ORIGINAL

(Do not write above this line.)

State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

PUBLIC MATTER

Counsel for the State Bar **Collin L. Grant** **Deputy Trial Counsel** **845 South Figueroa Street** **Los Angeles, CA 90017** **(213) 765-1394** State Bar # **311043**	Case Number(s): **16-O-16768-YDR;** **SBC-19-H-30090**	For Court use only FILED JUL 09 2019 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent **Scott Lee Adkins** **1263A Damron Branch,** **Grayson, KY 41143** **(954) 242-6974** State Bar # **194809**	**(OCTC case no.** **18-H-18480)**	Submitted to: **Assigned Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED
In the Matter of: **SCOTT LEE ADKINS** State Bar # **194809** (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 an attorney of the State Bar of California, admitted **May 1, 1998**.

(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 **23** 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. It is recommended that (check one option only):

☒ Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

☐ Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. SELECT ONE of the costs must be paid with Respondent's annual fees for each of the following years:

If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be 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: **10-C-00886-CV. See pages 19-20; see also exhibit 1, 42 pages**

(b) ☒ Date prior discipline effective: **May 1, 2018**

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Conviction referral proceeding pursuant to Business and Professions Code sections 6101 and 6102 and California Rules of Court, rule 9.10 that did not involve moral turpitude, but did involve other misconduct warranting discipline.**

(d) ☒ Degree of prior discipline: **Public reproval with conditions for a period of one year**

(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.

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(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.

(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 Respondent's misconduct.

(10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's 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 20.**

(12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.

(13) ☒ **Restitution:** Respondent failed to make restitution. **See page 20.**

(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 [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 Respondent's 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 Respondent's 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 Respondent.

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(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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by Respondent, 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 resulting from circumstances which were not reasonably foreseeable or were beyond Respondent's control and were directly responsible for the misconduct.

(10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's 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 Respondent's 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 20.

D. Recommended Discipline:

(1) ☐ **Actual Suspension:**

Respondent is suspended from the practice of law for , the execution of that suspension is stayed, and Respondent is placed on probation for with the following conditions.

- Respondent must be suspended from the practice of law for the first of the period of Respondent's probation.

(2) ☒ **Actual Suspension "And Until" Rehabilitation:**

Respondent is suspended from the practice of law for **two years**, the execution of that suspension is stayed, and Respondent is placed on probation for **two years** with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first **year** of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(3) ☐ **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**

Respondent is suspended from the practice of law for , the execution of that suspension is stayed, and Respondent is placed on probation for with the following conditions.

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- Respondent must be suspended from the practice of law for a minimum of the first of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:

  a. Respondent makes restitution to or such other recipient as may be designated by the Office of Probation or the State Bar Court, in the amount of $ plus 10 percent interest per year from (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and

  b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(4) ☐ **Actual Suspension "And Until" Restitution (Multiple Payees) and Rehabilitation:**

Respondent is suspended from the practice of law for , the execution of that suspension is stayed, and Respondent is placed on probation for with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:

  a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

Payee	*Principal Amount*	*Interest Accrues From*

  b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(5) ☐ **Actual Suspension "And Until" Restitution (Single Payee) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for , the execution of that suspension is stayed, and Respondent is placed on probation for with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:

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a. Respondent makes restitution to or such other recipient as may be designated by the Office of Probation or the State Bar Court, in the amount of $ plus 10 percent interest per year from (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and,

b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(6) ☐ **Actual Suspension "And Until" Restitution (Multiple Payees) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for , the execution of that suspension is stayed, and Respondent is placed on probation for with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:

a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

Payee	*Principal Amount*	*Interest Accrues From*

b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(7) ☐ **Actual Suspension with Credit for Interim Suspension:**

Respondent is suspended from the practice of law for , the execution of that suspension is stayed, and Respondent is placed on probation for with the following conditions.

- Respondent is suspended from the practice of law for the first of probation (with credit given for the period of interim suspension which commenced on).

E. Additional Conditions of Probation:

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(1) ☒ **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126. Respondent must provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

(2) ☒ **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.

(3) ☒ **Maintain Valid Official State Bar Record Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.

(4) ☒ **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.

(5) ☒ **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official State Bar record address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.

(6) ☒ **Quarterly and Final Reports:**

a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.

b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.

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c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

d. **Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

(7) ☐ **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

(8) ☐ **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because .

(9) ☐ **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

(10) ☒ **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within **two years** after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete **six (6)** hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

(11) ☐ **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any

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alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.

(12) ☐ **Minimum Continuing Legal Education (MCLE):** Within after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete hour(s) of California Minimum Continuing Legal Education-approved participatory activity in SELECT ONE and must provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

(13) ☐ **Other:** Respondent must also comply with the following additional conditions of probation:

(14) ☒ **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

(15) ☒ **The following conditions are attached hereto and incorporated:**

☒ Financial Conditions ☐ Medical Conditions

☐ Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

F. Other Requirements Negotiated by the Parties (Not Probation Conditions):

(1) ☒ **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter or during the period of Respondent's actual suspension, whichever is longer, and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.

(2) ☐ **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because .

(3) ☒ **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30

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and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

(4) ☐ **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension. In addition, Respondent must also comply with the probation condition at paragraph E.(14) entitled Proof of Compliance with Rule 9.20 Obligations.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

(5) ☐ **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because

(6) ☒ **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements: **Respondent agrees to take the steps necessary to control the use of alcohol and/or drugs such that it will not affect respondent's law practice in the future. Respondent's agreement to participate in an abstinence-based self-help group (as defined herein), as a condition of discipline, is part of respondent's efforts to address such concerns.**

As a condition of probation, and during the period of probation, respondent must attend a minimum of two (2) meetings per month of any abstinence-based self-help group of respondent's choosing, including without limitation Alcoholics Anonymous, Narcotics Anonymous, LifeRing, S.M.A.R.T., S.O.S., etc. Other self-help maintenance programs are acceptable if they include a subculture to support recovery, including abstinence-based group meetings. (See O'Conner v. Calif. (C.D. Calif. 1994) 855 F. Supp. 303 [no First Amendment violation where probationer given a choice between AA and a secular program.]) Respondent is encouraged, but not required, to obtain a sponsor during the term of participation in these meetings.

The program called "Moderation Management" is not acceptable because it is not abstinence based and allows the participant to continue consuming alcohol.

Respondent must contact the Office of Probation and obtain written approval for the program respondent has selected prior to attending the first self-help group meeting. If respondent wants to change groups, respondent must first obtain the Office of Probation's written approval prior to attending a meeting with the new self-help group.

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Respondent must provide to the Office of Probation satisfactory proof of attendance of the meetings set forth herein with each Quarterly Report submitted to the Office of Probation. Respondent may not sign as the verifier of his or her own attendance.

Respondent is encouraged, but is not required, to participate in the Lawyers' Assistance Program, to abstain from alcohol and illegal drugs, and to undergo random urinalysis testing to complement abstinence..

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In the Matter of:	Case Number(s):
SCOTT LEE ADKINS	16-O-16768-YDR; SBC 19-H-30090

Financial Conditions

(1) ☒ Restitution (Single Payee)

Within the first six months of probation/Reproval Conditions Period, Respondent must make restitution in the amount of $ 885.99, plus 10 percent interest per year from December 9, 2015, to Nicholas Tirabassi or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5) and must furnish satisfactory proof of restitution to the Office of Probation. [Such restitution may be made by partial payments or by a single lump sum payment during the period specified above.]

(2) ☒ Installment Restitution Payments (Single Payee)

In addition to the above deadline for completing restitution and for as long as the full amount of restitution remains unsatisfied, Respondent must make installment payments according to the following payment schedule:

Respondent must make monthly payments in the amount of $ 221.49 to Nicholas Tirabassi. The obligation to make such payments will commence 30 days after the effective date of the Supreme Court order imposing discipline in this matter. Such payments will be due on the first day of each calendar month thereafter and be deemed delinquent if not submitted to such payee, or such other recipient as may be designated by the Office of Probation or the State Bar Court, within ten (10) days thereafter.

With each quarterly and final report, or as otherwise directed by the Office of Probation, Respondent must provide satisfactory proof of such installment payments to the Office of Probation.

(3) ☐ Restitution (Multiple Payees)

SELECT ONE /Reproval Conditions Period, Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

Payee	*Principal Amount*	*Interest Accrues From*

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(4) ☐ Installment Restitution Payments (Multiple Payees)

In addition to the above deadline for completing restitution, Respondent must make installment payments of restitution according to the following schedule:

Payee	*Minimum Payment Amount*

Respondent must commence making such payments within days after the effective date of the SELECT ONE order imposing discipline in this matter. Such payments will be due on the day of each calendar SELECT ONE thereafter and be deemed delinquent if not submitted to such payee, or such other recipient as may be designated by the Office of Probation or the State Bar Court, within ten (10) days thereafter. The obligation to make installment payments to a particular payee will terminate when the full amount of restitution owed to that payee, including accrued interest, has been paid.

With each quarterly and final report, or as otherwise directed by the Office of Probation, Respondent must provide satisfactory proof of such installment payments to the Office of Probation.

(5) Reporting re Proper Handling of Entrusted Client Funds, Property, or Securities

Respondent must comply with the following reporting requirements:

a. If Respondent possessed client funds, property, or securities at any time during the period covered by a required quarterly or final report, Respondent must submit with the report for that period a statement made by Respondent under penalty of perjury that:

   i. Respondent handled all such client funds, property, and/or securities in compliance with rule 1.15 of the Rules of Professional Conduct; and

   ii. Respondent complied with the "Trust Account Record Keeping Standards" adopted by the State Bar Board of Trustees, pursuant to rule 1.15(e) of the Rules of Professional Conduct.

b. If Respondent did not possess any client funds, property, or securities during the entire period covered by a quarterly or final report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period.

