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**State Bar Court of California
Hearing Department
San Francisco
ACTUAL SUSPENSION**

<p>Counsel for the State Bar</p> <p>Jennifer Roque Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2452</p> <p>Bar # 282441</p>	<p>Case Number(s): 17-O-05536</p> <p>kwiktag® 241 071 973</p> 	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED</p> <p>MAR 08 2019</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Shannon M. Henderson 1716 Canyon Creek Dr Roseville CA 95747-4943 (916) 267-3456</p> <p>Bar # 216104</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: SHANNON MARIE HENDERSON</p> <p>Bar # 216104</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 3, 2001**.
- (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 **16** 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. 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 a member 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 membership 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: **15-C-11005-LMA (See page 13 and Exhibit 1)**
 - (b) Date prior discipline effective: **April 18, 2017**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code sections 6101 and 6102 and rule 9.10 of the California Rules of Court**
 - (d) Degree of prior discipline: **Private Reproval**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.

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- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See page 13.**
- (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 13.**
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution. **See page 14.**
- (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.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

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- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by 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 which resulted from circumstances not reasonably foreseeable or which were beyond Respondent's control and which 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 14.

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 _____, 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 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.
- 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:

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- a. Respondent makes restitution to _____ 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 **year** 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 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):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- 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 **one (1) year**, the execution of that suspension is stayed, and Respondent is placed on probation for **one (1) year** with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first **60 days** of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent makes restitution to **Russell O'Coy** in the amount of \$ **13,400** plus 10 percent interest per year from **December 4, 2015** (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,

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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 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):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

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:

- (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 (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) 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 Membership 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 membership 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.
- 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 **Respondent was ordered to attend Ethics School in her prior discipline (State Bar Case no. 15-C-11005-LMA).**
- (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 _____ 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 _____ 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 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 to 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 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.

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:

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SHANNON MARIE HENDERSON

CASE NUMBERS: 17-O-05536-MC

FACTS AND CONCLUSIONS OF LAW.

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

FACTS:

1. On November 29, 2015, Russell O'Coy ("O'Coy") retained respondent to represent him in a dissolution matter.
2. On December 4, 2015, O'Coy paid respondent \$2,500 in advanced fees to file a response to the dissolution and submit financial disclosure information to the Court, including an Income and Expense Declaration, on O'Coy's behalf.
3. On December 17, 2015, respondent filed a response to the dissolution petition on behalf of O'Coy, but failed to submit any financial disclosure information to the Court. Thereafter, respondent performed no further work on behalf of O'Coy.
4. On December 30, 2015, the opposing party served form interrogatories on respondent. Respondent received the interrogatories, but failed to respond.
5. On February 18, 2016, opposing counsel sent an email to respondent requesting responses to the interrogatories. On February 22, 2016, opposing counsel received a request from respondent for an extension of time to respond to the interrogatories.
6. On February 23, 2016, opposing counsel granted a 30-day extension to respondent to respond to the interrogatories. Respondent did not submit responses to the interrogatories by the extended deadline and did not respond to subsequent emails that she received from opposing counsel on April 19, 2016, and May 25, 2016.
7. On May 26, 2016, O'Coy paid respondent an additional \$10,000 in advanced fees to complete the dissolution matter with his ex-wife.
8. On July 27, 2016, opposing counsel filed a motion to compel answers to the interrogatories and for reasonable sanctions and attorney fees. Opposing counsel requested \$1,043 in attorney fees, based on five hours of work at \$187.50 per hour, plus a \$60 filing fee and a \$45 filing service fee. Respondent received the motion to compel and failed to file an opposition.

