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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Jaime M. Vogel Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017 213-765-1373</p> <p>Bar # 289669</p>	<p>Case Number(s): 17-O-07281</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 2em;">PUBLIC MATTER</p> <p style="text-align: center; font-size: 1.5em;">FILED</p> <p style="text-align: center; font-size: 1.2em;">JUL 11 2018</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Gerald Howard Sternberg 577 E. Mapledale Ave Apt #2 Hazel Park, Michigan 48030</p> <p>Bar # 96110</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: GERALD HOWARD STERNBERG</p> <p>Bar # 96110</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</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 16, 1980**.
- (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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".



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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (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 discipline 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 **15-O-11200. See page 9; See Exhibit 1, 19 pages.**
 - (b) Date prior discipline effective **November 18, 2016.**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code section 6106**
 - (d) Degree of prior discipline **One year stayed suspension, one year probation with conditions.**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (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.

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- (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. **See page 9.**
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See page 9
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

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

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- (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:

Prefiling Stipulation, See page 10.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one (1) year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of **one (1) year**, 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 **sixty (60) days**.
- 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: **Respondent resides in another jurisdiction. A comparable alternative to Ethics School is provided in section F(5) below.**
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:

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- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason: .
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: .
- (5) **Other Conditions: As a further condition of probation, because respondent resides out of state, respondent must either 1.) attend a session of State Bar Ethics School, pass the test given at the end of that session, and provide proof of the same to the Office of Probation within one (1) year of the effective date of the discipline herein; or 2.) complete six (6) hours of live, in person, or live online-webinar Minimum Continuing Legal Education ("MCLE") approved courses in legal ethics offered through a certified MCLE provider in Michigan or California and provide proof of same satisfactory to the Office of Probation within one (1) year of the effective date of the discipline.**

- c. submit a final report to the Office of Probation containing the same information as the quarterly reports 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 received the Supreme Court Order.

7. On November 10, 2016, a Probation Deputy from the Office of Probation ("OP") uploaded a courtesy reminder letter, regarding the conditions of probation pursuant to the Supreme Court Order, to respondent's State Bar membership profile. On the same date, an email regarding the courtesy reminder letter notice was sent to the email address provided in respondent's membership records. Respondent received the email.

8. On March 07, 2017, OP received a defective quarterly report from respondent that was due on January 10, 2017. The report was rejected by OP because respondent did not specify the reporting period.

9. On March 14, 2017, a Probation Deputy from OP mailed a non-compliance quarterly report letter to respondent at respondent's membership records address. On the same date, the Probation Deputy also emailed a courtesy copy of the non-compliance quarterly report letter to the email address provided in respondent's membership records. Respondent received the non-compliance letter and the email.

10. On April 03, 2017, respondent mailed the quarterly report to OP that was due on January 10, 2017. The OP received the quarterly report.

11. On April 18, 2017, OP received a defective quarterly report from respondent that was due on April 10, 2017. The report was rejected by OP because respondent did not specify the reporting period and did not report whether or not he complied with the Rules of Professional Conduct, State Bar Act, and Conditions of Probation.

12. On April 20, 2017, a Probation Deputy from the OP sent respondent a non-compliance quarterly report letter via email to respondent's membership record's email address. Respondent received the email.

13. On May 9, 2017, respondent mailed the quarterly report to OP that was due on April 10, 2017. The OP received the quarterly report.

14. On July 10, 2017, OP received a defective quarterly report from respondent that was due on July 10, 2017. The report was rejected by OP because respondent did not report whether or not he complied with the Rules of Professional Conduct, State Bar Act, and Conditions of Probation.

15. On August 1, 2017, a Probation Deputy from the OP sent respondent a noncompliance quarterly report letter via email to respondent's membership records email address. Respondent received the email.

16. On August 28, 2017, respondent mailed the quarterly report to OP that was due on July 10, 2017. The OP received that report.

17. On October 13, 2017, respondent mailed the quarterly report to OP that was due on October 10, 2017. The OP received that report.

18. By December 5, 2017, respondent had not attended State Bar Ethics School or completed six hours of certified MCLE approved courses in legal ethics in Michigan or California by the end of the probation period which was November 18, 2017.

19. On December 5, 2017, a Probation Deputy from the OP sent a non-compliance letter via email to respondent's membership records email address. Respondent received the email.

