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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

PUBLIC MATTEI

<p>Counsel For The State Bar</p> <p>Stacia L. Johns Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1004</p> <p>Bar # 292446</p>	<p>Case Number(s): 17-C-02768-DFM</p>	<p>For Court use only</p> <p>FILED</p> <p>DEC 12 2017</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES <i>[Signature]</i></p>
<p>In Pro Per Respondent</p> <p>Shane Andres Reed Reed & Associates P.O. Box 452 Jacksonville, OR 97530 (541) 899-1085</p> <p>Bar # 158382</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: SHANE ANDRES REED</p> <p>Bar # 158382</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 8, 1992.
- (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 15 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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(Effective July 1, 2015)

Actual Suspension

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **three billing cycles following the effective date of the Supreme Court order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
 - (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith. **See page 11.**
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

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- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See page 11.**
- (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:

Prior Record of Discipline in a Foreign Jurisdiction: See pages 11-12 and Exhibit 1.

C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the

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product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (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 12.

D. Discipline:

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

iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.

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- (10) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

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In the Matter of: Shane Andres Reed	Case Number(s): 17-C-02768-DFM
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of revocation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

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- 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.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";
 - b. Respondent has kept and maintained the following:
 - i. A written ledger for each client on whose behalf funds are held that sets forth:
 - 1. the name of such client;
 - 2. the date, amount and source of all funds received on behalf of such client;
 - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 - 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 - 1. the name of such account;
 - 2. the date, amount and client affected by each debit and credit; and,
 - 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
 - c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
 - i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

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d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SHANE ANDRES REED

CASE NUMBER: 17-C-02768-DFM

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 17-C-02768 (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 8, 2015, the United States Attorney's Office for the District of Oregon filed an Information charging respondent with one count of violation of 26 of the United States Code section 7203 [failure to pay income tax], a misdemeanor.
3. On May 13, 2015, respondent pled guilty to one misdemeanor count of failure to pay income tax for tax years 2007, 2008, and 2009, in violation of 26 United States Code section 7203 [failure to pay income tax].
4. On May 13, 2015, Respondent was sentenced to five years' probation with conditions including 250 hours of volunteer work and an assessment of \$25. No restitution was ordered.
5. On August 17, 2017, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offense(s) for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

6. Respondent was practicing as a personal injury attorney when he filed federal income tax returns for 2006, 2007, and 2008.
7. The federal income tax returns for 2006, 2007, and 2008 collectively reflected that respondent earned a total of approximately \$880,000 in income for which he had a tax obligation of approximately \$129,000.
8. Respondent failed to pay the taxes owed.

9. When the Internal Revenue Service ("IRS") began communicating with respondent in writing, seeking to address his nonpayment of taxes as reflected on his tax returns, respondent was initially nonresponsive. Letters sent by the Collection Division were returned unopened. After some time, the IRS initiated formal collection proceedings.

10. Respondent was aware that the IRS would be seeking to levy identifiable bank accounts to secure payment of income taxes he had acknowledged he owed by the filing of income tax returns.

11. In 2009, respondent began using his client trust account ("CTA") to retain earned fees. Knowing that the IRS would be hesitant to levy an attorney's CTA, respondent sheltered his income by knowingly and intentionally leaving earned fees in the CTA. Periodically, and without regard to when fees were earned, respondent accessed earned fees by writing checks to himself from the CTA, which were later cashed and used for personal expenses.

12. Respondent continued to commingle earned fees with client funds in his CTA through 2010 and 2011.

CONCLUSIONS OF LAW:

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

AGGRAVATING CIRCUMSTANCES.

Intentional Misconduct, Bad Faith or Dishonesty (Std. 1.5(d)): Respondent knowingly and intentionally used his client trust account to shelter earnings from potential collections by the IRS, thereby committing an act of moral turpitude.

Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)): Respondent's failure to pay income tax caused public harm. (See *In the Matter of Kreitenberg* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469, 475 [public harm is an aggravating factor where an attorney fails to pay income tax].)