9. On September 12, 2016, the Court heard the motion to compel. Respondent appeared by telephone and informed the Court that she had a death in the family in Los Angeles. The Court granted the motion to compel answers to the interrogatories, ordering "All requested documents are to be handed over by defendant by close of business 9/23/16", and ordered O'Coy to pay attorney fees in the amount of \$900. The Family Law Minutes that reflect the Court's order do not address the request for sanctions. Respondent failed to provide the documents by September 23, 2016, in violation of the Court's order, and failed to notify O'Coy of the Court's order ordering him (O'Coy) to pay \$900 in attorney's fees.
10. On December 17, 2016, O'Coy sent a letter to respondent via email terminating respondent's services, and requesting his file and a refund. Respondent received the email, but failed to provide a refund or the client file to O'Coy.
11. On January 3, 2017, respondent responded to O'Coy via email, stating that she completely understood his position, his file should be delivered via UPS on January 5, 2017, and a full refund was warranted. Respondent stated that she would be back in Roseville sometime in February 2017, and would contact O'Coy to arrange the refund. Respondent failed to contact O'Coy in February to arrange for his refund. Respondent performed no services of value and did not earn any of the advanced fees paid by O'Coy.
12. On March 15, 2017, respondent emailed O'Coy, stating that she wanted to agree on a payment plan to reimburse O'Coy and apologizing for the fact that her temporary relocation to Los Angeles affected his case. Respondent stated that she was seeking full time employment in Sacramento and expected to be working in a month. She said that reimbursing O'Coy was her top priority.
13. On an unknown date, O'Coy met respondent at her house, and a man who was there provided O'Coy with part of his file.
14. On April 17, 2017, O'Coy sent her an email asking for an update on his refund. Respondent received the email, but failed to respond. To date, O'Coy has had no further contact with respondent. Thereafter, O'Coy filed a complaint against respondent with the State Bar.
15. On October 27, 2017, and January 9, 2018, the State Bar sent letters to respondent requesting a response to the allegations in O'Coy's complaint. Respondent received the letters, but failed to respond.

CONCLUSIONS OF LAW:

16. By failing to file financial disclosure information with the court, by failing to respond to discovery, by failing to oppose the motion to compel, by failing to comply with the Court's September 12, 2016 order, by failing to inform O'Coy of the Court's September 12, 2016 order, by failing to send the discovery (form interrogatories) to O'Coy, by failing to complete the dissolution, and by failing to provide any services of value after filing a response to the dissolution petition, respondent failed to perform in willful violation of former rule 3-110(A) of the Rules of Professional Conduct.

17. By failing to respond to form interrogatories on behalf of the client by September 23, 2016, in violation of the Court's September 12, 2016 order, respondent failed to comply with a court order requiring her to do or forbear an act connected with the course of her profession, in willful violation of Business and Professions Code section 6103.
18. By failing to inform the client of the Court's order requiring the client to pay \$900 in attorney's fees, respondent failed to inform the client of a significant event, in willful violation of Business and Professions Code section 6068(m).
19. By failing to return the entire client's file upon his request on December 17, 2016, respondent failed to promptly return the client file, in willful violation of former rule 3-700(D)(1) of the former Rules of Professional Conduct, and rule 1.16(e)(1) of the current Rules of Professional Conduct.
20. By failing to return to the client the unearned fees of \$12,500 after respondent failed to provide any services of value on his case after filing a response to the dissolution on December 17, 2015, respondent failed to refund the unearned fees, in willful violation of rule 3-700(D)(2) of the former Rules of Professional Conduct, and rule 1.16(e)(2) of the current Rules of Professional Conduct.
21. By failing to provide the client an accounting of the fees and his billing when the client terminated respondent's services and asked for a refund on December 17, 2016, respondent failed to render an appropriate accounting to the client regarding those funds upon the termination of respondent's employment on December 17, 2016, in willful violation of rule 4-100(B)(3) of the former Rules of Professional Conduct, and rule 1.15(d)(4) of the current Rules of Professional Conduct.
22. By failing to respond to the State Bar Investigator's letters sent on October 27, 2017, and January 9, 2018, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent, in willful violation of Business and Professions Code section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has one prior record of discipline in State Bar Case No. 15-C-11005-LMA, effective April 18, 2017, where respondent received a private reproof with public disclosure for a conviction of misdemeanor Reckless Driving with Injury. Respondent was involved in a hit and run incident in a Target parking lot. In mitigation, respondent had no prior record of discipline, displayed spontaneous candor and cooperation, provided letters attesting to her good character, and entered into a pretrial stipulation. There were no aggravating factors.

Multiple Acts 1.5(b): Respondent engaged in seven acts of misconduct, representing multiple acts of misconduct.

