of discipline for eight years in practice prior to the misconduct, the five-year passage of time since the misconduct and from four character witnesses. (*Id.* at 111-112.) The court noted that but for the attorney's mitigation, disbarment may have been warranted, but instead a one-year actual suspension was imposed. (*Id.* at 112.) (See also, *In re Effenbeck* (1988) 44 Cal.3d 306 [conviction for violation of federal statute for making false statements to federal customs officials; discipline included a one-year actual suspension].)

Respondent's convictions are serious, but they did not involve the practice of law, like *Oheb*. *Oheb* was also convicted of felonies involving moral turpitude, which under current Standard 2.15(b) would merit disbarment absent compelling mitigation, whereas respondent was convicted of misdemeanors. Disbarment would not be appropriate in this matter. However, respondent's misconduct still warrants a lengthy period of actual suspension. While the nature of respondent's misconduct is different than *Chadwick* and *Effenbeck*, an element of deception is present in each case. Therefore, a two-year actual suspension is appropriate.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of November 17, 2016, the prosecution costs in this matter are \$18,742. 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.)

MENTAL HEALTH TREATMENT CONDITIONS, CONTINUED FROM SECTION F(5), ABOVE

As additional conditions of probation, respondent must obtain psychiatric treatment from a duly licensed psychiatrist at respondent's own expense. Respondent is currently under the care of Santi Pattara, M.D. ("psychiatrist"). Respondent understands that his treatment conditions established by the psychiatrist may change if the psychiatrist deems it necessary, and that respondent is to bear the cost of such treatment, which in some cases could include in-patient treatment. Respondent understands that (a) the treatment conditions shall become part of respondent's probation requirements, (b) respondent 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. The psychiatrist will determine the course of treatment. Respondent must comply with the treatment recommended by the psychiatrist and must affirm that respondent is so complying with each quarterly report. Treatment must continue as required by the psychiatrist for the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

Respondent shall provide a complete copy of this stipulation to the psychiatrist and within 60 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 psychiatrist acknowledging receipt of a complete copy of this stipulation.

Within 60 days of the effective date of the discipline in this matter, respondent shall execute all necessary waivers of confidentiality with the psychiatrist to permit disclosure of information necessary to affirm respondent's compliance with these instant conditions, and shall keep said waivers current throughout his period of probation.

Within 60 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 psychiatrist. Also within 60 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 treatment provider, acknowledging receipt of the waiver.

Within 90 days of the effective date of the discipline in this matter, respondent is to provide the Office of Probation a written report from the psychiatrist outlining respondent's current psychological diagnosis and the current course of treatment. If the treatment provider 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.

Within 10 days of any change in any 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 psychiatrist acknowledging receipt of the written notice and agreement with its accuracy.

Respondent shall have the psychiatrist submit to the Office of Probation an original, signed declaration that respondent is in compliance with the treatment conditions by each January 10 (for the reporting period of October 1 through December 31), April 10 (for the reporting period of January 1 through March 31), July 10 (for the reporting period of April 1 through June 30), and October 10 (for the reporting period of July 1 through September 30) covered by this discipline, and by the deadline for the submission of respondent's final quarterly report. Respondent understands that the declarations and reports may be shared with the Office of the Chief Trial Counsel and the State Bar Court.

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 10 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 provider acknowledging receipt of the waiver, and a report from the treatment provider outlining respondent's current psychological diagnosis and the current course of treatment.


(Do not write above this line.)

In the Matter of Adam J. Luetto	Case number(s): 15-C-10306-YDR, 15-C-10307, 15-C-10308, 15-C-13690, 16-O-10084 and 16-C-10566
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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 Fact, Conclusions of Law and Disposition.

12/20/16
Date


Respondent's Signature

Adam J. Luetto
Print Name

12/22/16
Date


Deputy Trial Counsel's Signature

Alex Hackert
Print Name

(Do not write above this line.)

In the Matter of: ADAM J. LUETTO	Case Number(s): 15-C-10306-YDR, 15-C-10307, 15-C-10308 15-C-13690, 16-O-10084 and 16-C-10566
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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.

Page 4. Insert "X" in box at paragraph D.(I)(b).

Page 7. As respondent is to comply with Substance Abuse Conditions (c) and (d), an X shall be inserted in boxes (c) and (d).

Page 15. Paragraph 5, Standard 2.15(c) shall be substituted for all references to Standard 2.16(c).

Page 18. Paragraph 1, line 6, delete "quarterly".

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.)**

July 13, 2017
Date

[Signature]
YVETTE D. ROLAND
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 18, 2017, 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:

ADAM J. LUETTO
2271 W MALVERN AVE # 351
FULLERTON, CA 92833

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

Alex J. Hackert, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 18, 2017.



Angela Carpenter
Case Administrator
State Bar Court