(6) ☐ Reporting re Proper Handling of Entrusted Client Funds, Property, or Securities (Accountant certification – 1st Report)

Respondent must comply with the following reporting requirements:

a. If Respondent possessed client funds, property, or securities at any time during the period covered by a required quarterly or final report, Respondent must submit with the report for that period a statement that:

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i. Respondent handled all such client funds, property, and/or securities in compliance with rule 1.15 of the Rules of Professional Conduct; and

ii. Respondent complied with the "Trust Account Record Keeping Standards" adopted by the State Bar Board of Trustees, pursuant to rule 1.15(e) of the Rules of Professional Conduct.

For the first period for which such statement is required, the statement must be from a certified public accountant or other financial professional approved by the Office of Probation. For all subsequent periods for which such statement is required, the statement may be made by Respondent under penalty of perjury.

b. If Respondent did not possess any client funds, property, or securities during the entire period covered by a quarterly or final report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period.

(7) ☐ Other:

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ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SCOTT LEE ADKINS

CASE NUMBER: 16-O-16768-YDR; SBC-19-H-30090

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 16-O-16768 (Complainant: Nicholas Tirabassi)

FACTS:

1. In 2014, Nicholas Tirabassi ("Tirabassi") retained respondent, for a flat fee, to represent Tirabassi in a lawsuit against Chase Bank, et al. regarding breach of an agreement.

2. On November 13, 2014, respondent filed a complaint in the District Court for the Central District of California entitled *Tirabassi v. Chase Home Finance, LLC, et al.* (Case no. CV-14-08790 BRO (SSx)) ("Chase #1").

3. On April 9, 2015, the court in Chase #1 filed and served upon the parties an order setting a scheduling conference for June 15, 2015. Respondent received the order.

4. On June 15, 2015, defendants appeared at the scheduling conference, but respondent failed to appear. Due to respondent's absence from the courtroom, the court clerk attempted to contact respondent via telephone and email, but failed to reach him. Based upon respondent's failure to appear, the court issued an order to show cause why the court should not dismiss Chase #1 for plaintiff's failure to prosecute. The court ordered plaintiff to file a response to the order to show cause ("OSC") no later than June 22, 2015, and served its order on respondent. Respondent received the order.

5. Respondent failed to file a response to the OSC by June 22, 2015, or at any time thereafter.

6. On July 1, 2015, respondent became ineligible to practice law in California because he failed to pay State Bar membership dues. Pursuant to the Central District of California, Local Civil Rules, rule 83-3.3, respondent also became ineligible to practice law in the Central District of California because he was not an active member in good standing of the State Bar of California.

7. On July 6, 2015, respondent responded to the court clerk's June 15, 2015 email. Respondent informed the clerk via email that he had just read the email and would respond to the OSC on that same day, July 6, 2015. Respondent informed neither the clerk nor the court that he was ineligible to practice law.

8. On July 13, 2015, Tirabassi contacted respondent via email regarding negotiation with Chase Bank and scheduling mediation. Tirabassi asked respondent, "Are you able to do this since you said you

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didn't pay your dues? Any update would be helpful." Respondent stated to Tirabassi via email, "I'm taking care of the dues issue forthwith."

9. Respondent intentionally failed to inform Tirabassi that respondent was ineligible to practice law in California and therefore prohibited from practicing law in the Central District of California. Instead, respondent continued advising Tirabassi regarding Tirabassi's lawsuit while respondent was ineligible to practice law.

10. On July 16, 2015, the court dismissed Chase #1, without prejudice, for plaintiff's failure to prosecute. In its order dismissing the case, the court noted that respondent communicated to the court that he would file a response to the OSC, but he failed to do so.

11. On August 11, 2015, respondent informed Tirabassi via email that respondent would "get the papers ready."

12. On August 14, 2015, respondent told Tirabassi, "I'm finishing the letter today. I will sign it for you, as your attorney."

13. Respondent failed to inform Tirabassi that the court dismissed Chase #1 without prejudice.

14. On October 19, 2015, respondent became eligible to practice law in California..

15. On December 8, 2015, respondent filed a complaint in the District Court for the Central District of California entitled *Tirabassi v. Chase Home Finance, LLC, et al.* (Case no. CV-15-09467 AB (SSx)) ("Chase #2").

16. On December 9, 2015, Tirabassi reimbursed respondent for the costs of refiling the lawsuit. Respondent did not explain to Tirabassi that the money Tirabassi provided respondent was to pay the filing fee for respondent to refile Tirabassi's case. Tirabassi sent respondent $475 to file Chase #2 and incurred a $25 service fee to send the money to respondent through Western Union.

17. On March 10, 2016, the court issued an OSC why the court should not dismiss Chase #2 due to respondent's failure to file a proof of service within 90 days of filing the complaint. The court served the order on respondent and respondent received the order.

18. On March 10, 2016, respondent responded to the OSC and the court ordered respondent to show proof of service by May 6, 2016. Respondent failed to file a proof of service by May 6, 2016.

19. On May 10, 2016, the court, on its own motion, ordered plaintiff to show cause, in writing, on or before May 24, 2016, why the court should not dismiss Chase #2. The court noted that its docket showed that plaintiff was not actively pursuing the matter and that plaintiff could satisfy the court's order by filing a status report, not to exceed four pages, setting forth the current status of the litigation. The court served its order on respondent. Respondent received the order.

20. Respondent failed to respond to the court's OSC by May 24, 2016, or at any time thereafter.

21. On May 27, 2016, the court dismissed Chase #2, without prejudice, for failure to prosecute.

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22. On July 7, 2016, respondent filed a complaint and a Motion for a Temporary Restraining Order (TRO) in the District Court for the Central District of California entitled *Tirabassi v. Chase Home Finance, LLC, et al.* (Case no. CV-04979-AB-SS) ("Chase #3"). On July 8, 2016, the court denied the TRO.

23. On July 9, 2016, Tirabassi sent respondent $350 to file Chase #3 and incurred a $35.99 service fee to send the money to respondent through Western Union.

24. On August 8, 2016, respondent filed another TRO. That same day, the court denied the TRO.

25. Also on August 8, 2016, respondent informed Tirabassi that the court dismissed Chase #2 without prejudice on May 27, 2016.

26. In September 2016, Tirabassi terminated respondent's services.

27. On October 11, 2016, the court ordered respondent to show cause, in writing, on or before October 25, 2016, why the court should not dismiss the action for lack of prosecution. Respondent was the attorney of record in Chase #3, but failed to respond to the court's OSC.

28. On November 1, 2016, the court dismissed Chase #3, without prejudice, for lack of prosecution and for failure to comply with the orders of the court, pursuant to Local Rule 41.

29. On March 30, 2017 and April 4, 2017, Tirabassi emailed respondent to request that respondent provide him with his client file.

30. On April 6, 2017, respondent informed a State Bar investigator that Tirabassi's "files were irretrievably lost."

31. Respondent never refunded the filing fees that he charged Tirabassi for filing Chase #2 and Chase #3.

CONCLUSIONS OF LAW:

32. By failing to appear at the June 15, 2015 scheduling conference and failing to respond to the June 15, 2015 and March 10, 2016 orders to show cause in which the court directed respondent's client to file responsive documents, respondent repeatedly failed to perform with competence, in willful violation of former Rules of Professional Conduct, rule 3-110(A).

33. By failing to inform his client that the court dismissed two lawsuits without prejudice and that respondent was suspended from the practice of law, respondent failed to inform his client of significant developments in a matter in which respondent agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

34. By emailing the court on July 6, 2015 on Tirabassi's behalf, respondent held himself out as entitled to practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction, and therefore willfully violated Local Rule 83-3.3 of the District Court of the Central District of California, in violation of former Rules of Professional Conduct, rule 1-300(B).

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35. By emailing the court on July 6, 2015, and by communicating with his client regarding the client's pending litigation matter from July 1, 2015 to October 14, 2015, all without disclosing his ineligibility to practice law, respondent held himself out as entitled to practice law when he knew he was not an active member of the State Bar and thus not permitted to practice before the District Court of the Central District of California, pursuant to Local Rule 83.3-3, and thereby committed an act of moral turpitude, in willful violation of Business and Professions Code, section 6106.

36. By failing to release the client's file materials to the client following the client's requests for the client's file on March 30, 2017 and April 4, 2017, respondent failed to promptly release to the client, at the request of the client, all of the client's papers and property, in willful violation of former Rules of Professional Conduct, rule 3-700(D)(1).

37. By failing to refund filing fees in the amount of $885.99 paid by Tirabassi for repeat filings made necessary by respondent's failure to perform competently in Tirabassi's matter, respondent failed to promptly refund a fee paid in advance that had not been earned, in willful violation of former Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 19-H-30090 (State Bar Investigation)

FACTS:

38. On March 28, 2018, respondent entered into a stipulation for a public reproval with conditions in case no. 10-C-00886.

39. On April 3, 2018, the State Bar Court imposed a public reproval with conditions for one year against respondent. The discipline became effective on May 1, 2018.

40. As conditions of the public reproval, the State Bar Court required respondent to schedule and hold a meeting with the Office of Probation ("Probation") within 30 days from the effective date of discipline; submit quarterly reports to Probation on each January 10, April 10, July 10, and October 10 of the condition period, submit a final report to Probation no later than the last day of the condition period; attend a minimum of two meetings per month of any abstinence-based self-help group of respondent's choosing; obtain written approval from Probation for the abstinence-based self-help group respondent selected prior to attending the first self-help group meeting; provide Probation satisfactory proof of attendance of the meetings with each quarterly report submitted to Probation; attend State Bar Ethics School and provide proof of passage of the related exam within one year of the effective date or complete six hours of live Minimum Continuing Legal Education ("MCLE") approved courses in legal ethics offered through a certified MCLE provider in Kentucky or California and provide proof of completion within one year of the effective date; and provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE") within one year of the effective date.