Harm 1.5(f): Respondent's misconduct, which caused delays in the dissolution proceedings, and failure to refund unearned fees to the client caused significant harm to the client and to the administration of justice.

Failure to Make Restitution 1.5(m): Respondent has failed to make restitution to her client by failing to refund any portion of unearned fees.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent would be entitled to mitigation if she entered into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving State Bar Court time and resources. (*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].)

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.) The standards help fulfill the primary purpose 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 discipline 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 lesser 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 is charged with multiple acts of professional misconduct. Standard 1.7(a) requires that where a two or more acts of misconduct are found, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards. The most severe sanction applicable to respondent’s misconduct is found in Standard 2.12(a), which provides: “Disbarment or actual suspension is the presumed sanction for disobedience or violation of a court order related to the member’s practice of law, the attorney’s oath, or duties required of an attorney under Business and Professions Code section 6068(a)(b)(d)(e)(f) or (h).” Standard 1.8(a) also applies because respondent has a prior record of discipline. Standard 1.8(a) provides: “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 a greater discipline would be

manifestly unjust.” Respondent’s prior was serious and recent; therefore, a higher level of discipline than a private reproof is warranted under the standards.

Here, respondent failed to perform, failed to obey a Court order, failed to inform the client of a significant event, failed to return the client file, failed to refund unearned fees, failed to provide an accounting, and failed to cooperate with the State Bar.

To determine the appropriate level of discipline, consideration must also be given to the aggravating and mitigating circumstances. In aggravation, respondent has a prior record of discipline, has committed seven acts of misconduct and has failed to make restitution. Respondent would be entitled to mitigation for entering into a pretrial settlement. This is tempered by her failure to cooperate in the investigation. A period of actual suspension is appropriate under the standards. Given the limited scope and nature of the misconduct, however, discipline at the lower end recommended by the Standards is appropriate.

Case law is instructive. In *Bach v. State Bar* (1991) 52 Cal.3d 1201, the Supreme Court held that failure to perform legal services for a client in an uncontested marital dissolution proceeding, failure to communicate with client over much of the time, withdrawal of representation without the client’s consent or court approval, failure to refund unearned fees paid in advance, and failure to cooperate in the State Bar’s investigation of the complaint warranted a 30-day actual suspension. Respondent’s misconduct is very similar to *Bach*, but arguably more egregious because unlike the attorney in *Bach*, respondent has a prior record of discipline and failed to obey a court order.

On balance, a 60-day actual suspension, one year stayed suspension, and a one-year probationary period, with the condition that respondent stay suspended until she pays restitution, will serve the purposes of attorney discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of February 4, 2019, the discipline costs in this matter are \$3,857. 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

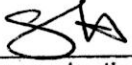
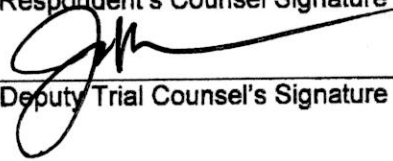
Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School and/or any other educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: SHANNON MARIE HENDERSON	Case Number(s): 17-O-05536-MC
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SIGNATURE OF THE PARTIES

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

<u>2/19</u> Date	<u></u> Respondent's Signature	<u>Shannon M. Henderson</u> Print Name
<u>2/19/19</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Jennifer Roque</u> Print Name

(Do not write above this line.)

In the Matter of:
SHANNON MARIE HENDERSON

Case Number(s):
17-O-05536-MC

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 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).)**

Date

3/8/19


MANJARI CHAWLA
Judge of the State Bar Court

NOT FOR PUBLICATION

(Do not write above this line.)

State Bar Court of California Hearing Department San Francisco REPROVAL		
Counsel For The State Bar Hans Moore Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 Bar # 309685	Case Number(s): 15-C-11005-LMA	For Court use only FILED APR 18 2017 <i>W</i> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Shannon Henderson Law Offices of Shannon Henderson 408 Lucera Court Roseville, CA 95747 Bar # 216104	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PRIVATE REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: SHANNON HENDERSON Bar # 216104 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 3, 2001.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 13 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Effective April 1, 2016)

EXHIBIT

tabbles

1

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Reproval

*DRY
KOR*

(Do not write above this line.)

