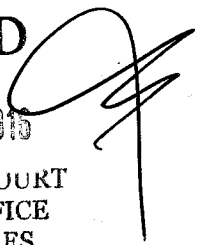


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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>			PUBLIC MATTER
<p>Counsel For The State Bar</p> <p><b>Michaela Carpio</b>  <b>Deputy Trial Counsel</b>  <b>845 South Figueroa Street</b>  <b>Los Angeles, CA 90017</b>  <b>(213) 765-1338</b></p> <p>Bar # <b>304677</b></p>	<p>Case Number(s):  <b>16-O-11815-YDR</b></p>	<p>For Court use only</p> <div style="text-align: center; padding: 20px;"> <p><b>FILED</b></p> <p><b>AUG 25 2016</b></p> <p>STATE BAR COURT            CLERK'S OFFICE            LOS ANGELES</p>  </div>	
<p>Counsel For Respondent</p> <p><b>Zachary D. Wechsler</b>  <b>Law Office of Zachary D. Wechsler, APC</b>  <b>21515 Hawthorne Boulevard</b>  <b>Suite 610</b>  <b>Torrance, CA 90503</b>  <b>(310) 642-4600</b></p> <p>Bar # <b>198354</b></p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND            DISPOSITION AND ORDER APPROVING</p>		
<p>In the Matter of:  <b>KEVIN RENARD TAYLOR</b></p> <p>Bar # <b>218711</b></p> <p>A Member of the State Bar of California            (Respondent)</p>	<p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>		

**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 **January 8, 2002**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **14** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **three billing cycles following the effective date of the 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.
    - 1. 14-O-00960 (S225910, effective July 19, 2015): one year stayed suspension, one year probation with conditions, including 30 days actual suspension.
    - 2. 15-O-11722 (S234412, effective August 14, 2016): one year stayed suspension, two years probation with conditions, including 60 days actual suspension.
    - (See attachment at pages 10-11.)
- (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.

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- (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.
- (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 attachment at page 11.
- (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.

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- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**Pretrial Stipulation: See Attachment at page 11.**

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law 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.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:
- (b)  The above-referenced suspension is stayed.
- (2)  **Probation:**
- Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3)  **Actual Suspension:**
- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **one year**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct

- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:

**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.

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- No Ethics School recommended. Reason: **Respondent attended State Bar Ethics School on August 4, 2016, and passed the test given at the end. As such, Respondent need not be ordered to complete Ethics School again. (Rules Proc. of State Bar, rule 5.135(A).)**
- (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: **On June 19, 2015, the Supreme Court of California filed Order No. S225910 imposing discipline on Respondent in State Bar case number 14-O-00960, including ordering Respondent to take and pass the MPRE within one year after the effective date of the Order. Therefore, the protection of the public and the interests of Respondent do not require that Respondent again be ordered to take and pass the MPRE.**
- (2)  **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3)  **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4)  **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5)  **Other Conditions: Fee arbitration is an additional condition of probation.**

#### FEE ARBITRATION CONDITIONS OF PROBATION:

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

**Respondent must initiate fee arbitration with the State Bar of California's Mandatory Fee Arbitration Program within thirty (30) days from the effective date of discipline imposed in this matter, including making any payment(s) and filing fees required to start the process. The fee arbitration will be for the \$13,500 in fees and costs that Niles Van Boxtel paid Respondent on September 6, 2011, and September 12, 2013. Respondent must not request more fees than have already been paid by, or on behalf of, Mr. Van Boxtel.**

**At the time Respondent initiates fee arbitration, he must provide to Mr. Van Boxtel a full accounting of all fees**

and costs paid to Respondent by Mr. Van Boxtel, including complete records of all funds of Mr. Van Boxtel coming into Respondent's possession, and how those funds were allegedly earned, if at all.

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

Respondent must fully and promptly participate in the fee arbitration as directed by the State Bar Mandatory Fee Arbitration Program. Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration. Respondent understands and agrees that the Office of Probation may contact the State Bar Mandatory Fee Arbitration Program for information.