41. On April 26, 2018, Probation uploaded a courtesy letter to respondent's State Bar membership profile to remind respondent of his reproval and its conditions. Probation emailed respondent at respondent's membership records email address that Probation uploaded the courtesy letter to respondent's State Bar membership profile.

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42. Respondent failed to schedule and hold the required meeting with Probation by May 31, 2018.

43. On June 28, 2018, respondent held the required meeting with Probation, during which time Probation discussed the conditions of respondent's reproval, including deadlines and that Probation must receive compliance documents by on or before their due dates. Probation emailed respondent a copy of the required probation meeting record.

44. Respondent failed to submit his July 10, 2018, October 10, 2018, January 10, 2019, and April 10, 2019 quarterly reports.

45. Respondent failed to obtain written approval for an abstinence-based self-help group program and failed to provide Probation satisfactory proof of attendance of the meetings with each quarterly report submitted to Probation.

46. Respondent failed to submit a final report to Probation by May 1, 2019.

47. Respondent failed to attend State Bar Ethics School and provide proof of passage of the related exam within one year of the effective date or complete six hours of live MCLE approved courses in legal ethics offered through a certified MCLE provider in Kentucky or California and provide proof of completion within one year of the effective date by May 1, 2019.

48. Respondent failed to provide proof of passage of the MPRE by May 1, 2019.

CONCLUSIONS OF LAW:

49. By failing to hold the required meeting with Probation by May 31, 2018, failing to submit quarterly reports due July 10, 2018 and October 10, 2018, failing to obtain written approval for the abstinence-based self-help group program respondent selected prior to attending the first group meeting, and failing to provide Probation satisfactory proof of attendance of the meetings, respondent willfully violated former Rules of Professional Conduct, rule 1-110.

50. By failing to submit quarterly reports due January 10, 2019 and April 10, 2019, failing to submit a final report by May 1, 2019, failing to provide proof of attendance of the self-help group meetings, failing to provide proof of passage of the MPRE by May 1, 2019, failing to complete either State Bar Ethics School or six hours of live MCLE approved courses in legal ethics by May 1, 2019, respondent willfully violated Rules of Professional Conduct, rule 8.1.1.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent was admitted on May 1, 1998 and has one prior record of discipline. In 2009, respondent collided with the rear bumper of a car, failed to stop at the scene of the accident, and failed to provide his insurance information. Respondent subsequently drove at a high rate of speed, followed closely behind vehicles, and abruptly changed lanes without signaling. A Broward County sheriff deputy observed respondent's behavior and conducted a traffic stop. Respondent was under the influence of alcohol and the deputy arrested respondent for driving under the influence. On June 17, 2011, the State Attorney of the Seventeenth Judicial Court of Florida convicted respondent of being involved in a crash involving damage to a vehicle or property/duty to give information and render aid and reckless driving. On December 7, 2017, the State Bar Court Review Department referred respondent's conviction to the Hearing Department for hearing and decision recommending discipline. On April 3, 2018, the Hearing Department ordered a public reproval in case no. 10-C-00886.

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Exhibit 1 is a true and correct copy of the prior discipline, and the parties stipulate to the authenticity of the document, which does not include the Review Department order referring the conviction matter for hearing because the certified prior record of discipline produced by the State Bar Court did not include the Review Department order.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent's failure to perform, failure to return a client file, failure to refund unearned fees, failure to inform the client that the court dismissed the client's lawsuits without prejudice, failure to inform his client that he was ineligible to practice law, holding himself out to the client and the court as eligible to practice law, and failure to comply with reproval conditions constitute multiple acts of wrongdoing.

Failure to Make Restitution (Std. 1.5(m)): Respondent failed to return to Tirabassi $885.99 in filing fees and transaction costs respondent incurred in filing new complaints in Chase #2 and Chase #3. Respondent's failure to make restitution to his client is an aggravating factor.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (See *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 Review Department held that the attorney's stipulation to facts and culpability was a mitigating circumstance].) However, respondent's failure to participate during State Bar Court proceedings significantly tempers the mitigation available for his pretrial dispositive stipulation.

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.)

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In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the

primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

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

Standard 2.14 provides that actual suspension is the presumed sanction for failing to comply with a condition of discipline. Standard 2.10(b) indicates that suspension or reproval is the presumed sanction when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on inactive status for non-disciplinary reasons; the degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law. Suspension or reproval is also the presumed sanction under standard 2.7(c) for performance, communication, or withdrawal violations, which are limited in scope and time; the degree of sanction depends on the extent of the misconduct and the degree of harm to the client. Furthermore, a violation of Business and Professions Code, section 6106 constitutes suspension or disbarment.

Since respondent has one prior record of discipline, Standard 1.8(a) also applies. It states, "If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust." Here, respondent has a prior public reproval for a criminal conviction following conduct that occurred in 2009. Respondent's prior record of discipline is not remote in time and is serious enough to justify progressive discipline.

Respondent committed the misconduct in case no. 16-O-16768 from 2015 to 2017, before the Review Department referred respondent's criminal conviction matter to the Hearing Department on December 7, 2017. In addition, respondent did not have an opportunity to heed the import of the prior discipline and the prior misconduct was unrelated to the practice of law. Accordingly, respondent's prior record of discipline merits limited weight in aggravation with respect to case no. 16-O-16768.

However, respondent's misconduct in case no. 18-H-18480 occurred after the State Bar Court imposed discipline in case no. 10-C-00886. Respondent had the opportunity to heed the import of prior discipline in case no. 10-C-00886 and continued to commit significant misconduct thereafter. Therefore, respondent's prior record of discipline merits full weight as an aggravating circumstance in case no. 18-H-18480.

In case no. 16-O-16768, respondent repeatedly failed to perform competently in a single client matter which caused the District Court to dismiss the client's lawsuits three times without prejudice. In addition, respondent failed to inform his client that the court dismissed the first two lawsuits. As a result, the client paid respondent the filing fees for filing the second complaint without knowledge that the court dismissed his first lawsuit.

In addition, respondent failed to inform the client that respondent was ineligible to practice law for a period during the representation, and instead held himself out to the client as entitled to practice law for over three months. Respondent also held himself out to the court as entitled to practice law when he responded to the court clerk's email to inform the court that he would respond to an order to show cause. Although respondent did not engage in the practice of law, respondent knowingly deceived

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the client and the court because his statements to both implied that respondent was able to practice law. The Review Department has found that an attorney's "duty toward his client did not entitle him to knowingly create, or leave undisturbed, a false impression that he would be representing the client during the period of suspension." (See *Arm v. State Bar* (1990) 50 Cal. 3d 763, 775.) Therefore, respondent's misconduct in handling the client matter coupled with him holding himself out as entitled to practice and violations of conditions attached to a reproval warrants discipline including an actual suspension.

In aggravation, respondent has a record of prior discipline and committed multiple acts of misconduct while handling his client's matter in addition to reproval violations. Additionally, respondent has not made restitution to Tirabassi for the filing fees Tirabassi paid for respondent to refile Tirabassi's complaint twice after the court dismissed the client's first complaint, even though respondent's failure to perform caused the dismissals. In mitigation, respondent has entered into a stipulation acknowledging his misconduct prior to trial. Considering the extent of respondent's misconduct, and balancing the aggravating and mitigating factors, two years' suspension, stayed, and two years' probation with conditions including a one-year actual suspension is appropriate.

This level of discipline is also consistent with case law. In *In the Matter of Wells* (Review Dept. 2006) 4 Cal State Bar Ct. Rptr. 896, the court found that Wells engaged in the unauthorized practice of law in another jurisdiction, charged an illegal and an unconscionable fee and failed to return unearned fees. It also found that Wells made misrepresentations to the State Bar and displayed dishonesty in her interview with the South Carolina Office of the Solicitor, both of which constituted moral turpitude. The court found that Wells's good character, extreme emotional distress, and cooperation with the State Bar by entering into a stipulation as to facts mitigated her misconduct. (*Id.* at pp. 912-913.) In aggravation, Wells had a prior private reproval; committed multiple acts of wrongdoing; caused significant harm to the public, the administration of justice and her clients; collected fees from two clients that were illegal and unconscionable; and interfered with the investigations by the State Bar and the State of South Carolina by giving false and misleading information; and demonstrated indifference towards the consequences of her misconduct. The court imposed six months' actual suspension. (*Id.* at p. 917.)

Like Wells, respondent committed acts of moral turpitude and has prior discipline. Additionally, despite initially cooperating with the State Bar, respondent stopped communicating with the State Bar and allowed his default to be entered in case no. 16-O-16768. Further, respondent failed to comply with multiple conditions of his public reproval after the State Bar informed respondent of pending disciplinary charges in case no. 16-O-16768. Accordingly, two-years' stayed suspension and two years' probation, with conditions including a one-year actual suspension. Respondent must also complete six hours of continuing legal education courses in legal ethics, pay $885.99 in restitution to Tirabassi, and comply with California Rules of Court, rule 9.20. This discipline is appropriate in light of respondent's misconduct, and it serves the purposes of discipline, which include protection of the public, the courts, and the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of May 22, 2019, the discipline costs in this matter are approximately $8,647. 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:	Case Number(s):
SCOTT LEE ADKINS	16-O-16768-YDR; SBC-19-H-30090

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.

6/7/2019		Scott Lee Adkins
Date	Respondent's Signature	Print Name
Date	Respondent's Counsel Signature	Print Name
6/11/2019		Collin L. Grant
Date	Deputy Trial Counsel's Signature	Print Name

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(Do not write above this line.)

In the Matter of:	Case Number(s):
SCOTT L. ADKINS	16-O-16768; SBC-19-H-30090

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 22 of the stipulation, in the fourth paragraph, "with conditions including a one-year actual suspension" is deleted, and in its place is inserted "with conditions including a one-year actual suspension, is warranted."