- (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 reproof).
 - Case ineligible for costs (private reproof).
 - 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 reproof 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 reproof 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 reproof 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 reproof 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."

(Do not write above this line.)

- (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. See "Additional Facts Re Aggravating Circumstances", attachment page 9.**

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. See "Additional Facts Re Mitigating Circumstances", attachment page 9.

(Do not write above this line.)

- (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. See "Additional Facts Re Mitigating Circumstances", attachment page 9.
- (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. See "Additional Facts Re Mitigating Circumstances", attachment page 9.
- (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 Discipline. See "Additional Facts Re Mitigating Circumstances", attachment page 9.
Pretrial Stipulation. See "Additional Facts Re Mitigating Circumstances", attachment page 10.**

D. Discipline:

- (1) **Private reproof (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 reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproof:

(Do not write above this line.)

- (1) Respondent must comply with the conditions attached to the reproof for a period of one year.
- (2) During the condition period attached to the reproof, 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 reproof. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the reproof 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 reproof. 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 reproof 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 reproof with the probation monitor to establish a manner and schedule of compliance. During the reproof 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 reproof.
- (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.
- (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 reproof.

No MPRE recommended. Reason: See "MPRE Exception", attachment page 11.

(Do not write above this line.)

(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:

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SHANNON HENDERSON

CASE NUMBER: 15-C-11005-PEM

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 15-C-11005 (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 November 10, 2014, the Placer County District Attorney filed a First Amended Specified Misdemeanor Complaint in Placer County Superior Court, case no. 62-131596, charging respondent with one count of violation of Penal Code section 647(f) [Public Drunkenness], a misdemeanor, and one count of violation of Vehicle Code section 20001(a) [Hit and Run with Injury], a misdemeanor.

3. On July 13, 2015, the count for violation of Vehicle Code section 20001(a) was amended to violation of Vehicle Code section 23104(a) [Reckless Driving with Injury], a misdemeanor. On that same date, the court entered respondent's plea of nolo contendere to violation of Vehicle Codes section 23104(a), and based thereon, the court found respondent guilty of that count.

4. On July 27, 2015, the court suspended the imposition of sentence for a period of three years and placed respondent on formal probation for a period of three years on conditions which included confinement for five days, completion of intensive outpatient treatment (for alcohol addiction) through Kaiser, abstinence from use and possession of intoxicants, and submission to drug, narcotic or alcohol testing as directed by the probation officer or any peace officer. Pursuant to a plea agreement, the court dismissed the remaining count in the furtherance of justice.

5. On January 5, 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. On June 30, 2014, respondent went to the hospital for treatment for alcohol problems. Respondent was given an IV while at the hospital. Against medical advice, respondent left the hospital without receiving treatment, and with the IV still in her arm. At the request of the hospital, the Roseville

police department performed a welfare check on respondent later that day. Respondent was intoxicated at the time of the welfare check, but did not return to the hospital.

7. Shortly before 12:20 p.m. on the following day, July 1, 2014, respondent was involved in an automobile accident with Ariana and Bruce Bakeman ("Bakemans") in Roseville, CA. Respondent rear-ended the Bakeman's vehicle. Ariana Bakeman was evaluated at the scene for complaints of neck and back pain and dizziness.

8. Both vehicles pulled into a Target parking lot. Respondent spoke with the passenger, Bruce Bakeman, for a few moments and provided him with her driver's license.

9. Contrary to the Bakemans' request for respondent to await police arrival, respondent left the scene.

10. The Bakemans reported the accident to the Roseville Police Department as a hit and run collision with injuries.

11. The license plate number provided by the Bakemans was traced to respondent. Ariana Bakeman subsequently positively identified respondent in a photo lineup.

12. At approximately 5:30 pm that day, respondent was arrested at a nearby Johnny Garlic's restaurant and jailed for violation of Penal Code section 849(b)(2). While in jail, respondent was also charged with violation of Vehicle Code section 20001(a) for the earlier auto accident.

13. One of the officers that investigated the auto accident recognized respondent's name, and recalled performing welfare checks at respondent's home, including the evening before, and previously arresting her for driving under the influence.