20. On December 21, 2017, respondent mailed the final report to OP that was due on November 18, 2017. The OP received the report.

21. To date, respondent has not attended State Bar Ethics School or completed six hours of certified MCLE approved courses in legal ethics in Michigan or California.

CONCLUSIONS OF LAW:

22. By failing to timely file the four quarterly reports on January 10, 2017, April 10, 2017, July 10, 2017, and October 10, 2017, timely file the final report due by November 18, 2017, and attend State Bar Ethics School or complete six hours of certified MCLE approved courses in legal ethics, respondent failed to comply with the conditions of his probation, in willful violation of Business and Professions Code Section 6068(k).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has one prior record of discipline. Effective November 18, 2016, in State Bar Case No. 15-O-11200 (S236416), the Supreme Court ordered that respondent be suspended for one year, stayed, and placed on one year of probation with conditions. In State Bar Case No. 15-O-11200 (S236416), respondent was required to complete 25 hours of MCLE during the period beginning February 01, 2011 and ending on January 31, 2014. On January 31, 2014, respondent reported to the State Bar, under penalty of perjury, that he had completed all 25 hours of MCLE required during the compliance period. In reality, respondent failed to complete any hours of MCLE during the compliance period. These actions committed by respondent involved an act of moral turpitude in willful violation of Business and Professions Code Section 6106.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent violated multiple conditions of his probation. All four of respondent's quarterly reports were untimely. The final report was also untimely. Respondent also failed to attend State Bar Ethics School or complete six hours of certified MCLE approved courses in legal ethics in Michigan or California.

Indifference Toward Rectification/Atonement (Std. 1.5k): Respondent's continued failure to come into compliance with the conditions of his probation or file a motion with the State Bar Court seeking modification, demonstrates indifference towards rectification. Respondent's probation conditions became effective on November 18, 2016. To date, respondent has not attended State Bar Ethics School or completed six hours of live, in person or online webinar MCLE approved courses in legal ethics. An attorney's continued failure to comply with probation conditions after being notified of that non-compliance is properly considered aggravation. (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 529-530.)

MITIGATING CIRCUMSTANCES.

Prefiling Stipulation: By entering into this stipulation prior to the filing of a Notice of Disciplinary Charges, respondent has acknowledged his misconduct and is entitled to mitigation for saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigation was given for entering into a stipulation as to facts and culpability]; *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).)

Standard 1.8(a) requires that respondent's discipline in this current proceeding be greater than the previously imposed sanction unless the prior was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust. Respondent's prior discipline, effective November 18, 2016, consisted of a one year stayed suspension, one year of probation with conditions. This prior discipline was not remote in time and the misconduct it addressed was serious as it involved moral turpitude. Accordingly, pursuant to Standard 1.8(a), the current discipline must be greater than a one year stayed suspension.

Respondent violated Business and Professions Code Section 6068(k) by failing to timely and properly submit four quarterly reports, failing to attend State Bar Ethics School or complete six hours of MCLE approved courses in legal ethics, and failing to timely submit the final report due by November 18, 2017 to the OP. Therefore, Standard 2.14 applies which states, “Actual suspension is the presumed sanction for failing to comply with a condition of discipline. The degree of sanction depends on the nature of the

condition violated and the member's unwillingness or inability to comply with disciplinary orders." Respondent has shown an unwillingness or inability to comply with his probationary conditions by not filing timely quarterly reports, not filing a timely final report, and failing to attend State Bar Ethics School or complete six hours of MCLE approved courses in Legal Ethics.

Respondent's misconduct is aggravated by his prior record of discipline consisting of a one year stayed suspension. Respondent's misconduct is further aggravated by his multiple acts of wrongdoing and indifference toward the rectification of his misconduct by not filing timely quarterly reports, not filing a timely final report, and failing to attend State Bar Ethics School or complete six hours of MCLE approved courses in Legal Ethics. Respondent's misconduct is mitigated by entering into this pre-filing stipulation. However, the mitigation is outweighed by the aggravating factors. In light of respondent's failure to comply with the terms of his probation, a one year stayed suspension, one year probation with conditions, including a 60 days' actual suspension is the appropriate level of discipline to ensure protection of the public, courts, and legal profession; maintenance of the highest professional standards by attorneys; and preservation of public confidence in the legal profession.