Prior Record of Discipline in a Foreign Jurisdiction: Respondent has one prior record of discipline in Oregon. In 2007, respondent was reprimanded for two violations of the Oregon Rules of Professional Conduct: ORPC 8.4(a)(3) [misrepresentation] and 7.5(c)(1) [misleading firm name]. Respondent violated ORPC 8.4(a)(3) [misrepresentation] by signing his client's name to a release of claims without informing the opposing party that he had signed the release on behalf of the client as the client's attorney in fact. Respondent violated 7.5(c)(1) [misleading firm name] by advertising that he was in a firm with "associates" when he was the only attorney. Respondent stipulated to facts, conclusions of law, and discipline consisting of a reprimand. While respondent was not disciplined in California for this misconduct, it is still considered a prior record of discipline for purposes of aggravation because there is a record of the underlying facts surrounding the misconduct. (See *In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211, 224 [records from any jurisdiction stated in Business and Professions Code 6049.1 are prior records of discipline and may be considered aggravating where there is a record of the factual underpinnings from the foreign jurisdiction's discipline].) This unreported record of discipline from Oregon has been referred to the Intake

Department of the Office of Chief Trial Counsel and may result in a further disciplinary matter. See Exhibit 1.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a pretrial stipulation as to facts and conclusions of law, thereby obviating the need for trial and saving State Bar resources. (*Silva v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigation credit was given for entering into a stipulation as to facts and culpability].) Respondent has also acknowledged his misconduct.

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Respondent’s culpability in this proceeding is conclusively established by the record of his conviction (Bus. And Prof. Code section 6101(a); *In re Crooks* (1990) 51 Cal.3d 1090, 1097.) Respondent is presumed to have committed all elements of the crime 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.)

The facts and circumstances surrounding Respondent’s misdemeanor conviction for violation of United States Code section 7203 [failure to pay income tax] involved moral turpitude due to respondent’s dishonest conduct discussed below. The sanction most applicable to respondent’s misconduct is found under Standard 2.15(c), which provides: “Disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor involving moral turpitude.”

In aggravation, respondent engaged in dishonest conduct and caused public harm. Respondent used his client trust account ("CTA") to retain earned fees knowing that the IRS would be hesitant to levy an attorney's CTA. This conduct occurred from 2009 to 2011. By intentionally sheltering his income from the IRS's collection efforts in the CTA, respondent engaged in acts of moral turpitude. His failure to pay income tax also caused harm to the public.

In light of the foregoing, discipline consisting of two years' actual suspension and until respondent provides proof satisfactory to the State Bar of his rehabilitation, fitness to practice, and present learning and ability pursuant to Standard 1.2(c)(1) is appropriate to protect the public, the courts, and the legal profession; to maintain high professional standards by attorneys; and to preserve public confidence in the legal profession.

This level of discipline is consistent with case law. In *In re Chernik* (1989) 49 Cal.3d 467, the attorney was convicted of conspiracy to defraud the United States by impeding the lawful function of the Internal Revenue Service ("IRS"), in violation of 18 United States Code section 371. Specifically, the attorney illegally used backdated documents in a tax shelter scheme to allocate partnership losses to a partner prior to his entry into the partnership. The court found that the attorney's conviction involved moral turpitude. The court also noted that the attorney had 20 years of discipline-free practice. In that matter, the Supreme Court imposed discipline consisting of three years' stayed suspension, three years' probation subject to conditions, including the condition that the attorney be actually suspended for one year.

Like the attorney in *Chernik*, the facts and circumstances surrounding respondent's conviction involve acts of dishonesty constituting moral turpitude. However, unlike in *Chernik*, there is significant additional aggravation in the instant matter. While the court in *Chernik* noted that the attorney had 20 years of discipline-free practice, respondent has a prior record of discipline from 2007 in Oregon. Further, respondent intentionally shielded his income from IRS collection efforts by maintaining his income in his client trust account for several years. Respondent's use of his client trust account in the commission of the crime impugns the credibility of attorneys and the legitimacy of client trust accounts. In addition, respondent's failure to pay income tax caused public harm and placed entrusted funds at risk. Therefore, it is appropriate to impose a level of discipline substantially greater than the level of discipline imposed in *Chernik*.