14. The Bakemans' property damage claim and Ariana Bakeman's bodily injury claim were resolved by respondent's insurance carrier on behalf of respondent.

OTHER FACTS AND CIRCUMSTANCES

15. On July 14, 2009, respondent became intoxicated from the consumption of alcohol and wandered onto a construction site. Respondent detained pursuant to Penal Code section 849 (b)(2). Respondent was issued a citation for violation of Penal Code section 647(f). The case was dismissed on September 28, 2009 in the interest of justice.

16. On October 3, 2009, respondent reported being assaulted by her then husband. On October 6, 2009, respondent left a message on the investigating officer's voicemail that she had lied about the assault to avoid arrest for public drunkenness or professional discipline. Respondent was charged with violation of Penal Code section 148.5 [Making a False Report of a Crime], a misdemeanor. The case was dismissed in the interest of justice on September 16, 2010.

CONCLUSIONS OF LAW:

17. The facts and circumstances surrounding respondent's conviction for violation of Vehicle Code section 23104(a) [Reckless Driving with Injury], a misdemeanor, did not involve moral turpitude but did involve other misconduct warranting discipline.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES

There are no known aggravating circumstances.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Spontaneous Candor and Cooperation (Std. 1.6(e)):

Std. 1.6(e) provides that spontaneous candor and cooperation displayed to the victims of the misconduct or to the State Bar is a mitigating circumstance.

During her initial meeting with the Deputy Trial Counsel and at the initial status conference, respondent immediately accepted responsibility for her misconduct and expressed a willingness to cooperate in the proceedings and achieve a prompt resolution.

Extraordinary Good Character (Std. 1.6(f)):

Std. 1.6(f) provides that extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct is a mitigating circumstance.

Respondent provided four character letters, including from her mother, a friend, a professional acquaintance, and a former co-worker from the public defender's office. Each reference, notwithstanding their knowledge of her conviction and alcohol problems, attested to respondent's integrity, honesty, commitment to providing pro bono services to the disadvantaged, and rehabilitation efforts through Alcoholics Anonymous. (See *In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 591-592 [significant mitigation given for testimony of three witnesses with long-standing familiarity and broad knowledge of attorney's good character].)

Prompt Objective Steps (Std. 1.6(g)):

Std 1.6(g) provides that prompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement is a mitigating circumstance.

Within three days of being released from jail on July 3, 2014, respondent took immediate steps to address her alcohol problems by voluntarily enrolling in an one year intensive outpatient chemical dependency program and seeking support through participation in Alcoholics Anonymous and religious activities. She completed the outpatient program shortly after her criminal case settled in 2015.

No Prior Discipline: Mitigation is permitted for the absence of prior discipline over many years of practice, notwithstanding the seriousness of the present misconduct. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.) Significant weight is afforded for more than ten years of discipline-free practice. (See *Hawes v. State Bar* (1990) 51 Cal. 3d 587, 596.)

Respondent had approximately 13 years of discipline free practice at the time of her misconduct in 2014 (eight years of discipline free practice at the time of the citation for public drunkenness on July 14,

2009). There is no evidence to refute her claim of sobriety for the past 2 ½ years or to suggest that her misconduct will recur.

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 attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

Respondent was convicted of reckless driving with injury (Vehicle Code section 23104(a)). While the conviction itself does not give the appearance that alcohol was a factor in the underlying auto accident, the facts and circumstances surrounding the conviction demonstrate that respondent's alcohol problem was the primary source of her personal problems and her several contacts with law enforcement between 2009 and 2014. Therefore, respondent's alcohol problems are considered as part of the discipline analysis.

Misdemeanor violations for driving recklessly or under the influence of alcohol do not per se involve moral turpitude. (See *In re Kelley* (1990) 52 Cal.3d 487, 494.)

Std. 2.16 imposes suspension or reproof for a misdemeanor conviction that does not involve moral turpitude but involves other misconduct warranting discipline.

Modest discipline is warranted by the facts of this case. (See *In re Titus* (1989) 47 Cal.3d 1105 [public reproof imposed on attorney convicted of carrying concealed firearm, carrying loaded firearm, and reckless driving]; *In re Kelley, supra*, 52 Cal.3d 487 [public reproof imposed on attorney twice convicted of drunk driving and violation of criminal probation].)