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 Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order. (See Cal. Rules of Court, rule 9.18(a).)**

July 9, 2019
Date

Yvette D. Roland
YVETTE D. ROLAND
Judge of the State Bar Court

ORIGINAL

(Do not write above this line.)

State Bar Court of California
Hearing Department
Los Angeles
REPROVAL

PUBLIC MATTER

Counsel For The State Bar	Case Number(s):	For Court use only
Jaime Vogel **Deputy Trial Counsel** **845 S. Figueroa St.** **Los Angeles, CA 90017** **(213) 765-1373** Bar # **289669**	**10-C-00886-CV**	FILED EC APR 03 2018 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent **Scott Lee Adkins** **198 S Carol Malone Blvd** **Grayson, KY 41143-1352** **(954) 242-6974** Bar # **194809**	Submitted to: **Settlement Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **PUBLIC REPROVAL** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of: **SCOTT LEE ADKINS** Bar # **194809** 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 **May 01, 1998**.

(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 **12** 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".

(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):

- ☒ Costs are added to membership fee for calendar year following effective date of discipline (public reproval).
- ☐ Case ineligible for costs (private reproval).
- ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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.

(9) The parties understand that:

(a) ☐ A private reproval imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproval was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.

(b) ☐ A private reproval imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

(c) ☒ A public reproval imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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 or a separate attachment entitled "Prior Discipline.

(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.

(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.

(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 investigation 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.

(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 subsequent rehabilitation.

(13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No Prior Record of Discipline. Please see page 9.
Pre-trial Stipulation. Please see page 9.

D. Discipline:

(1) ☐ **Private reproval (check applicable conditions, if any, below)**

(a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).

(b) ☐ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

(2) ☒ **Public reproval (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproval:

(1) ☒ Respondent must comply with the conditions attached to the reproval for a period of **one year.**.

(2) ☒ During the condition period attached to the reproval, 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 reproval. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the reproval conditions period, 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 condition period attached to the reproval. 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 the reproval during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

(6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of reproval with the probation monitor to establish a manner and schedule of compliance. During the reproval conditions period, Respondent must furnish 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 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 conditions attached to the reproval.

(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: **Respondent resides in another jurisdiction. A comparable alternative to Ethics School is provided in section F(2) below.**

(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) ☒ 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 within one year of the effective date of the reproval.

☐ No MPRE recommended. Reason:

(11) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☐ Financial Conditions

F. Other Conditions Negotiated by the Parties:

(1.) Respondent recognizes that a repeat conviction for DUI suggests an alcohol and/or drug problem that needs to be addressed before it affects Respondent's legal practice. Respondent agrees to take the steps necessary to control the use of alcohol and/or drugs such that it will not affect respondent's law practice in the future. Respondent's agreement to participate in an abstinence-based self-help group (as defined herein), as a condition of discipline, is part of respondent's efforts to address such concerns.

As a condition of reproval, and during the period of reproval, respondent must attend a minimum of two (2) meetings per month of any abstinence-based self-help group of respondent's choosing, including without limitation Alcoholics Anonymous, Narcotics Anonymous, LifeRing, S.M.A.R.T., S.O.S., etc. Other self-help maintenance programs are acceptable if they include a subculture to support recovery, including abstinence-based group meetings. (See O'Conner v. Calif. (C.D. Calif. 1994) 855 F. Supp. 303 [no First Amendment violation where probationer given a choice between AA OCTC STIP. MANUAL 15 Revised 7/17/17 and a secular program.]) Respondent is encouraged, but not required, to obtain a sponsor during the term of participation in these meetings.

The program called "Moderation Management" is not acceptable because it is not abstinence based and allows the participant to continue consuming alcohol.

Respondent must contact the Office of Probation and obtain written approval for the program respondent has selected prior to attending the first self-help group meeting. If respondent wants to change groups, respondent must first obtain the Office of Probation's written approval prior to attending a meeting with the new self-help group.

Respondent must provide to the Office of Probation satisfactory proof of attendance of the meetings set forth herein with each Quarterly Report submitted to the Office of Probation. Respondent may not sign as the verifier of his or her own attendance.

Respondent is encouraged, but is not required, to participate in the Lawyers' Assistance Program, to abstain from alcohol and illegal drugs, and to undergo random urinalysis testing

(2.) As a further condition of reproval, because respondent resides out of state, respondent must either 1.) attend a session of State Bar Ethics School, pass the test given at the end of that session, and provide proof of the same to the Office of Probation within one (1) year of the effective date of the discipline herein; or 2.) complete six (6) hours of live, in person, or live online-webinar Minimum Continuing Legal Education ("MCLE") approved courses in legal ethics offered through a certified MCLE provider in Kentucky or California and provide proof of same satisfactory to the Office of Probation within one (1) year of the effective date of the discipline.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SCOTT LEE ADKINS

CASE NUMBER: 10-C-00886-CV

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 other misconduct warranting discipline.

Case No. 10-C-00886 (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 January 14, 2010, the State Attorney of the Seventeenth Judicial Court of Florida, Case No. 10890MM10A, charged respondent with one count of violation of Fla.Stat. §316.1932 (unlawfully refusing to submit to testing), a misdemeanor; one count of violation of Fla.Stat.§ 316.193 (driving under the influence of alcohol and/or chemical substance), a misdemeanor; one count of violation of Fla.Stat.§316.061 (being involved in a crash resulting in damage to another vehicle or other property), a misdemeanor; one count of violation of Fla.Stat §316.062 (failing to remain at the scene of the crash and provide information), a misdemeanor; one count of violation of Fla.Stat. §322.16 (driver's license violation), a misdemeanor; and one count of violation of Fla.Stat.§316.192 (reckless driving), a misdemeanor.

3. On June 17, 2011, respondent entered into a plea bargain, pled guilty, and was convicted of one count of violating Fla.Stat.§ 316.061/316.062 (being involved in a crash involving damage to vehicle or property/ duty to give information and render aid), a misdemeanor. Respondent was also convicted of one count of violating Fla.Stat. §316.192 (reckless driving), a misdemeanor. (A copy of the aforementioned Florida Statutes are attached hereto as Exhibit 1.) The remaining charges were dismissed. The court sentenced respondent to 50 hours of community service, pay court fines, and restitution.

4. On December 7, 2017, in State Bar Case No. 10-C-00886, the Review Department referred respondent's conviction for violating Fla.Stat §§ 316.061 and 316.062 and Fla.Stat. §316.192 to the Hearing Department for hearing and decision recommending discipline, in the event that the Hearing Department finds that the facts and circumstances surrounding the misdemeanor violation involved moral turpitude or other misconduct warranting discipline.

FACTS:

5. On December 05, 2009, at approximately 12:40 a.m., respondent was driving a 2006 white Chrysler automobile in Broward County in the State of Florida. Respondent was driving in the 2600

block of North Dixie Hwy, Pompano Beach, Florida, when respondent collided with the rear bumper of a Mercedes vehicle. Respondent did not stop at the scene of the accident to provide his insurance information.

6. Respondent then drove southbound on Federal Highway at a high rate of speed. The respondent also followed closely behind vehicles, abruptly changing lanes without signaling. Upon observing respondent, Deputy Dedej, of the Broward County Sheriff's Office, conducted a traffic stop of respondent at 600 N. Federal Hwy, Pompano Beach, Florida.

7. While Deputy Dedej spoke to respondent during the traffic stop, respondent's breath smelled of alcohol, respondent had blood shot eyes, and slurred speech. Respondent was also unsteady as he exited the vehicle.

8. Deputy Hager and Deputy Dedej conducted field sobriety tests which included horizontal gaze nystagmus, walk and turn, and one leg stand. Respondent was unable to successfully complete the field sobriety tests.

9. Deputy Hager asked respondent to provide a breath sample to determine respondent's blood alcohol level. Respondent refused. Deputy Hager arrested respondent for a violation of Fla. Stat §316.193 (driving under the influence).

RESPONDENT'S PRIOR CONVICTION:

10. On January 16, 2006, at approximately 1:40 a.m., respondent was driving a red Nissan while under the influence of alcohol in Oakland Park, Florida.

11. Respondent was pulled over by Sergeant McGregor, of the Broward County Sheriff's Office, at 4400 N. Dixie Hwy, Oakland Park, Florida. Respondent immediately exited his vehicle and started cursing at the officer. McGregor handcuffed respondent and sat him on the curb pending the arrival of Officer Grady. Respondent's breath smelled of alcohol, his eyes were red, and his speech was slurred.

12. Officer Grady arrived at the traffic stop to assist with the DUI investigation. When questioned, respondent would not indicate how much alcohol he consumed. Respondent refused to participate in any field sobriety test. Respondent also refused to provide a breath sample to test his blood alcohol level.

13. Respondent was placed under arrest for suspicion of driving under the influence.

14. On March 15, 2007, in the Seventeenth Judicial Court of Florida, Case No. 06023411MM10A, respondent pled no contest to violating Fla.Stat. §316.193 (driving under the influence), a misdemeanor and Fla.Stat. §316.192 (reckless driving), a misdemeanor. (A copy of the aforementioned Florida Statutes are attached hereto as Exhibit 2.) This was a first offense for respondent. He was placed on 6 months of probation. Respondent completed probation on September 14, 2007.

CONCLUSIONS OF LAW:

15. The facts and circumstances surrounding the above-described violation(s) did not involve moral turpitude but did involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

None.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to the State Bar on May 1, 1998 and has no record of prior discipline. Respondent had practiced law for over 11 years without any discipline prior to the misconduct, which is entitled to significant weight in mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 598 [over 10 years without prior discipline entitled to significant weight in mitigation].)