Case law supports this level of discipline. In *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, the attorney received discipline consisting of a one year stayed suspension, two years of probation with conditions, which included that the attorney pay restitution and complete State Bar Ethics School. The attorney in this case failed to complete both of these conditions in a timely manner. The court found that his misconduct was further aggravated by the State Bar's repeated need to seek the attorney's compliance with pressure and reminders to pay restitution and his improper use of his employer's name, the Yolo County District Attorney's Office, in his pleadings. The attorney was given some mitigation for agreeing to stipulate to the facts of the case. The Review Department recommended that the attorney receive discipline consisting of a one-year stayed suspension, two years of probation with conditions, including a 30 days' actual suspension.

Like the attorney in *Gorman*, respondent failed to comply with some of the conditions of probation. In both cases, the OP sent respondent notices of untimely submissions and probation conditions that were outstanding. Also like *Gorman*, respondent's prior level of discipline was a one year stayed suspension, one year probation with conditions. However, respondent's misconduct warrants a higher level of discipline than the attorney in *Gorman* due to aggravation consisting of a prior record of discipline, multiple acts of wrongdoing, and indifference which outweighs the mitigation consisting of entering into a pre-filing stipulation. To date, respondent has not attended State Bar Ethics or completed six hours of MCLE approved courses in legal ethics. Therefore, discipline consisting of a one year stayed suspension, one year probation with conditions, including a 60 days' actual suspension is appropriate to protect the public, the court and the legal profession; maintain the highest professional standards, and 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 June 19, 2018, the discipline costs in this matter are \$3,300. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION (“MCLE”) CREDIT

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

(Do not write above this line.)

In the Matter of: GERALD HOWARD STERNBERG	Case number(s): 17-O-07281
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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.

6/22/18 Gerald L. July GERALD STERNBERG
Date Respondent's Signature Print Name

6/29/18 J. V. Jaime Vogel
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: GERALD HOWARD STERNBERG	Case Number(s): 17-O-07281
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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.

Page 2, paragraph A.(8): The first of the three annual installment payments contemplated by this paragraph will be due on or before February 1, 2020.

On page 5 of the Stipulation, the "X" in the box next to paragraph E.(6) is deleted and an "X" is added to the box next to paragraph E.(7).

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.)**

7/11/18
Date


DONALD F. MILES
Judge of the State Bar Court

(State Bar Court No. 15-O-11200)

S236416

IN THE SUPREME COURT OF CALIFORNIA

SUPREME COURT
FILED

En Banc

OCT 19 2016

Jorge Navarrete Cler

In re GERALD HOWARD STERNBERG on Discipline

Deputy

The court orders that Gerald Howard Sternberg, State Bar Number 96110, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for one year subject to the following conditions:

1. Gerald Howard Sternberg must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on June 17, 2016; and
2. At the expiration of the period of probation, if Gerald Howard Sternberg has complied with the terms of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Gerald Howard Sternberg must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are 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. One-third of the costs must be paid with his membership fees for each of the years 2018, 2019, and 2020. If Gerald Howard Sternberg 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.

I, Jorge Navarrete, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

_____ day of OCT 19 2016

By: 
Deputy


CANTIL-SAKAUYE
Chief Justice

ORIGINAL

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION PUBLIC MATTER		
Counsel For The State Bar Heather Meyers Contract Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1075 Bar # 302264	Case Number(s): 15-O-11200	For Court use only <div style="text-align: center;"> FILED JUN 17 2016 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Gerald Howard Sternberg 10 Legrande Pontiac, MI 43842 (248) 499-4756 Bar # 96110	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
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- (1) Respondent is a member of the State Bar of California, admitted December 16, 1980.
- (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 11 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".

m/jd

(Do not write above this line.)

- (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.
 - 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 discipline.** (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 or a separate attachment entitled "Prior Discipline."
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property..
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.

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- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances

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

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

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- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) **No mitigating circumstances are involved.**

Additional mitigating circumstances

No Prior Record of Discipline. See Attachment pages 7-8.
Physical/Medical Difficulties. See Attachment page 8.
Pretrial Stipulation. See Attachment page 8.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one (1) year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), *Standards for Attorney Sanctions for Professional Misconduct*.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

The above-referenced suspension is stayed.

- (2) **Probation:**
- Respondent is placed on probation for a period of **one (1) year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.

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- (4) 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.

