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State Bar Court of California Hearing Department <b>PUBLIC MATTER</b> Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar  <b>Shataka Shores-Brooks</b> Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 213-765-1091  Bar # 240392	Case Number(s): <b>15-C-14561</b>	For Court use only   <div style="text-align: center;"> <b>FILED</b>  <b>JUN 01 2016</b>  <b>STATE BAR COURT</b>  <b>CLERK'S OFFICE</b>  <b>LOS ANGELES</b> </div>
In Pro Per Respondent  <b>David Robert Cohn</b> P.O. Box 522 Trabuco Canyon, CA 92678 949-413-8841  Bar # 180071	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>DAVID ROBERT COHN</b>  Bar # 180071  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 7, 1995**.
- (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 **13** 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 Supreme Court Order.** (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 to stipulation, pg. 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 to stipulation, pg. 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:**

**No Prior Record of Discipline- see attachment to stipulation, pg. 10**

**Pre-trial Stipulation- See attachment to stipulation, pg. 10**

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of **three years**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and 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 **three years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3)  **Actual Suspension:**
- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **two years**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and 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

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- 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: **February 4, 2016.**
- (5)  **Other Conditions:**

**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      DAVID ROBERT COHN

CASE NUMBER(S):                      15-C-14561

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 15-C-14561 (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 July 15, 2015, the Orange County District Attorney filed a criminal complaint in the Orange County Superior Court, case no. 15CM08004, charging respondent with one violation of Business and Professions Code section 6128(a) [deceit or collusion by an attorney] between December 13, 2012 and February 28, 2014, a misdemeanor.

3. On November 9, 2015, respondent entered a guilty plea to a violation of Business and Professions Code section 6128(a). Respondent was placed on informal probation for a period of 3 years, ordered to serve 90 days in county jail, pay a \$1,000 fine plus penalty assessment, pay \$10,000 to the Victim Witness Emergency Fund, pay various fees, abide by any punishment imposed by the State Bar, and complete ethics class as determined by the State Bar.

4. Thereafter, the conviction became final.

5. On January 8, 2016, the Review Department of the State Bar Court issued an order suspending respondent from the practice of law effective February 4, 2016. On February 4, 2016, the Review Department issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed. Respondent's interim suspension remained in place.

FACTS:

6. In June 2012, respondent was hired by defendant Flores ("Flores") to represent Flores in a criminal case, in which Flores was charged with lewd acts upon three different girls under the age of 14.

7. On June 11, 2012, respondent requested and received an order from the court for Flores to be evaluated by a licensed sexual psychologist, Veronica Thomas, Ph.D ("Dr. Thomas").

8. Dr. Thomas met with Flores approximately six times between July 31, 2012 and October 1, 2012.

9. On October 11, 2012, Dr. Thomas authored a psychosexual evaluation report regarding Flores, which contained 7358 words. On December 13, 2012, Dr. Thomas emailed her October 11, 2012 psychosexual evaluation report to respondent in Microsoft Word format.

10. On December 14, 2012, respondent met with Deputy District Attorney ("DDA") Jess Rodriguez and personally handed him a printed 13 page psychosexual report from Dr. Thomas dated December 13, 2012. It contained the same content as the October 11, 2012 report. Respondent changed the date on the report.

11. On November 6, 2013, respondent and DDA Rodriguez announced ready for trial and the parties were ordered to appear for pretrial motions in the trial courtroom on November 12, 2013.

12. On the evening of November 11, 2013, respondent sent an email to the Clerk of the Court and DDA Rodriguez attaching a copy of the defense witness list, defense pretrial motions, and a report authored by Dr. Thomas dated November 8, 2013.

13. The psychosexual evaluation report attached to the November 11, 2013 email was a 13 page report dated November 8, 2013 containing 6443 words.