Pretrial Stipulation: Respondent has acknowledged his wrongdoing by entering into this stipulation prior to trial, which is entitled to mitigation for saving State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigation was given for entering into a stipulation as to facts and culpability].)

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).)

Respondent's culpability in this proceeding is conclusively established by the record of his convictions. (Bus. & Prof. Code §6101, subd.(a); *In re Crooks* (1990) 51 Cal.3d 1090, 1097.) Respondent is presumed to have committed all of the elements of the crimes of which he was convicted. (*In re*

Duggan (1976) 17 Cal.3d 416, 423; *In the Matter of Respondent O* (Review Dept. 1993) 2 Cal. State Bar Ct.Rptr. 581, 588.) Respondent was convicted of a misdemeanor violation of Florida Annotated Statutes ("Fla.Stat.") §§ 316.061/316.062, crash involving damage to vehicle or property / duty to give information and render aid. Respondent was convicted of an additional misdemeanor in violation of Fla.Stat. §316.192, reckless driving.

Respondent's misconduct of reckless driving and failing to give information or render aid is not a crime of moral turpitude per se. (*In re Kelley* (1990) 52.Cal.3d 487, 494.) In attorney discipline cases, moral turpitude should be defined with the aim of protecting the public, promoting confidence in the legal system, and maintaining high professional standards. (*In re Lesansky* (2001) 104 Cal.Rptr.2d 409, 16.) "Criminal conduct not committed in the practice of law or against a client reveals moral turpitude if it shows a deficiency in any character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties) or if it involves such a serious breach of duty owed to another or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney's conduct would be likely to undermine public confidence." (*Id.* at p. 16, 104 Cal.Rptr.2d 409, 17 P.3d 764.) The facts and circumstances surrounding respondent's misconduct also do not involve moral turpitude as it does not fall into the category of particular crimes "that are extremely repugnant to accepted moral standards such as...serious sexual offenses." (*In re Fahey* (1973) 8 Cal.3d 842, 849). Respondent's conduct was not related to the practice of law. Respondent's misconduct was nonetheless serious because it caused damage to the rear bumper of another person's vehicle. Respondent did not stay at the scene of the accident to provide information or render aid. Also, respondent has a prior conviction from 2007 for driving under the influence and reckless driving. Therefore, respondent's misconduct warrants discipline.

Since respondent's criminal conviction does not involve moral turpitude Standard 2.16(b) is applicable. Standard 2.16(b), provides for suspension or reproval for final conviction of a misdemeanor not involving moral turpitude but involving other misconduct warranting discipline. Respondent's misconduct is significantly mitigated by respondent's 11 years in practice without a prior record of discipline and entry into a pretrial stipulation. Given the facts and circumstances of this case, a public reproval is appropriate to protect the public, the courts, and the legal profession, maintain the highest professional standards, and preserve public confidence in the legal profession.

This level of discipline is consistent with case law. In *In re Kelley, supra*, 52 Cal.3d 487, an attorney was convicted twice for driving under the influence of alcohol within a 31-month period. The attorney had no prior record of discipline and was publicly reproved and referred to the State Bar Program for Alcohol Abuse. The Supreme Court stressed that the attorney's conduct, though it had not caused significant harm, was in violation of a court order pertaining to the attorney's criminal probation.

Similar to the attorney in *In re Kelley*, respondent has been previously convicted of a crime related to the use of alcohol; driving under the influence in 2007. While respondent was not in violation of a court order, respondent's conduct caused property damage to another vehicle. The similarities show that a level of discipline on the lower end of the range provided for in the Standard is appropriate.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of March 16, 2018 the discipline costs in this matter are $2,629. 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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

Respondent may not receive MCLE credit for completion of State Bar Ethics School to be ordered as a condition of reproval. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of:	Case number(s):
SCOTT LEE ADKINS	10-C-00886-CV

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.

3/28/2018		Scott Lee Adkins
Date	Respondent's Signature	Print Name
3/29/		
Date	Respondent's Counsel Signature	Print Name
3/29/2018		Jaime M. Vogel
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:	Case Number(s):
SCOTT LEE ADKINS	10-C-00886-CV

REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 REPROVAL IMPOSED.

☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.

☐ All court dates in the Hearing Department 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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

4/3/18
Date

DONALD F. MILES
Judge of the State Bar Court

Document:Fla. Stat. § 316.061

Fla. Stat. § 316.061

Copy Citation

The Florida code and constitution are updated through all legislation signed and in effect as of the 2017 Regular Session and 2017 Special Session A and 2018 Regular Session ch. 2.

LexisNexis® Florida Annotated Statutes Title XXIII. Motor Vehicles (Chs. 316-325) Chapter 316. State Uniform Traffic Control.

§ 316.061. Crashes involving damage to vehicle or property.

(1) The driver of any vehicle involved in a crash resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop such vehicle at the scene of such crash or as close thereto as possible, and shall forthwith return to, and in every event shall remain at, the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Notwithstanding any other provision of this section, $5 shall be added to a fine imposed pursuant to this section, which $5 shall be deposited in the Emergency Medical Services Trust Fund.

(2) Every stop must be made without obstructing traffic more than is necessary, and, if a damaged vehicle is obstructing traffic, the driver of such vehicle must make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic. Any person failing to comply with this subsection shall be cited for a nonmoving violation, punishable as provided in chapter 318.

(3) Employees or authorized agents of the Department of Transportation, law enforcement with proper jurisdiction, or an expressway authority created pursuant to chapter 348, in the exercise, management, control, and maintenance of its highway system, may undertake the removal from the main traveled way of roads on its highway system of all vehicles incapacitated as a result of a motor vehicle crash and of debris caused thereby. Such removal is applicable when such a motor vehicle

crash results only in damage to a vehicle or other property, and when such removal can be accomplished safely and will result in the improved safety or convenience of travel upon the road. The driver or any other person who has removed a motor vehicle from the main traveled way of the road as provided in this section shall not be considered liable or at fault regarding the cause of the accident solely by reason of moving the vehicle.

History

S. 1, ch. 71-135; s. 3, ch. 74-377; s. 2, ch. 75-72; s. 9, ch. 76-31; s. 22, ch. 85-167; s. 3, ch. 85-337; s. 30, ch. 92-78; s. 296, ch. 95-148; s. 6, ch. 96-350; s. 83, ch. 99-248; s. 3, ch. 2002-235.

▼ Annotations

Case Notes

Criminal Law & Procedure: Criminal Offenses: Miscellaneous Offenses: General Overview

Criminal Law & Procedure: Criminal Offenses: Miscellaneous Offenses: Fleeing & Eluding: General Overview

Criminal Law & Procedure: Criminal Offenses: Vehicular Crimes: General Overview

Criminal Law & Procedure: Criminal Offenses: Vehicular Crimes: Hit & Run Accidents: General Overview

Criminal Law & Procedure: Criminal Offenses: Vehicular Crimes: Hit & Run Accidents: Elements

Criminal Law & Procedure: Criminal Offenses: Vehicular Crimes: Traffic Regulation Violations: General Overview

Criminal Law & Procedure: Double Jeopardy: Double Jeopardy Protection: Multiple Punishments

Fla. Stat. § 316.062

Copy Citation

LexisNexis® Florida Annotated Statutes Title XXIII. Motor Vehicles (Chs. 316-325) Chapter 316. State Uniform Traffic Control.

§ 316.062. Duty to give information and render aid.

(1) The driver of any vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property which is driven or attended by any person shall give his or her name, address, and the registration number of the vehicle he or she is driving, and shall upon request and if available exhibit his or her license or permit to drive, to any person injured in such crash or to the driver or occupant of or person attending any vehicle or other property damaged in the crash and shall give such information and, upon request, exhibit such license or permit to any police officer at the scene of the crash or who is investigating the crash and shall render to any person injured in the crash reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.

(2) In the event none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (1), and no police officer is present, the driver of any vehicle involved in such crash, after fulfilling all other requirements of s. 316.027 and subsection (1), insofar as possible on his or her part to be performed, shall forthwith report the crash to the nearest office of a duly authorized police authority and submit thereto the information specified in subsection (1).

(3) The statutory duty of a person to make a report or give information to a law enforcement officer making a written report relating to a crash shall not be construed as extending to information which would violate the privilege of such person against self-incrimination.

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

History

S. 1, ch. 71-135; s. 13, ch. 91-255; s. 297, ch. 95-148; s. 84, ch. 99-248.

Annotations

Case Notes

Criminal Law & Procedure: Criminal Offenses: Miscellaneous Offenses: General Overview

Criminal Law & Procedure: Criminal Offenses: Vehicular Crimes: General Overview

Criminal Law & Procedure: Criminal Offenses: Vehicular Crimes: Hit & Run Accidents: General Overview

Criminal Law & Procedure: Criminal Offenses: Vehicular Crimes: Hit & Run Accidents: Elements

Criminal Law & Procedure: Criminal Offenses: Vehicular Crimes: Vehicular Homicide: Elements

Criminal Law & Procedure: Interrogation: Miranda Rights: General Overview

Criminal Law & Procedure: Pretrial Motions & Procedures: Dismissal

Criminal Law & Procedure: Defenses: Statutes of Limitations

Criminal Law & Procedure: Jury Instructions: Particular Instructions: Elements of the Offense

Document:Fla. Stat. § 316.192

Fla. Stat. § 316.192

Copy Citation

The Florida code and constitution are updated through all legislation signed and in effect as of the 2017 Regular Session and 2017 Special Session A and 2018 Regular Session ch. 2.

LexisNexis® Florida Annotated Statutes Title XXIII. Motor Vehicles (Chs. 316-325) Chapter 316. State Uniform Traffic Control.

§ 316.192. Reckless driving.

(1)

(a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) Fleeing a law enforcement officer in a motor vehicle is reckless driving per se.