- (5) 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.
- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: Respondent resides in another jurisdiction. A comparable alternative to Ethics School is provided in section F (5) below.
- (8) 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.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **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) **Other Conditions:**

As a further condition of probation, because respondent resides out of state, respondent must either 1) attend a session of State Bar Ethics School, pass the test given at the end of each session, and provide proof of the same satisfactory to the Office of Probation within one (1) year of the effective date of the discipline herein; or 2) complete six (6) hours of live, in-person, or

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online webinar Minimum Continuing Legal Education ("MCLE") approved courses in legal ethics offered through a certified MCLE provider in Michigan or California and provide proof of same satisfactory to the Office of Probation within one (1) year of the effective date of the discipline.



ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GERALD HOWARD STERNBERG

CASE NUMBER: 15-O-11200

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 15-O-11200 (State Bar Investigation)

FACTS:

1. As a member of the State Bar, respondent was required to complete 25 hours of Minimum Continuing Legal Education ("MCLE") during the period commencing on February 1, 2011, and ending on January 31, 2014 (the "compliance period").

2. On January 31, 2014, respondent reported to the State Bar, under penalty of perjury, that he had completed all 25 required MCLE hours during the compliance period.

3. In fact, respondent had not completed any hours of MCLE during the compliance period.

4. When respondent affirmed MCLE compliance, he mistakenly believed he was in compliance with the MCLE requirements. However, when he made his affirmation under penalty of perjury, he did not check his records to confirm that he was indeed in compliance with his MCLE obligations, relying instead on his memory. When respondent reported his MCLE compliance to the State Bar, respondent was grossly negligent in not knowing that he was not in compliance with the MCLE requirements.

5. Respondent subsequently completed the required 25 hours of MCLE courses between October 27, 2014 and October 31, 2014, after being contacted on July 7, 2014, by the State Bar's Office of Member Records and Compliance regarding an audit of MCLE compliance, and paid applicable penalties as part of the MCLE audit.

CONCLUSIONS OF LAW:

6. By reporting under penalty of perjury to the State Bar that he was in compliance with the MCLE requirements, when he was grossly negligent in not knowing that he was not in compliance with the MCLE requirements respondent committed an act involving moral turpitude in wilful violation of Business and Professions Code section 6106.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to practice on December 16, 1980. He has been inactive a number of times for various periods, including from April 1, 1993 to October 24, 1994. Respondent was not entitled to practice from July 31, 1995 to August 7, 1998 for failure to pay bar membership dues. Additionally, from August 12, 1996 to August 7, 1998, respondent was inactive due to MCLE non-compliance. Respondent was also inactive from July 20, 2000 to July 2, 2002. Excluding those years in which he was inactive, at the time of the misconduct respondent had an active law license for approximately 26 years without a record of public discipline. (*In the Matter of Blum* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170, 177 [appropriate to depreciate years of practice by those not practicing law in mitigation determination]). While respondent's conduct is serious, he is entitled to substantial mitigation for a discipline-free record after a significant number of years of practicing law. (*Hawes v. State Bar*, (1990) 51 Cal.3d 587, 596 [gave significant weight in mitigation to attorney practicing 10 years without discipline]; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 [mitigation credit for many years of discipline free practice given even when conduct is serious]).

Physical/Medical Difficulties: On May 4, 2012, respondent suffered a serious electrocution burn running from his right hip to the sole of his right foot from a heating pad. Since that date, he has largely been bedridden and dependent on the care of home healthcare givers. Respondent submitted documentation of his diagnosis of first, second, and third degree burns on his leg, as well as documentation of present and continued physical therapy treatments and in-home healthcare. As a result of these injuries, and as documented in his medical records, respondent was prescribed and was taking multiple prescription painkillers that made him lightheaded and confused when he affirmed compliance. This, combined with the fact he was largely bedridden and dependent on caregivers at the time of affirming, is directly related to his failure to take steps to confirm that he was in fact in compliance with his MCLE requirements, instead of relying on his memory when affirming. Respondent has since recovered to the extent that he is no longer bedridden, and only takes pain medication on an as needed basis to manage his pain. Respondent is entitled to mitigation for physical, medical difficulties experienced during the compliance period when respondent shows adequate evidence of a causal connection between the difficulties and the misconduct, and in the absence of complete rehabilitation, steady progress towards rehabilitation from the ailment. (*In the Matter of Deierling* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552, 560-61 [mitigation afforded for attorney with disabilities related to his misconduct without expert evidence].)