In light of the foregoing, discipline consisting of two years' actual suspension and until respondent provides proof satisfactory to the State Bar of his rehabilitation, fitness to practice, and present learning and ability pursuant to Standard 1.2(c)(1) is appropriate to protect the public, the courts, and the legal profession; to maintain high professional standards by attorneys; and to preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of November 14, 2017, 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, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: Shane Andres Reed	Case number(s): 17-C-02768-DFM
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SIGNATURE OF THE PARTIES

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

11/27/17
Date


Respondent's Signature

Shane Andres Reed
Print Name

12/4/2017
Date

Stacia L. Johns
Deputy Trial Counsel's Signature

Stacia L. Johns
Print Name

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In the Matter of: Shane Andres Reed	Case Number(s): 17-C-02768-DFM
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ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)

Date

12/12/17


DONALD F. MILES
Judge of the State Bar Court

Oregon State Bar

True Copy Certificate

I certify that the attached documents consisting of 8 pages, are true and correct copies from the Oregon State Bar membership file or files of:

Shane A. Reed,
Bar No. 961597.

Regulatory Services

By Sergio Hernandez
Public Records Coordinator
Oregon State Bar

Date August 25, 2017

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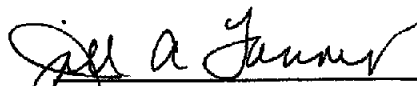
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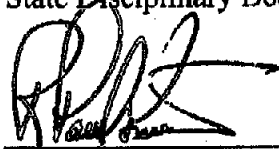
In re:)
Complaint as to the Conduct of) Case No. 06-111
SHANE A. REED,) ORDER APPROVING STIPULATION
Accused.) FOR DISCIPLINE

This matter having been heard upon the Stipulation for Discipline entered into by Shane A. Reed (hereinafter, "Accused") and the Oregon State Bar, and good cause appearing, it is hereby

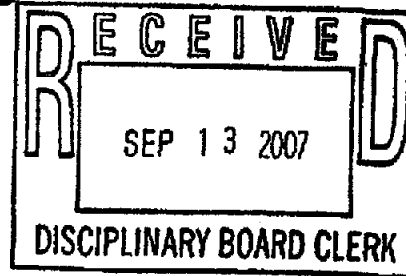
ORDERED that the stipulation between the parties is approved. The Accused is publicly reprimanded for violation of RPC 8.4(a)(3) and RPC 7.5(c)(1).

DATED this 19th day of September, 2007.



Hon. Jill A. Tanner
State Disciplinary Board Chairperson


R. Paul Frasier, Region 3
Disciplinary Board Chairperson



IN THE SUPREME COURT
OF THE STATE OF OREGON

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In re:)
Complaint as to the Conduct of) Case No. 06-111
SHANE A. REED,) STIPULATION FOR
Accused.) DISCIPLINE

8 Shane A. Reed, attorney at law, (hereinafter, "Accused") and the Oregon State Bar
9 (hereinafter, "Bar"), hereby stipulate to the following matters pursuant to Oregon State Bar Rule
10 of Procedure 3.6(c).

11 1.

12 The Bar was created and exists by virtue of the laws of the State of Oregon and is, and at
13 all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating
14 to the discipline of attorneys.

15 2.

16 The Accused was admitted by the Oregon Supreme Court to the practice of law in
17 Oregon on May 3, 1996, and has been a member of the Oregon State Bar continuously since that
18 time, having his office and place of business in Jackson County, Oregon.

19 3.

20 The Accused enters into this Stipulation for Discipline freely, voluntarily, and with the
21 advice of counsel. This Stipulation for Discipline is made under the restrictions of Bar Rule of
22 Procedure 3.6(h).

23 4.

24 On October 20, 2006, the State Professional Responsibility Board authorized a formal
25 disciplinary proceeding against the Accused for alleged violations of RPC 8.4(a)(3), RPC

1 7.1(a)(1), and RPC 7.5(c)(1). The parties intend that this stipulation set forth all relevant facts,
2 violations and the agreed-upon sanction as a final disposition of this proceeding.

3 **FACTS AND VIOLATIONS**

4 5.

5 On or about August 3, 2003, Adam Angel (hereinafter, "Angel") was involved in a motor
6 vehicle accident with an uninsured motorist. On or about August 13, 2003, Angel retained the
7 Accused to pursue claims for alleged personal and other injuries sustained and related to the
8 accident.

9 6.

10 On or about November 4, 2004, the Accused filed a civil complaint against Unitrin
11 Insurance Company, *Adam Angel v Unitrin Insurance Company*, Jackson County Circuit Court
12 Case No. 043932L1 (hereinafter, "Court Action"). In or about December 2005, the parties agreed to
13 settle the Court Action. Pursuant to the terms of settlement, the Accused's client was required to
14 sign a release of all claims.