Titus' additional convictions for carrying concealed firearm and carrying loaded firearm outweigh the other facts and circumstances present here. And, despite her admitted problems with alcohol, respondent does not have any DUI convictions (compared to Kelley's two) and she made an effort to obtain treatment for her alcohol problems immediately before the 2014 auto accident. Also, respondent voluntarily enrolled in a treatment program less than a week after the arrest resulting in her conviction. (See *In the Matter of Respondent I*, 2 Cal. State Bar Ct. Rptr. 260 [respondent credited with showing respect for the legal system and understanding the seriousness of his misconduct by abstaining from alcohol and beginning an intense psychotherapy program].) Further, there is no information to refute respondent's (and her references') claim of rehabilitation. (See *In the Matter of Respondent I*, 2 Cal. State Bar Ct. Rptr. 260 [respondent's five years of sobriety demonstrated rehabilitation, a significant factor].)

Balancing all factors, including the absence of aggravation and the presence of several mitigating factors, a level of discipline less than that imposed in *In re Titus, supra*, 47 Cal.3d 1105 and *In re Kelley, supra*, 52 Cal.3d 487 is appropriate. A private reproof is sufficient to protect the public, the courts and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession.

MPRE EXCEPTION

The protection of the public and the interests of the respondent do not require passage of the MPRE in this case. (See *In the Matter of Respondent G* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181 and rule 9.19, Cal. Rules of Court.)

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

Respondent may not receive MCLE credit for completion of State Bar Ethics 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.)

(Do not write above this line.)

In the Matter of: SHANNON HENDERSON	Case Number(s): 15-C-11005-PEM
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Substance Abuse Conditions

- a. Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b. Respondent must attend at least four (4) meetings per month of:
- Alcoholics Anonymous
 - Narcotics Anonymous
 - The Other Bar
 - Other program

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

- c. Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d. Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.
- e. Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.


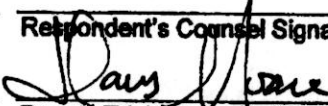
Other:

(Do not write above this line.)

In the Matter of: SHANNON HENDERSON	Case number(s): 15-C-11005-PEM
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SIGNATURE OF THE PARTIES

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

<u>4-3-17</u> Date	<u></u> Respondent's Signature	<u>SHANNON HENDERSON</u> Print Name
<u>N/A</u> Date	<u></u> Respondent's Counsel Signature	<u>N/A</u> Print Name
<u>4/10/17</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>HANS MOORE</u> Print Name

(Do not write above this line.)

In the Matter of: SHANNON HENDERSON	Case Number(s): 15-C-11005-LMA
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REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

April 18, 2017
Date


Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on April 18, 2017, I deposited a true copy of the following document(s):

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

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

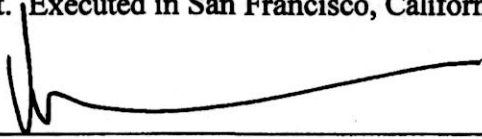
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

SHANNON M. HENDERSON
LAW OFC SHANNON HENDERSON
408 LUCERA CT
ROSEVILLE, CA 95747

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

Hans I. Moore, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 18, 2017.



Vincent Au
Case Administrator
State Bar Court

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 San Francisco, on March 8, 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 San Francisco, California, addressed as follows:

SHANNON M. HENDERSON
SHANNON HENDERSON, ESQ.
1716 CANYON CREEK DR
ROSEVILLE, CA 95747 - 4943

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

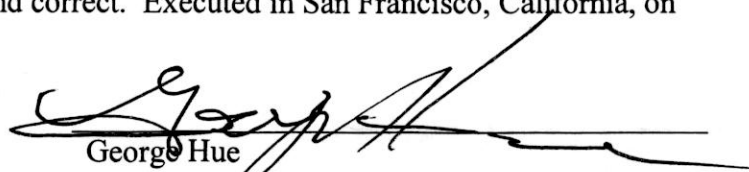
by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Jennifer E. Roque, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 8, 2019.


George Hue
Court Specialist
State Bar Court