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

**B. Disputed Funds Must be Held in Trust by Respondent**

Respondent must keep the \$13,500 disputed funds in a separate interest-bearing trust account (not an IOLTA). If Respondent has removed the disputed funds from trust, Respondent must open a separate interest-bearing trust account and deposit the disputed funds into such account within fifteen (15) days from the effective date of the discipline imposed in this matter. Respondent must provide evidence, e.g. a copy of Respondent's bank statement showing that the disputed funds have been placed in trust within thirty (30) days from the effective date of the discipline imposed in this matter, and a statement under penalty of perjury that the funds have remained in trust with each of respondent's quarterly and final reports.

**C. Respondent's Duty to Comply with the Arbitration Award**

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

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

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

**D. Fee Arbitration Conditions Can Be Satisfied by Respondent's Full Payment to Niles Van Boxtel**

The Fee Arbitration Conditions can also be satisfied by Respondent's full payment of \$13,500 in fees and costs that Mr. Van Boxtel paid Respondent on September 6, 2011, and September 12, 2013, plus interest of 10% per annum from September 12, 2013 within thirty (30) days from the effective date of the discipline imposed in this matter. Satisfactory proof of payment must be received by the Office of Probation within forty-five (45) days from the effective date of the discipline imposed in this matter.

If the Client Security Fund ("CSF") has reimbursed Mr. Van Boxtel for all or any portion of the principal amount(s), Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs. To the extent the CSF has paid only principal amounts, Respondent will still be liable for interest payments to Mr. Van Boxtel. Any restitution to the CSF is enforceable as provided in Business and

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**Professions Code section 6140.5, subdivisions (c) and (d). Respondent must pay all restitution to Mr. Van Boxtel before making payment to CSF. Satisfactory proof of payment(s) to CSF must be received by the Office of Probation within thirty (30) days of any payment.**

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

**Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in this Court imposing additional discipline (with attendant costs) and conditions upon Respondent, including ordering Respondent to pay back the full amount of \$13,500 paid to Respondent by Mr. Van Boxtel plus 10% interest from September 12, 2013.**





4. On July 7, 2015, the Office of Probation mailed a courtesy letter to Respondent reminding him of all of the probation conditions imposed by the June 19, 2015 Supreme Court Order, as well as the deadlines for each of the conditions. The letter was mailed to Respondent at his State Bar membership records address. Respondent received the letter.

5. On July 15, 2015, Respondent attended a telephonic meeting with his probation deputy from the Office of Probation. During the meeting, the two reviewed the conditions of Respondent's probation and the deadlines for each.

6. Respondent failed to deposit disputed funds of \$13,500 in a non-IOLTA trust account by August 3, 2015.

7. Respondent failed to initiate fee arbitration by August 18, 2015.

8. Respondent failed to provide the Office of Probation with a copy of the conformed filing of a request for fee arbitration by September 2, 2015.

9. Respondent failed to attend Ethics School and provide proof of attendance and passage of the test given at the end of the session to the Office of Probation by July 19, 2016.

10. On July 19, 2016, Respondent submitted his final report to the Office of Probation. However, the Office of Probation deemed that the report was not compliant because Respondent did not clearly state in his report whether he was in compliance with the State Bar Act, Rules of Professional Conduct, and all conditions of probation.

11. On July 20, 2016, the Office of Probation notified Respondent regarding the deficiencies in his final report.

12. On July 25, 2016, Respondent re-submitted his final report to the Office of Probation. Respondent checked the box stating that he complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation except locating and giving his former client Niles Van Boxtel \$13,500. The report was filed six days late.

#### CONCLUSIONS OF LAW:

13. By failing to comply with the three fee arbitration conditions, timely attend State Bar Ethics School, and timely submit a final written report to the Office of Probation, Respondent failed to comply with conditions attached to his disciplinary probation in State Bar case number 14-O-00960 (S225910), in willful violation of Business and Professions Code section 6068(k).

#### AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has two prior State Bar disciplines. In case number 14-O-00960 (S225910), Respondent stipulated to culpability for failure to perform competently in wilful violation of rule 3-110(A) of the Rules of Professional Conduct and failure to render an accounting of client funds in wilful violation of rule 4-100(B)(3) of the Rules of Professional Conduct. The misconduct involved one client matter and occurred between approximately September 2011 and September 2013. Effective July 19, 2015, the Supreme Court imposed discipline on

Respondent, including a one-year stayed suspension and a one-year probation with conditions including a 30-day actual suspension.

In case number 15-O-11722 (S234412), Respondent stipulated to multiple acts of misconduct in a single client matter, including failure to perform competently in wilful violation of rule 3-110(A) of the Rules of Professional Conduct; failure to respond to reasonable client inquiries in wilful violation of Business and Professions Code section 6068(m); improper withdrawal from representation without taking reasonable steps to avoid reasonably foreseeable prejudice to his client in wilful violation of rule 3-700(A)(2) of the Rules of Professional Conduct; failure to deposit client funds in a client trust account in wilful violation of rule 4-100(A) of the Rules of Professional Conduct; and failure to promptly pay funds to a client in wilful violation of rule 4-100(B)(4) of the Rules of Professional Conduct. The misconduct occurred between April 2012 and March 2014, during the same time period as the misconduct in the first discipline. In the second discipline, the aggravating weight of the discipline in the first discipline was tempered by a *Sklar* analysis, which required that the misconduct in both the first and the second disciplines be evaluated together to determine what level of discipline would have been appropriate had all of the misconduct been addressed together. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602.) Had the two matters been consolidated, discipline of a 90-day actual suspension would have been appropriate. Based on a *Sklar* analysis and given Respondent's prior 30-day actual suspension, effective August 14, 2016, the Supreme Court imposed discipline on Respondent, including a one-year stayed suspension and a two-year probation with conditions including a 60-day actual suspension.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Although this is a single charge, Respondent has violated five conditions of his probation, which constitutes multiple acts of misconduct.

#### MITIGATING CIRCUMSTANCES.

**Pretrial Stipulation:** By entering into this stipulation, Respondent has acknowledged his misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar resources and time. (*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]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

#### 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).)

Here, although Respondent admits to committing five acts of professional misconduct, all relate to Respondent’s violation of probation in violation of Business and Professions Code section 6068(k). Standard 2.14 applies and provides that actual suspension is the presumed sanction for failure to comply with a condition of discipline and that the degree of sanction depends on the nature of the condition violated and the member’s willingness or inability to comply with disciplinary orders.

Furthermore, Standard 1.8(b) provides that:

- (b) If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:
  1. Actual suspension was ordered in any of the prior disciplinary matters;
  2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
  3. The prior disciplinary matters coupled with the current record demonstrate the member’s unwillingness or inability to conform to ethical responsibilities.

Standard 1.8(b) suggests that disbarment is appropriate because Respondent has two prior disciplines involving actual suspension. However, in the two prior disciplinary matters, the misconduct occurred during the same time period. Therefore, it was appropriate to consider the “totality of the findings in the two cases to determine what the discipline would have been had all the charged misconduct in this period been brought as one case.” (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618). While the prior misconduct is an aggravating factor, the aggravating force of the prior discipline is diminished since the misconduct in those two matters occurred during the same time period. (See *In the Matter of Hagen* (Review Dpt. 1992) 2 Cal. State Bar Ct. Rptr. 153.) Accordingly, even though both of Respondent’s prior disciplines involved actual suspension, since the priors were previously analyzed as a single disciplinary matter, a deviation from application of Standard 1.8(b) is appropriate. Rather, application of Standard 1.8(a), which calls for progressive discipline when a member has a single prior, is appropriate.

In Respondent’s prior discipline in State Bar case number 14-O-00960 (S225910), the Supreme Court imposed a one-year stayed suspension and a two-year period of probation with conditions. The one-year suspension was stayed on the condition that Respondent comply with the conditions of probation stipulated to by Respondent, recommended by the State Bar Court, and imposed by the Supreme Court as necessary to protect the public and the legal profession, maintain high professional standards, and preserve public confidence in the legal profession. Respondent wilfully violated several conditions of

probation. He failed to comply with the burdens of his probation and therefore, has forfeited the benefits of probation, including the stay of the period of suspension. Had Respondent's probation violation been prosecuted in a probation revocation motion rather than as a standard disciplinary case, it would have been appropriate to revoke the previous stay of suspension. Similarly, in this standard proceeding, given the aggravating circumstances of prior discipline and multiple acts of misconduct and the lack of mitigation, a two-year stayed suspension and a two-year probation with conditions including a one-year actual suspension will serve the purposes of protecting the public, the courts and the legal profession.