15 7.

16 On or about December 26, 2005, pursuant to a power of attorney provided to the Accused
17 by his client, the Accused signed his client's name to a release of all claims in favor of Unitrin
18 Insurance Company (hereinafter, "Unitrin") and other persons. The Accused delivered the signed
19 release to representatives of Unitrin. The signature purported to be that of his client. The Accused
20 did not disclose to Unitrin and its representatives, either on the release or otherwise, that the
21 Accused's client did not sign the release or that the Accused had signed the client's name as the
22 client's attorney in fact.

23 8.

24 The Accused admits that the aforesaid conduct constitutes a misrepresentation in
25 violation of RPC 8.4(a)(3) of the Rules of Professional Conduct.

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Prior to and between January 2005 and November 2006, the Accused conducted his law practice with the names "Law Offices of Shane Reed & Associates," "Law Offices of Reed & Associates," and similar names. The Accused used the names on his firm letterhead and other documents, and advertised his firm name and services in writing using the names. At all material times, the Accused was the only lawyer in the Accused's law firm.

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The Accused admits that the aforesaid conduct constitutes practicing law under a name that was misleading as to the identity of the lawyer or lawyers practicing under such name in violation of RPC 7.5(c)(1) of the Rules of Professional Conduct. Upon further factual inquiry, the parties agree that the alleged violation of RPC 7.1(a)(1) as set forth in the Bar's Second Cause of Complaint, upon the approval of this stipulation, is dismissed.

13

SANCTION

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The Accused and the Bar agree that in fashioning an appropriate sanction, the ABA *Standards for Imposing Lawyer Sanctions* (hereinafter, "*Standards*") are considered. The *Standards* require that the Accused's conduct be analyzed by the following factors: (1) the ethical duty violated; (2) the attorney's mental state; (3) the actual or potential injury; and (4) the existence of aggravating and mitigating circumstances. *Standards*, §3.0.

20

a. **Duty violated.** In violating RPC 8.4(a)(3) and RPC 7.5(c)(1), the Accused violated a duty to the profession. *Standards*, §7.0.

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b. **Mental state.** "Knowledge" is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective to accomplish a particular result. "Negligence" is the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation

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1 from the standard of care that a reasonable lawyer would exercise in the situation.
2 *Standards*, p. 7. The Accused knowingly signed the release with the client's name
3 and did not disclose to opposing counsel that the signature was not that of the
4 client. The Accused was negligent in failing to understand that he could not use
5 the phrase "& Associates" when no other lawyers were part of his law firm.

6 c. **Injury.** The *Standards* define "injury" as harm to the client, the public, the legal
7 system or the profession that results from a lawyer's conduct. "Potential injury" is
8 harm to the client, the public, the legal system, or the profession that is reasonably
9 foreseeable at the time of the lawyer's conduct, and which, but for some
10 intervening factor or event, would probably have resulted from the lawyer's
11 misconduct. *Standards*, p. 7.

12 The Accused caused potential injury to opposing counsel and his client,
13 and the profession. Opposing counsel relied on the representation that the
14 signature appearing on the release was that of the Accused's client and was
15 denied any opportunity to determine whether the Accused's signing for the client
16 was sufficient or valid. There was also potential injury to the profession in that the
17 public could have been misled by the Accused's advertised law firm name.

18 d. **Aggravating factors.** "Aggravating factors" are considerations that increase the
19 degree of discipline to be imposed. *Standards*, §9.22. There are multiple offenses.
20 *Standards*, §9.22(d). The Accused has substantial experience in the practice of
21 law. He was admitted to practice in 1996. *Standards*, §9.22(i).

22 e. **Mitigating factors.** "Mitigating factors" are considerations that may decrease the
23 degree of discipline to be imposed. *Standards*, §9.32. The Accused has no prior
24 record of discipline. *Standards*, §9.32(a). There is an absence of dishonest
25 motives. The Accused held a power of attorney signed by the client upon which

1 he relied as the authority to sign his client's name. *Standards*, §9.32(b). The
2 Accused has acknowledged his misconduct and cooperated in the investigation
3 and the resolution of this case. *Standards*, §9.22(e). He regrets the misconduct.
4 *Standards*, §9.32(m). The Accused has also changed his practices in signing
5 documents for clients and disclosing the authority by which he does so. He has
6 also changed the name of his firm to comply with the rules of professional
7 conduct. *Standards*, §9.32(j).