(2) Except as provided in subsection (3), any person convicted of reckless driving shall be punished:

(a) Upon a first conviction, by imprisonment for a period of not more than 90 days or by fine of not less than $25 nor more than $500, or by both such fine and imprisonment.

(b) On a second or subsequent conviction, by imprisonment for not more than 6 months or by a fine of not less than $50 nor more than $1,000, or by both such fine and imprisonment.

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The term "serious bodily injury" means an injury to another person, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(4) Notwithstanding any other provision of this section, $5 shall be added to a fine imposed pursuant to this section. The clerk shall remit the $5 to the Department of Revenue for deposit in the Emergency Medical Services Trust Fund.

(5) In addition to any other penalty provided under this section, if the court has reasonable cause to believe that the use of alcohol, chemical substances set forth in s. 877.111, or substances controlled under chapter 893 contributed to a violation of this section, the court shall direct the person so convicted to complete a DUI program substance abuse education course and evaluation as provided in s. 316.193(5) within a reasonable period of time specified by the court. If the DUI program conducting such course and evaluation refers the person to an authorized substance abuse treatment provider for substance abuse evaluation and treatment, the directive of the court requiring completion of such course, evaluation, and treatment shall be enforced as provided in s. 322.245. The referral to treatment resulting from the DUI program evaluation may not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider, appointed by the court, which shall have access to the DUI program psychosocial evaluation before the independent psychosocial evaluation is conducted. The court shall review the results and recommendations of both evaluations before determining the request for waiver. The offender shall bear the full cost of this procedure. If a person directed to a DUI program substance abuse education course and evaluation or referred to treatment under this subsection fails to report for or complete such course, evaluation, or treatment, the DUI program shall notify the court and the department of the failure. Upon receipt of such notice, the department shall cancel the person's driving privilege, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may reinstate the driving privilege upon verification from the DUI program that the education, evaluation, and treatment are completed. The department may temporarily reinstate the driving privilege on a restricted basis upon verification that the offender is currently participating in treatment and has completed the DUI education course and evaluation requirement. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of successful completion of treatment from the DUI program.

Fla. Stat. § 316.193

Copy Citation

The Florida code and constitution are updated through all legislation signed and in effect as of the 2017 Regular Session and 2017 Special Session A and 2018 Regular Session ch. 2.

LexisNexis® Florida Annotated Statutes Title XXIII. Motor Vehicles (Chs. 316-325) Chapter 316. State Uniform Traffic Control.

§ 316.193. Driving under the influence; penalties.

(1) A person is guilty of the offense of driving under the influence and is subject to punishment as provided in subsection (2) if the person is driving or in actual physical control of a vehicle within this state and:

(a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person's normal faculties are impaired;

(b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or

(c) The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

(2)

(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than $500 or more than $1,000 for a first conviction.

b. Not less than $1,000 or more than $2,000 for a second conviction; and

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

(b)

1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than $2,000 or more than $5,000 and by imprisonment for not more than 12 months. In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such fourth or subsequent violation may be not less than $2,000.

(c) In addition to the penalties in paragraph (a), the court may order placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 for at least 6 continuous months upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person if, at the time of the offense, the person had a blood-alcohol level or breath-alcohol level of .08 or higher.

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes or contributes to causing:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being or unborn child commits DUI manslaughter, and commits:

a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) At the time of the crash, the person knew, or should have known, that the crash occurred; and

(II) The person failed to give information and render aid as required by s. 316.062.

For purposes of this subsection, the term "unborn child" has the same meaning as provided in s. 775.021(5). A person who is convicted of DUI manslaughter shall be sentenced to a mandatory minimum term of imprisonment of 4 years.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.15 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than $1,000 or more than $2,000 for a first conviction.

2. Not less than $2,000 or more than $4,000 for a second conviction.

3. Not less than $4,000 for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.

2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.15 or higher.

(c) In addition to the penalties in paragraphs (a) and (b), the court shall order the mandatory placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person for not less than 6 continuous months for the first offense and for not less than 2 continuous years for a second offense, when the convicted person qualifies for a permanent or restricted license.

(5) The court shall place all offenders convicted of violating this section on monthly reporting probation and shall require completion of a substance abuse course conducted by a DUI program licensed by the department under s. 322.292, which must include a psychosocial evaluation of the offender. If the DUI program refers the offender to an authorized substance abuse treatment provider for substance abuse treatment, in addition to any sentence or fine imposed under this section, completion of all such education, evaluation, and treatment is a condition of reporting probation. The offender shall assume reasonable costs for such education, evaluation, and treatment. The referral to treatment resulting from a psychosocial evaluation shall not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider appointed by the court, which shall have access to the DUI program's psychosocial evaluation before the independent psychosocial evaluation is conducted. The court shall review the results and recommendations of both evaluations before determining the request for waiver. The offender shall bear the full cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If an offender referred to treatment under this subsection fails to report for or complete such treatment or fails to complete the DUI program substance abuse education course and evaluation, the DUI program shall notify the court and the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege on a restricted basis upon verification from the DUI program that the offender is currently participating in treatment and the DUI education course and evaluation requirement has been completed. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of completion of

treatment from the DUI program. The organization that conducts the substance abuse education and evaluation may not provide required substance abuse treatment unless a waiver has been granted to that organization by the department. A waiver may be granted only if the department determines, in accordance with its rules, that the service provider that conducts the substance abuse education and evaluation is the most appropriate service provider and is licensed under chapter 397 or is exempt from such licensure. A statistical referral report shall be submitted quarterly to the department by each organization authorized to provide services under this section.

(6) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to subsection (2), subsection (3), or subsection (4):

(a) For the first conviction, the court shall place the defendant on probation for a period not to exceed 1 year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours. The court may order a defendant to pay a fine of $10 for each hour of public service or community work otherwise required only if the court finds that the residence or location of the defendant at the time public service or community work is required or the defendant's employment obligations would create an undue hardship for the defendant. However, the total period of probation and incarceration may not exceed 1 year. The court must also, as a condition of probation, order the impoundment or immobilization of the vehicle that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 10 days or for the unexpired term of any lease or rental agreement that expires within 10 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h).

(b) For the second conviction for an offense that occurs within a period of 5 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 10 days. The court must also, as a condition of probation, order the impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization, for a period of 30 days or for the unexpired term of any lease or rental agreement that expires within 30 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant and must occur concurrently with the driver license revocation imposed under s. 322.28(2)(a)2. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h). At least 48 hours of confinement must be consecutive.

(c) For the third or subsequent conviction for an offense that occurs within a period of 10 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days. The court must also, as a condition of probation, order the

impoundment or immobilization of all vehicles owned by the defendant at the time of impoundment or immobilization, for a period of 90 days or for the unexpired term of any lease or rental agreement that expires within 90 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant and must occur concurrently with the driver license revocation imposed under s. 322.28(2)(a)3. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), paragraph (g), or paragraph (h). At least 48 hours of confinement must be consecutive.

(d) The court must at the time of sentencing the defendant issue an order for the impoundment or immobilization of a vehicle. The order of impoundment or immobilization must include the name and telephone numbers of all immobilization agencies meeting all of the conditions of subsection (13). Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of each vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.

(e) A person who owns but was not operating the vehicle when the offense occurred may submit to the court a police report indicating that the vehicle was stolen at the time of the offense or documentation of having purchased the vehicle after the offense was committed from an entity other than the defendant or the defendant's agent. If the court finds that the vehicle was stolen or that the sale was not made to circumvent the order and allow the defendant continued access to the vehicle, the order must be dismissed and the owner of the vehicle will incur no costs. If the court denies the request to dismiss the order of impoundment or immobilization, the petitioner may request an evidentiary hearing.

(f) A person who owns but was not operating the vehicle when the offense occurred, and whose vehicle was stolen or who purchased the vehicle after the offense was committed directly from the defendant or the defendant's agent, may request an evidentiary hearing to determine whether the impoundment or immobilization should occur. If the court finds that either the vehicle was stolen or the purchase was made without knowledge of the offense, that the purchaser had no relationship to the defendant other than through the transaction, and that such purchase would not circumvent the order and allow the defendant continued access to the vehicle, the order must be dismissed and the owner of the vehicle will incur no costs.

(g) The court shall also dismiss the order of impoundment or immobilization of the vehicle if the court finds that the family of the owner of the vehicle has no other private or public means of transportation.

(h) The court may also dismiss the order of impoundment or immobilization of any vehicles that are owned by the defendant but that are operated solely by the employees of the defendant or any business owned by the defendant.

(i) The court may also dismiss the order of impoundment or immobilization if the defendant provides proof to the satisfaction of the court that a functioning, certified ignition interlock device has been installed upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person.

(j)

1. Notwithstanding the provisions of this section, s. 316.1937, and s. 322.2715 relating to ignition interlock devices required for second or subsequent offenders, in order to strengthen the pretrial and posttrial options available to prosecutors and judges, the court may order, if deemed appropriate, that a person participate in a qualified sobriety and drug monitoring program, as defined in subparagraph 2., in addition to the ignition interlock device requirement. Participation shall be at the person's sole expense.

2. As used in this paragraph, the term "qualified sobriety and drug monitoring program" means an evidence-based program, approved by the department, in which participants are regularly tested for alcohol and drug use. As the court deems appropriate, the program may monitor alcohol or drugs through one or more of the following modalities: breath testing twice a day; continuous transdermal alcohol monitoring in cases of hardship; or random blood, breath, urine, or oral fluid testing. Testing modalities that provide the best ability to sanction a violation as close in time as reasonably feasible to the occurrence of the violation should be given preference. This paragraph does not preclude a court from ordering an ignition interlock device as a testing modality.

3. For purposes of this paragraph, the term "evidence-based program" means a program that satisfies the requirements of at least two of the following:

a. The program is included in the federal registry of evidence-based programs and practices.

b. The program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome.

c. The program has been documented as effective by informed experts and other sources.