14. A copy of the psychosexual evaluation report dated November 8, 2013 was filed with the court.

15. DDA Rodriguez believed, at first glance, that Dr. Thomas' report attached to the email was a copy of Dr. Thomas's report respondent hand delivered to him on December 14, 2012.

16. While preparing for Dr. Thomas' cross-examination, DDA Rodriguez noticed the psychosexual evaluation report he received from respondent via email on November 11, 2013, bore a different date than the report he initially received from respondent in December 2012.

17. DDA Rodriguez compared the psychosexual evaluation report he received in December 2012 to the psychosexual evaluation report dated November 8, 2013. DDA Rodriguez found eight areas where sentences in the December 13, 2012 report had been omitted or modified from the November 8, 2013 report.

18. On November 21, 2013, respondent called Dr. Thomas to testify as an expert witness in the Flores matter. Just before Dr. Thomas entered the courtroom, respondent told Dr. Thomas that he changed the date of her report from October 11, 2012 to November 8, 2013 to make the report more current.

19. Dr. Thomas did not authorize respondent to make changes to her October 11, 2012 psychosexual evaluation report. Dr. Thomas believed that respondent's action was legally appropriate because he is an officer of the court.



20. DDA Rodriguez cross-examined Dr. Thomas about the differences in the psychosexual evaluation report he received from respondent on December 14, 2012 and the psychosexual evaluation report he received from respondent via email dated November 8, 2013.

21. Although confused by DDA Rodriguez' questions regarding the differences in the reports, Dr. Thomas testified that she wrote two reports and that the information removed from the psychosexual evaluation report was "superfluous" and did not change her ultimate conclusions or finding.

22. Dr. Thomas informed the State Bar that she did not author two reports but when confronted with two reports and their discrepancies she was confused and thought she may have authored another report and forgotten about it, so in her confusion, she testified to writing both.

23. On November 26, 2013, Flores was convicted by the jury and sentenced to 30 years to life.

24. Flores appealed his conviction and was appointed appellate counsel.

25. In December 2013, Dr. Thomas contacted DDA Rodriguez and informed him that she suspected respondent altered her October 11, 2012 report. DDA Rodriguez asked Dr. Thomas to provide him with proof of the report she emailed to respondent.

26. In May 2014, Dr. Thomas contacted DDA Rodriguez again and affirmed that she only wrote one report dated October 11, 2012 and that she sent that report to respondent in Microsoft Word format via email on December 13, 2012.

27. DDA Rodriguez further examined the two reports and found three additional discrepancies. Unlike the omissions/modification that DDA Rodriguez previously identified, these additional discrepancies included sentences that had been rephrased or had individual words added or deleted to cast a more positive light on Flores.

28. On June 10, 2014, respondent and Dr. Thomas met privately to discuss the Flores matter. Dr. Thomas informed respondent that she would not testify for respondent or his firm in the future. Respondent apologized to Dr. Thomas.

29. On July 3, 2014, Orange County District Attorney's office Investigator Tanner was assigned to investigate Dr. Thomas' claim against respondent.

30. On July 9, 2014, Investigator Tanner interviewed Dr. Thomas and discovered that there are three versions of the Flores report, October 11, 2012, December 13, 2012, and November 8, 2013. Dr. Thomas only authored the report dated October 11, 2012.

31. Investigator Tanner reviewed the changes to the report with Dr. Thomas. Dr. Thomas described the changes as "sophomoric."

32. Dr. Thomas stated that respondent took the uncomplimentary parts out of the report however, he did not add anything to the report or change her findings.

33. On July 15, 2014, the October 11, 2012, Flores report was retrieved from Dr. Thomas' computer along with correspondence between Dr. Thomas and respondent regarding the Flores case.

34. On July 31, 2014, a search warrant was served at respondent's home and business. Respondent's personal and business computers were booked into evidence.