The courts have consistently held that failure to abide by terms and conditions of probation is a serious violation. (See *Potack v. State Bar* (1991) 54 Cal.3d 132, 139.) In *Potack*, the Supreme Court determined that the attorney willfully failed to comply with the terms of his probation after he was given ample opportunity by the State Bar. The attorney's disciplinary order in the underlying matter stayed execution of a two-year suspension on the condition that he comply with specified terms and conditions of probation. The Supreme Court held that "[a]lthough petitioner attempts to minimize his probation violation and subsequent misconduct with respect to the default proceedings, his failure to abide by the terms and conditions of his probation is a serious violation, warranting the review department's recommendation that our 1986 order staying suspension be set aside." (*Id.*) Although *Potack* involved a probation revocation proceeding, rather than a standard disciplinary proceeding, it is instructive on the Court's view of probation violation matters. In the present matter, discipline including a one-year actual suspension, consistent with the discipline imposed in *Potack*, is appropriate.

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of August 9, 2016, the prosecution costs in this matter are \$3,669. 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.

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In the Matter of:  
**KEVIN RENARD TAYLOR**

Case number(s):  
**16-O-11815-YDR**

**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.

8/18/16

Date



Respondent's Signature

Kevin R. Taylor

Kevin Renard Taylor

Date

Respondent's Counsel Signature

Zachary D. Wechsler

Date

Deputy Trial Counsel's Signature

Michaela Carpio

(Do not write above this line.)

In the Matter of: <b>KEVIN RENARD TAYLOR</b>	Case number(s): <b>16-O-11815-YDR</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.

_____ Date	_____ Respondent's Signature	_____ Kevin Renard Taylor
_____ Date	_____ Respondent's Counsel Signature	_____ Zachary D. Wechsler Zachary D. Wechsler
_____ Date	_____ Deputy Trial Counsel's Signature	_____ Michaela Carpio





(Do not write above this line.)

In the Matter of: KEVIN RENARD TAYLOR	Case Number(s): 16-O-11815-YDR
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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:

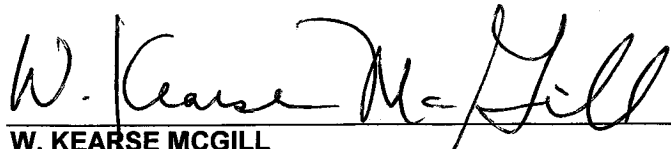
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

1. On page 1 of the stipulation, in paragraph A(3), in the third line, the number "14" is CHANGED to the number "16."
2. On page 8 of the stipulation, in paragraph F(5)(E), at the end the fourth line, the following text is INSERTED: "and suspending respondent from the practice of law until he pays Mr. Van Boxtel such restitution in full."

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.)**

August 22, 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 August 25, 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:

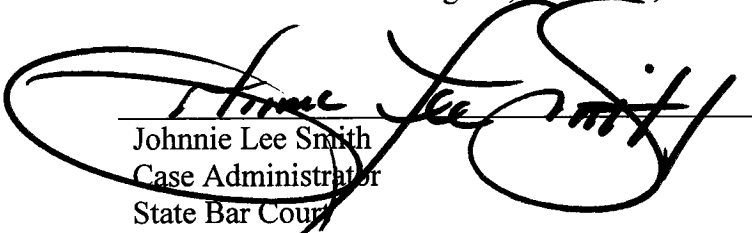
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**KEVIN R. TAYLOR  
139 S BEVERLY DR STE 222  
BEVERLY HILLS, CA 90212**

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

**MICHAELA F. CARPIO**, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 25, 2016.

  
Johnnie Lee Smith  
Case Administrator  
State Bar Court