(k) All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle, unless the impoundment or immobilization order is dismissed. All provisions of s. 713.78 shall apply. The costs and fees for the impoundment or immobilization must be paid directly to the person impounding or immobilizing the vehicle.

(l) The person who owns a vehicle that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vehicle and who has not requested a review of the impoundment pursuant to paragraph (e), paragraph (f), or paragraph (g), may, within 10 days after the date that person has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle.

(m) A defendant, in the court's discretion, may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced pursuant to this section in a residential alcoholism treatment program or a residential drug abuse treatment program. Any time spent in such a program must be credited by the court toward the term of imprisonment.

For the purposes of this section, any conviction for a violation of s. 327.35; a previous conviction for the violation of former s. 316.1931, former s. 860.01, or former s. 316.028; or a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, driving with an unlawful breath-alcohol level, or any other similar alcohol-related or drug-related traffic offense, is also considered a previous conviction for violation of this section. However, in satisfaction of the fine imposed pursuant to this section, the court may, upon a finding that the defendant is financially unable to pay either all or part of the fine, order that the defendant participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine which the court determines the defendant is unable to pay. In determining such additional sentence, the court shall consider the amount of the unpaid portion of the fine and the reasonable value of the services to be ordered; however, the court may not compute the reasonable value of services at a rate less than the federal minimum wage at the time of sentencing.

(7) A conviction under this section does not bar any civil suit for damages against the person so convicted.

(8) At the arraignment, or in conjunction with any notice of arraignment provided by the clerk of the court, the clerk shall provide any person charged with a violation of this section with notice that upon conviction the court shall suspend or revoke the offender's driver license and that the offender should make arrangements for transportation at any proceeding in which the court may take such

action. Failure to provide such notice does not affect the court's suspension or revocation of the offender's driver license.

(9) A person who is arrested for a violation of this section may not be released from custody:

(a) Until the person is no longer under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 and affected to the extent that his or her normal faculties are impaired;

(b) Until the person's blood-alcohol level or breath-alcohol level is less than 0.05; or

(c) Until 8 hours have elapsed from the time the person was arrested.

(10) The rulings of the Department of Highway Safety and Motor Vehicles under s. 322.2615 shall not be considered in any trial for a violation of this section. Testimony or evidence from the administrative proceedings or any written statement submitted by a person in his or her request for administrative review is inadmissible into evidence or for any other purpose in any criminal proceeding, unless timely disclosed in criminal discovery pursuant to Rule 3.220, Florida Rules of Criminal Procedure.

(11) The Department of Highway Safety and Motor Vehicles is directed to adopt rules providing for the implementation of the use of ignition interlock devices.

(12) If the records of the Department of Highway Safety and Motor Vehicles show that the defendant has been previously convicted of the offense of driving under the influence, that evidence is sufficient by itself to establish that prior conviction for driving under the influence. However, such evidence may be contradicted or rebutted by other evidence. This presumption may be considered along with any other evidence presented in deciding whether the defendant has been previously convicted of the offense of driving under the influence.

(13) If personnel of the circuit court or the sheriff do not immobilize vehicles, only immobilization agencies that meet the conditions of this subsection shall immobilize vehicles in that judicial circuit.

(a) The immobilization agency responsible for immobilizing vehicles in that judicial circuit shall be subject to strict compliance with all of the following conditions and restrictions:

1. Any immobilization agency engaged in the business of immobilizing vehicles shall provide to the clerk of the court a signed affidavit attesting that the agency:

a. Has verifiable experience in immobilizing vehicles;

b. Maintains accurate and complete records of all payments for the immobilization, copies of all documents pertaining to the court's order of impoundment or immobilization, and any other documents relevant to each immobilization. Such records must be maintained by the immobilization agency for at least 3 years; and

c. Employs and assigns persons to immobilize vehicles that meet the requirements established in subparagraph 2.

2. The person who immobilizes a vehicle must:

a. Not have been adjudicated incapacitated under s. 744.331, or a similar statute in another state, unless his or her capacity has been judicially restored; involuntarily placed in a treatment facility for the mentally ill under chapter 394, or a similar law in any other state, unless his or her competency has been judicially restored; or diagnosed as having an incapacitating mental illness unless a psychologist or psychiatrist licensed in this state certifies that he or she does not currently suffer from the mental illness.

b. Not be a chronic and habitual user of alcoholic beverages to the extent that his or her normal faculties are impaired; not have been committed under chapter 397, former chapter 396, or a similar law in any other state; not have been found to be a habitual offender under s. 856.011(3), or a similar law in any other state; or not have had any convictions under this section, or a similar law in any other state, within 2 years before the affidavit is submitted.

c. Not have been committed for controlled substance abuse or have been found guilty of a crime under chapter 893, or a similar law in any other state, relating to controlled substances in any other state.

d. Not have been found guilty of or entered a plea of guilty or nolo contendere to, regardless of adjudication, or been convicted of a felony, unless his or her civil rights have been restored.

e. Be a citizen or legal resident alien of the United States or have been granted authorization to seek employment in this country by the United States Bureau of Citizenship and Immigration Services.

(b) The immobilization agency shall conduct a state criminal history check through the Florida Department of Law Enforcement to ensure that the person hired to immobilize a vehicle meets the requirements in sub-subparagraph (a)2.d.

(c) A person who violates paragraph (a) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(14) As used in this chapter, the term:

(a) "Immobilization," "immobilizing," or "immobilize" means the act of installing a vehicle antitheft device on the steering wheel of a vehicle, the act of placing a tire lock or wheel clamp on a vehicle, or a governmental agency's act of taking physical possession of the license tag and

vehicle registration rendering a vehicle legally inoperable to prevent any person from operating the vehicle pursuant to an order of impoundment or immobilization under subsection (6).

(b) "Immobilization agency" or "immobilization agencies" means any person, firm, company, agency, organization, partnership, corporation, association, trust, or other business entity of any kind whatsoever that meets all of the conditions of subsection (13).

(c) "Impoundment," "impounding," or "impound" means the act of storing a vehicle at a storage facility pursuant to an order of impoundment or immobilization under subsection (6) where the person impounding the vehicle exercises control, supervision, and responsibility over the vehicle.

(d) "Person" means any individual, firm, company, agency, organization, partnership, corporation, association, trust, or other business entity of any kind whatsoever.

History

S. 1, ch. 71-135; s. 19, ch. 73-331; s. 1, ch. 74-384; s. 1, ch. 76-31; s. 1, ch. 79-408; s. 1, ch. 80-343; s. 2, ch. 82-155; s. 1, ch. 82-403; s. 2, ch. 83-187; s. 1, ch. 83-228; s. 1, ch. 84-359; s. 24, ch. 85-167; s. 2, ch. 85-337; s. 1, ch. 86-296; s. 2, ch. 88-5; s. 5, ch. 88-82; s. 8, ch. 88-196; s. 8, ch. 88-324; s. 60, ch. 88-381; s. 7, ch. 89-3; ss. 1, 18, ch. 91-255; s. 32, ch. 92-78; ss. 1, 11, ch. 93-124; s. 3, ch. 93-246; s. 1, ch. 94-324; s. 895, ch. 95-148; s. 1, ch. 95-186; s. 4, ch. 95-333; s. 12, ch. 95-408; s. 3, ch. 96-330; s. 2, ch. 96-413; s. 48, ch. 97-100; s. 97, ch. 97-264; s. 25, ch. 97-271; ss. 6, 13, ch. 98-324; s. 5, ch. 99-234; s. 139, ch. 99-248; s. 4, ch. 2000-313; s. 10, ch. 2000-320; s. 2, ch. 2002-78; s. 1, ch. 2002-263; s. 1, ch. 2004-379; s. 1, ch. 2005-119; s. 3, ch. 2007-211, eff. July 1, 2007; s. 29, ch. 2008-111, eff. July 1, 2008; s. 5, ch. 2008-176, eff. Oct. 1, 2008; s. 5, ch. 2009-138, eff. Oct. 1, 2009; s. 10, ch. 2009-206, eff. July 1, 2009; s. 5, ch. 2010-223, eff. Sept. 1, 2010; s. 3, ch. 2014-194, eff. Oct. 1, 2014; s. 8, ch. 2014-216, eff. July 1, 2014; s. 3, ch. 2015-34, eff. May 14, 2015; s. 12, ch. 2016-105, eff. July 1, 2016.

▼ Annotations

Notes

Editor's Notes

Former s. 316.028.

Fla. Stat. § 316.192

Copy Citation

The Florida code and constitution are updated through all legislation signed and in effect as of the 2017 Regular Session and 2017 Special Session A and 2018 Regular Session ch. 2.

LexisNexis® Florida Annotated Statutes Title XXIII. Motor Vehicles (Chs. 316-325) Chapter 316. State Uniform Traffic Control.

§ 316.192. Reckless driving.

(1)

(a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) Fleeing a law enforcement officer in a motor vehicle is reckless driving per se.

(2) Except as provided in subsection (3), any person convicted of reckless driving shall be punished:

(a) Upon a first conviction, by imprisonment for a period of not more than 90 days or by fine of not less than $25 nor more than $500, or by both such fine and imprisonment.

(b) On a second or subsequent conviction, by imprisonment for not more than 6 months or by a fine of not less than $50 nor more than $1,000, or by both such fine and imprisonment.

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The term "serious bodily injury" means an injury to another person, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(4) Notwithstanding any other provision of this section, $5 shall be added to a fine imposed pursuant to this section. The clerk shall remit the $5 to the Department of Revenue for deposit in the Emergency Medical Services Trust Fund.