8 12.

9 The *Standards* provide that suspension is generally appropriate when a lawyer knowingly
10 engages in conduct that is a violation of a duty owed as a professional and causes injury or
11 potential injury to a client, the public, or the legal system. *Standards*, §7.2. Reprimand is
12 generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty
13 owed as a professional and causes injury or potential injury to a client, the public, or the legal
14 system. *Standards*, §7.3.

15 13.

16 Oregon case law suggests that a reprimand is an appropriate sanction in this case. *See*,
17 *e.g.*, *In re Sims*, 284 Or 37, 584 P2d 765 (1978) (reprimand for violation of former DR 1-
18 102(A)(3) [current RPC 8.4(a)(3)] when lawyer signed client's name to document and then
19 notarized the signature); *In re Shilling*, 9 DB Rptr 53 (1995) (reprimand for violation of former
20 DR 1-102(A)(3) [current RPC 8.4(a)(3)] when lawyer procured notarization of signature on
21 affidavit that was not signed in notary's presence). *See also*, *In re Sussman and Tanner*, 241 Or
22 246, 405 P2d 355 (1965) (public censure where lawyers identified themselves as partners when
23 they only shared office space).

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14.

Consistent with the *Standards* and case law, the Bar and the Accused agree that the Accused shall be reprimanded for violations of RPC 8.4(a)(3) and RPC 7.5(c)(1) of the Rules of Professional Conduct.

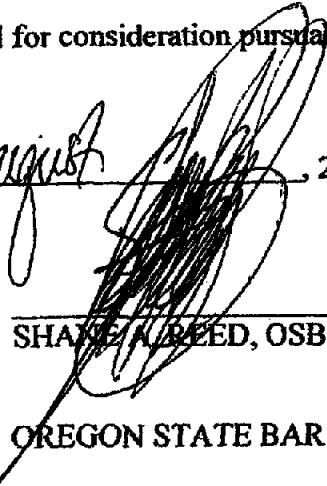
15.


In addition, the Accused shall pay \$740.20 to the Bar for the costs associated with the Accused's deposition. The amount shall be immediately due and payable. The Bar shall be entitled to entry of a judgment against the Accused for these costs, plus interest thereon at the legal rate from the date of judgment until paid.

16.

This Stipulation for Discipline has been reviewed by the Disciplinary Counsel of the Oregon State Bar, the sanction was approved by the State Professional Responsibility Board, and shall be submitted to the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

DATED this 29th day of August, 2007.


SHANE A. REED, OSB No. 96159
OREGON STATE BAR

By: 
Jane E. Angus, OSB No. 73014
Assistant Disciplinary Counsel

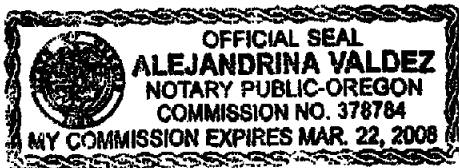
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I, Shane A. Reed, being first duly sworn, say that I am the Accused in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true and correct as I verily believe.

[Handwritten signature of Shane A. Reed]

Shane A. Reed

Subscribed and sworn to before me this 13th day of August, 2007.



[Handwritten signature]

Notary Public for Oregon
My commission expires: March 22, 2008

I, Jane E. Angus, being first duly sworn, say that I am Assistant Disciplinary Counsel for the Oregon State Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline and that the sanction was approved by the SPRB for submission to the Disciplinary Board on the 17th day of August, 2007.

[Handwritten signature of Jane E. Angus]

Jane E. Angus

Subscribed and sworn to before me this 13th day of September, 2007.



[Handwritten signature of Karen L. Duncan]

Notary Public for Oregon
My commission expires: Nov. 24, 2010

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 12, 2017, I deposited a true copy of the following document(s):

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

in a sealed envelope for collection and mailing on that date as follows:

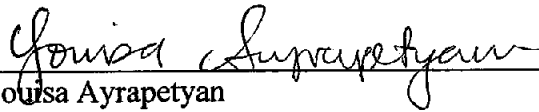
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SHANE A. REED
REED & ASSOCIATES
P O BOX 452
JACKSONVILLE, OR 97530

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

STACIA L. JOHNS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 12, 2017.



Louisa Ayrapetyan
Case Administrator
State Bar Court