#### CONCLUSIONS OF LAW:

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

#### ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

**No Prior Record of Discipline:** Respondent was admitted to practice law December 7, 1995 and has remained active at all times since. Respondent had been discipline-free for approximately 18 years of practice from admission to the misconduct in November 2013. Respondent currently works for a corporation in the human resources department. Respondent ceased representing clients and is not currently practicing law. Therefore, respondent is entitled to significant mitigation. (*Friedman v. State Bar* (1990) 50 Cal.3d 235, 242 (20 years or more in the practice of law without discipline is afforded significant weight in mitigation).)

**Pretrial Stipulation:** Respondent could be entitled to mitigation if he enters into a stipulation of facts and conclusions of law prior to trial, thereby preserving State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating credit was given for entering into a stipulation as to facts and culpability].)

**Good Character:** Respondent has provided eight character letters. All eight individuals are willing to attest to his good character. Each has known Respondent for significant periods of time, however only five are aware of the full extent of the misconduct, and attested to their belief in respondent's good character, his ability as an attorney and his remorse concerning the misconduct. Respondent is entitled to some mitigating credit. (*In the Matter of Taylor* (2012) 5 Cal. State Bar. Ct. Rptr. 221, 235.)

#### ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

**Harm to the client/Public/or administration of justice (Std. 1.5(j)):** Respondent's misconduct caused harm to his client, Dr. Thomas, and the administration of justice. Respondent's client was harmed by respondent's misconduct because his client did not receive the full weight/benefit of the expert's testimony in his criminal trial due to respondent's criminal acts. Respondent's misconduct caused Dr. Thomas embarrassment, harm to her professional reputation, and according to Dr. Thomas, she is no longer appointed by the Orange County District Attorney's office as a psychiatric expert. Respondent's misconduct caused harm to the administration of justice because respondent altered evidence presented to the judge and the jury, which resulted in Flores filing an appeal and petition for habeas corpus.

#### 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 Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) 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 2.17 (b) states: "Disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor specified in Business and Professions Code sections 6128-6129 and 6153. Respondent was convicted of violating Business and Professions Code section 6128(a). Respondent's offense involves moral turpitude because his actions constitute an act of dishonesty to the practice of law and places his fitness to practice law in question. Also, deceit or collusion is an element of Business and Professions Code section 6128(a). Respondent's misconduct reflects poorly on respondent and the legal profession because respondent committed an act involving deceit and violated his duties as an attorney, and therefore discipline is warranted. However, the misconduct is mitigated by Respondent's discipline-free record, good character, and his cooperation in entering into a stipulation fully resolving the matter and acknowledging and accepting responsibility for his misconduct, thereby saving State Bar resources. In light of the facts of the misconduct, the mitigating factors and the aggravating factors, discipline on the high end of the range discussed in Standard 2.17(b), significant actual suspension, is sufficient to achieve the purposes of discipline expressed in standard 1.1, including protection of the public. Accordingly, a three-year stayed suspension, two-year actual suspension, and three-year probation period is appropriate.

Case law also supports the level of discipline. In *In the Matter of Field* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 17, Field, a career criminal prosecutor with the Santa Clara County District Attorney's Office, received a four-year actual suspension because he committed multiple acts of misconduct in four separate criminal prosecutions. Field was admitted to practice law in California in 1993. In 1995, Field obtained a dental examination of a minor accused of sexual assault in violation of a court order. As a result, the juvenile court judge suppressed the evidence obtained from the examination. In 2003, Field intentionally withheld a witness statement favorable to the defense in habeas corpus proceedings involving a sexual assault case and made misrepresentations to the court about his knowledge regarding the whereabouts of the witness to conceal the witness from the defense. Consequently, the judge found Field committed a discovery violation by concealing evidence. In 2003,