Pretrial Stipulation: Respondent is entitled to mitigation for entering into this stipulation prior to trial, thereby preserving 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].) Respondent has also acknowledged his misconduct by entering into this stipulation.

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistence 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 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" (*In re Silverton* (2005) 36 Cal 4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220) as they "promote the consistent and uniform application of disciplinary measures" (*In re Silverton* at 91). As a result, the Standards should be followed "whenever possible" (*Id.* at 92, quoting *In re Young* (1989) 49 Cal.3d 257, 267) and deviations from the discipline stated in the Standards "should be elaborated with care." (*Id.* at 92).

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

Standard 2.11 applies to respondent's acts of moral turpitude. Standard 2.11 states that the presumed discipline for an act of moral turpitude is disbarment or actual suspension. Standard 2.11 further states, "[t]he degree of sanction depends on the magnitude of misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member's practice of law."

While Standard 2.11 calls for actual suspension, Standard 1.7(c) indicates that mitigating factors should be considered and may demonstrate the need for a lesser sanction than called for by the Standards. Here, respondent made a grossly negligent misrepresentation when he affirmed, under penalty of perjury, that he completed the required 25 hour MCLE requirement during the compliance period. In fact, respondent had not completed any hours during the compliance period. Respondent's misconduct circumvented the continuing legal education requirements established for the purpose of enhancing attorney competence and protecting the public. Respondent's act of confirming compliance without verifying his records was grossly negligent. ("Given the importance to the public that attorneys have current knowledge and skill through continuing education, we find that [the respondent's] failure to verify her MCLE compliance before affirming it constitutes gross negligence amounting to moral turpitude for discipline purposes." *In the Matter of Yee* (Review Dept. 2014) 5 Cal State Bar Ct. Rptr. 330, 334).

However, respondent's 26 years in practice, without a record of discipline, provides substantial mitigation. Respondent's serious medical issues stemming from his electrocution burns and his resulting pain medication and physical therapy resulted in his failure to confirm his MCLE compliance prior to affirming. This physical ailment, with a direct relationship to his misconduct, and from which he has made steady progress towards rehabilitation, also provides mitigation. Furthermore, respondent subsequently completed his outstanding MCLE credit hours, albeit outside the reporting period, after he was audited. Additionally, respondent is entitled to mitigation for entering into this pretrial stipulation thereby saving State Bar time and resources. Further, there are no aggravating factors present. Therefore, a deviation from Standard 2.11 is warranted, and a recommendation of a one year stayed suspension and one year of probation with conditions is appropriate in this matter.

Case law also supports this level of discipline. *In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330, attorney Yee submitted her MCLE compliance card and affirmed that she had completed the requisite 25 hours during her compliance period. However, during a subsequent audit and State Bar investigation, Yee was unable to produce any record of compliance. The Review Department found that Yee's affirmation without further verification of her records, constituted gross negligence amounting to moral turpitude for discipline purposes (*Yee* at 334), but declined to find she had misrepresented her

MCLE compliance intentionally. The Review Department found strong mitigation in Yee's case. In particular, the Review Department noted Yee's: (1) 10 and one half years of discipline-free practice; (2) her candor and cooperation with the State Bar during the investigation; (3) her good character as evidenced by the testimony of eleven witnesses; (4) her immediate recognition of wrongdoing and creation of a plan to avoid such issues in the future; and, (5) her significant amount of pro bono work and service to the community. *Id.* at 335-36. In *Yee*, the Review Department imposed discipline consisting of a public reproof.

Using *Yee* as a guide, respondent is afforded substantial mitigation for 26 years of practice without a record of discipline. He is also entitled to mitigation for his physical and medical ailments, from which he has made steady progress towards rehabilitation, related to his instant misconduct. Further, respondent is entitled to mitigation for entering into a pretrial stipulation. However, respondent's mitigation is not as great as the attorney in *Yee*. He has offered no evidence of community service and pro bono work. Nor has respondent offered evidence of good character. Therefore, the application of the Standards and the findings in *Yee* support public discipline greater than that recommended in *Yee*.