(5) In addition to any other penalty provided under this section, if the court has reasonable cause to believe that the use of alcohol, chemical substances set forth in s. 877.111, or substances controlled under chapter 893 contributed to a violation of this section, the court shall direct the person so convicted to complete a DUI program substance abuse education course and evaluation as provided in s. 316.193(5) within a reasonable period of time specified by the court. If the DUI program conducting such course and evaluation refers the person to an authorized substance abuse treatment provider for substance abuse evaluation and treatment, the directive of the court requiring completion of such course, evaluation, and treatment shall be enforced as provided in s. 322.245. The referral to treatment resulting from the DUI program evaluation may not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider, appointed by the court, which shall have access to the DUI program psychosocial evaluation before the independent psychosocial evaluation is conducted. The court shall review the results and recommendations of both evaluations before determining the request for waiver. The offender shall bear the full cost of this procedure. If a person directed to a DUI program substance abuse education course and evaluation or referred to treatment under this subsection fails to report for or complete such course, evaluation, or treatment, the DUI program shall notify the court and the department of the failure. Upon receipt of such notice, the department shall cancel the person's driving privilege, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may reinstate the driving privilege upon verification from the DUI program that the education, evaluation, and treatment are completed. The department may temporarily reinstate the driving privilege on a restricted basis upon verification that the offender is currently participating in treatment and has completed the DUI education course and evaluation requirement. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of successful completion of treatment from the DUI program.

CERTIFICATE OF SERVICE

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

I am a Court Specialist 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 April 3, 2018, 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:

SCOTT L. ADKINS
SCOTT L. ADKINS
198 S CAROL MALONE BLVD
GRAYSON, KY 41143 - 1352

SCOTT L ADKINS
1263A DAMRON BARNETT
GRAYSON, KY 41143

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

JAIME M. VOGEL, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 3, 2018.

Erick Estrada
Court Specialist
State Bar Court

FILED

FEB 02 2018

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES
PER JUDGE ORDER

STATE BAR COURT OF CALIFORNIA

In the Matter of:
SCOTT L. ADKINS,

Member No. 194809,
Respondent.

_____/

CASE NO. 10-C-00886

RESPONSE

COMES NOW Respondent, Scott L. Adkins, and files this Response and states as follows:

1. Respondent was admitted to practice law in California in May 1998.

2. Respondent has never been disciplined in California.

3. Respondent was pled no-contest to misdemeanor traffic-related charges in the State of Florida in 2010.

4. The Florida County Court adjudicated Respondent guilty of violating Florida Statutes 316.061; 316.062; and 316.192.

5. Respondent moved to correct judgment in the Florida case because Respondent believed that the judgment of conviction failed to reflect all charges of which Florida Court had adjudicated Respondent guilty.

6. Differently put, Respondent moved to correct the record to Respondent's own detriment because Respondent believed it his duty to do so.

7. Respondent's Florida court motion remained pending for well over a year.

8. Once that motion was resolved, Respondent duly informed the California Supreme Court. That was several years ago.

9. In the ***several years*** that lapsed between Respondent informing the California Supreme Court and its Bar Counsel of the Florida conviction, Respondent has moved several times, and all Respondent's records have been lost, and Respondent's own memory of events that transpired almost a decade ago have faded to the point Respondent could not, in good conscience, swear to the truth of certain facts or allegations.

10. Importantly, not even Bar Counsel could obtain the required certified documents from the Florida Court. Nevertheless, the case proceeded despite the rules' requiring certified copies. Respondent objects to that.

11. Bar Counsel's delay in moving forward, while understandable given what is likely a backlog of cases, has prejudiced Respondent's ability to defend himself in any penalty phase of these proceedings for the reasons explained in paragraph 9, supra.

12. Moreover, the Florida misdemeanor statutes, by their terms, do not indicate any of the three offenses for which Respondent was convicted qualify as crimes of moral turpitude under Florida law, as none involve deceit, fraud, or dishonesty.

13. Consequently, Respondent denies any culpability for moral turpitude and will not plead to same.

14. That said, Respondent stands willing to stipulate to some sort of censure or admonition, but not any sort of suspension from the practice of law for the reasons stated herein.

15. Respondent is not now engaged in the practice of law, and has no present plans to do so in the foreseeable future.

Dated: January 25, 2018.

Respectfully submitted,

/s/Scott L. Adkins
1263A Damron Branch
Grayson, KY 41143
(954) 242-6974
jamescallender1799@gmail.com

CERTIFICATE OF SERVICE

I, Scott L. Adkins, do hereby certify that a true and correct copy was served on Assistant Bar Counsel Jamie Vogel via US Mail this 25th day of January, 2018 to the following address:

Jamie Vogel, Esq.
State Bar of California
Office of Chief Trial Counsel
845 South Figueroa Street
Los Angeles, CA 90017-2515

And via email to:
Jaime.Vogel@calbar.ca.gov and

Jaime.Vogel@calbar.ca.gov

/s/Scott L. Adkins

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL
KEVIN B. TAYLOR, No. 151715
845 South Figueroa Street
Los Angeles, California 90017-2515
Telephone: (213) 765-1000

IN THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA

IN THE MATTER OF THE CONVICTION OF: **SCOTT L. ADKINS,** **No. 194809** A Member of the State Bar	Case No. 10-C-00886 Transmittal of Records of Conviction of Attorney (Bus. & Prof. Code §§ 6101-6102; Cal. Rules of Court, rule 9.5 et seq.) [ ] Felony; [ ] Crime(s) involved moral turpitude; [ ] Probable cause to believe the crime(s) involved moral turpitude; [X] Crime(s) which may or may not involve moral turpitude or other misconduct warranting discipline; [X] Transmittal of Notice of Finality of Conviction.

To the CLERK OF THE STATE BAR COURT:

1. Transmittal of records.

[X] A. Pursuant to the provisions of Business and Professions Code, section 6101-6102 and California Rules of Court, rule 9.5 et seq., the Office of Chief Trial Counsel transmits a certified copy of the record of convictions of the following member of the State Bar and for such consideration and action as the Court deems appropriate:

[ ] B. Notice of Appeal

[X] C. Evidence of Finality of Conviction (Notice of Appeal/Lack of Appeal)

[ ] D. Other

Name of Member: Scott L. Adkins

Date member admitted to practice law in California: May 1, 1998

Member's Address of Record: 198 S. Carol Malone Blvd.
Grayson, KY 41143-1352

2. Date and court of conviction; offense(s).

The record of conviction reflects that the above-named member of the State Bar was convicted as follows:

Date of entry of conviction: June 17, 2011

Convicting court: Florida – Seventeenth Judicial Circuit – Broward County

Case number(s): 10000890MM10A

Crime(s) of which convicted and classification(s): Violation of Florida Annotated Statutes ("Fla. Stat.") Fla. Stat. §§ 316.061/316.062, [Crashes involving damage to vehicle or property/Duty to give information and render aid], a misdemeanor which may or may not involve moral turpitude or other misconduct warranting discipline as in *In re Kelley*, (1990) 52 Cal. 3d 487. In addition Respondent was also in violation of Fla. Stat. §316.192, [Reckless Driving], a misdemeanor which may or may not involve moral turpitude or other misconduct warranting discipline as in *In re Titus*, (1989) 47 Cal. 3d 1105.

[ ] 3. Compliance with Rule 9.20. (Applicable only if checked.)

We bring to the Court's attention that, should the Court enter an order of interim suspension herein, the Court may wish to require the above-named member to comply with the provisions of rule 9.20, California Rules of Court, paragraph (a), within 30 days of the effective date of any such order; and to file the affidavit with the Clerk of the State Bar Court provided for in paragraph (c) of rule 9.20 within 40 days of the effective date of said order, showing the member's compliance with the provisions of rule 9.20.

[X] 4. Other information to assist the State Bar Court

On January 14, 2010, Respondent was charged with 1 count, Refusing to Submit to Blood/Breath Test; 1 count, Driving Under the Influence; 1 count, Leaving the Scene of an Accident; Violation of License Restrictions; 1 count Careless Driving; 1 count, Following a vehicle to closely, and 1count, Improper Change of Lanes to which Respondent pled not guilty. On June 17, 2011, Respondent changed his plea and was convicted of Crashes involving damage to vehicle or property/Duty to give information and render aid and Reckless Driving (reduced from Driving Under the Influence). Respondent was sentenced to 50 hours of community service, pay fines, and restitution.

DOCUMENTS TRANSMITTED:

Certified Copy of the Information
Certified Copy of Defendant's County Judgment and Sentence form
Certified Copy of Disposition Order
Certified Copy of Court Docket
Notice of Appeal/Lack of Appeal

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

DATED: July 24, 2017

BY: _____
KEVIN B. TAYLOR
Senior Trial Counsel

A copy of this transmittal and its
Attachments have been sent to:

Scott L. Adkins
198 S. Carol Malone Blvd.
Grayson, KY 41143-1352

DECLARATION OF SERVICE BY CERTIFIED MAIL

CASE NUMBER: 10-C-00886

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail the date shown below, a true copy of the within

TRANSMITTAL OF RECORDS OF CONVICTION OF ATTORNEY, including:

Certified Copy of the Information
Certified Copy of Defendant's County Judgment and Sentence Form
Certified Copy of Disposition Order
Certified Copy of Court Docket
Notice of Appeal/Lack of Appeal

in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 9414 7266 9904 2097 0398 52, at San Francisco, on the date shown below, addressed to:

Scott L Adkins
198 S Carol Malone Blvd
Grayson, KY 41143-1352

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: July 25, 2017

Signed: _____
Ina M. Strehle
Declarant

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST December 20, 2018
State Bar Court, State Bar of California,
Los Angeles

By _____
Clerk

CERTIFICATE OF SERVICE

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

I am a Court Specialist 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 July 9, 2019, 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:

SCOTT L ADKINS
1263A DAMRON BR
GRAYSON, KY 41143-7159

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

COLLIN L GRANT, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 9, 2019.

Angela Carpenter
Court Specialist
State Bar Court