a judge found that Field intentionally withheld one defendant's statement favorable to co-defendants in a murder case, which was a "blatant" discovery violation, and dismissed a 25-year gun enhancement against one of the co-defendants. In 2005, the appellate court reversed a judgment committing a defendant as a sexually violent predator, finding that Field made an improper closing argument, by arguing to a jury that the defendant would go to a hospital instead of prison if the jury found him to be a sexually violent predator in violation of the court's in limine order. Mr. Field's conduct was more egregious than respondent's misconduct to the extent it involved more acts of misconduct over a lengthy period of time, and included violating court orders and directives, performing incompetently, failing to respect the court, withholding evidence, moral turpitude and misleading a judge. The *Field* matter involved misconduct in four criminal cases over a ten year period and the current matter involves two instances of altering documents over a fourteen month period. In aggravation, the Review Dept. found Field committed multiple acts of misconduct, caused harm to the administration of justice by depriving criminal defendants of valuable evidence to which they were entitled, caused court delays, created unnecessary litigation and compromised serious criminal cases. The Review Department also recognized that, "The setting for Field's misconduct involved grave criminal offenses, with correspondingly serious punishments. In such cases, '[i]t is self-evident that a lawyer's presentation to the court and counsel of deliberately fabricated ... evidence strikes at the very integrity of the judicial process. (*Price v. State Bar* (1982) 30 Cal.3d 537, 551, dis. opn. of Richardson, J.) In mitigation, the Review Dept. found that Field cooperated with the State Bar, presented 37 good character witnesses who attested to his good character and presented impressive evidence of pro bono work and community service.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of 5/23/2016, the prosecution costs in this matter are \$2,567.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

#### **EXCLUSION FROM MCLE CREDIT**

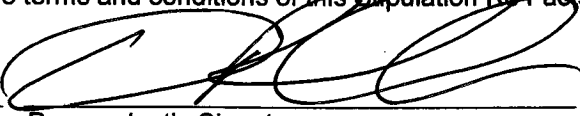
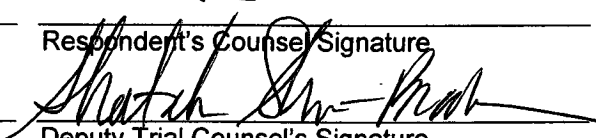
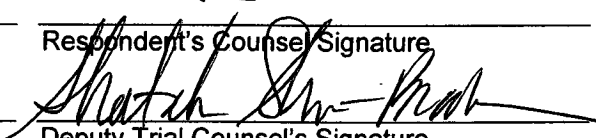
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: <b>DAVID ROBERT COHN</b>	Case number(s): <b>15-C-14561</b>
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**SIGNATURE OF THE PARTIES**

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

<u>5/25/16</u> Date	 Respondent's Signature	<u>David Robert Cohn</u> Print Name
<u>5/25/16</u> Date	 Respondent's Counsel Signature	<u>Shataka Shores-Brooks</u> Print Name
<u>5/25/16</u> Date	 Deputy Trial Counsel's Signature	<u>Shataka Shores-Brooks</u> Print Name

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In the Matter of: DAVID ROBERT COHN	Case Number(s): 15-C-14561
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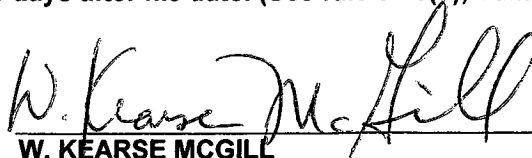
### ACTUAL SUSPENSION ORDER

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.)**

May 31, 2016  
Date

  
W. KEARSE MCGILL  
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 June 1, 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:

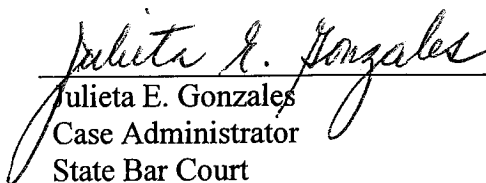
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID R. COHN  
PO BOX 522  
TRABUCO CANYON, CA 92678

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

Shataka A. Shores-Brooks, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 1, 2016.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court