In light of the totality of the facts and circumstances presently available, including the mitigation of substantial number of years in practice without any disciplinary record, medical issues and pretrial stipulation, and in light of the Standards and *Yee*, discipline consisting of a one year stayed suspension and a one year period of probation with conditions is appropriate to protect the public, 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 the Chief Trial Counsel has informed respondent that as of June 3, 2016, the prosecution costs in this matter are approximately \$5,816. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT.

Pursuant to rule 3201, respondent may not receive MCLE credit for completion of the ethics courses ordered as a condition of his probation. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: GERALD HOWARD STERNBERG	Case number(s): 15-O-11200
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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.

June 10, 2016
Date


Respondent's Signature

Gerald Howard Sternberg
Print Name

Date

N/A
Respondent's Counsel Signature

Print Name

6-14-16
Date


Deputy Trial Counsel's Signature

Heather Meyers
Print Name

(Do not write above this line.)

In the Matter of: GERALD HOWARD STERNBERG	Case Number(s): 15-O-11200
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STAYED 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.

On page 1 of the stipulation, in the case caption, an "X" is inserted in the box before the phrase "Previous Stipulation Rejected" to reflect that the court rejected a previous stipulation.

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.)

June 17, 2016
Date

W. Kearse McGill
W. KEARSE MCGILL
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 17, 2016, I deposited a true copy of the following document(s):

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

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

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

**GERALD HOWARD STERNBERG
1628 S SHORE DR APT A1
EAST LANSING, MI 48823**

**GERALD HOWARD STERNBERG
10 LEGRANDE AVENUE
PONTIAC, MI 48342**

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

HEATHER L. MEYERS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 17, 2016.

Paul Barona

Paul Barona
Case Administrator
State Bar Court

PUBLIC MATTER

STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL
JAYNE KIM, No. 174614
CHIEF TRIAL COUNSEL
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CONTRACT ATTORNEY FOR THE STATE BAR
845 South Figueroa Street
Los Angeles, California 90017-2515
Telephone: (213) 765-1075

FILED

DEC 29 2015
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case No. 15-0-11200
GERALD STERNBERG,) NOTICE OF DISCIPLINARY CHARGES
No. 96110,)
A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

The State Bar of California alleges:

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JURISDICTION

1. Gerald Sternberg ("respondent") was admitted to the practice of law in the State of California on December 16, 1980, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE

Case No. 15-O-11200
Business and Professions Code section 6106
[Moral Turpitude – Misrepresentation of MCLE Compliance]

2. On or about January 31, 2014, respondent falsely reported under the penalty of perjury to the State Bar that respondent had fully complied with respondent's minimum continuing legal education ("MCLE") requirements for the period of February 1, 2011 to January 31, 2014 ("compliance period"), when respondent knew, or was grossly negligent in not knowing, that respondent had failed to complete the MCLE requirements for the compliance period, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

NOTICE - INACTIVE ENROLLMENT!

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.

NOTICE - COST ASSESSMENT!

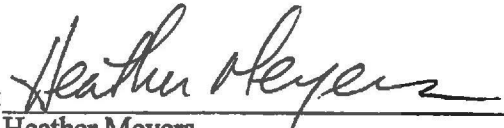
IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

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Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

DATED: December 29, 2015

By: 
Heather Meyers
Contract Attorney for the State Bar

DECLARATION OF SERVICE

CASE NUMBER(s): **15-O-11200**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))**
 - In accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.
- By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**
 - In accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.
- By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**
 - I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service (UPS).
- By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**
 Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.
- By Electronic Service: (CCP § 1010.6)**
 Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)

(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,
 Article No.: 9414 7266 9904 2010 0692 32 at Los Angeles, addressed to: (see below)

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,
 Tracking No.: _____ addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
GERALD HOWARD STERNBERG	1628 S. SHORE DR., APT. A1 EAST LANSING, MI 48823	Electronic Address	

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service (UPS). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

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

DATED: December 29, 2015

SIGNED: _____

SANDRA JONES
Declarant



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

ATTEST June 8, 2018
State Bar Court, State Bar of California,
Los Angeles

By *Antonette Dettl*
Clerk

CERTIFICATE OF SERVICE

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on July 11, 2018, I deposited a true copy of the following document(s):

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

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

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

GERALD HOWARD STERNBERG
577 E MAPLEDALE AVE APT 2
HAZEL PARK, MI 48030 - 3030

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

JAIME M. VOGEL, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 11, 2018.



Mazie Yip
Court Specialist
State Bar Court