

ORIGINAL

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State Bar Court of California
Hearing Department
Los Angeles
DISBARMENT



<p>Counsel for the State Bar</p> <p>Caitlin M. Elen Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90015 (213) 765-1653</p> <p>Bar # 272163</p>	<p>Case Number(s): 18-O-13876-YDR</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED</p> <p><i>VS</i></p> <p>MAY 24 2019</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Jonathan Edward Roberts P.O. Box 2231 Rancho Cucamonga, CA 91729-2231 (562) 832-7311</p> <p>Bar # 166043</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: JONATHAN EDWARD ROBERTS</p> <p>Bar # 166043</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **November 22, 1993**.
- (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 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."

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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. It is recommended that (check one option only):
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs."
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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: **03-O-01950. See page 7, and Exhibit 1, 15 pages.**
 - (b) Date prior discipline effective: **August 7, 2004**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, former rules 3-110(A); 3-700(D)(1); 3-700(D)(2); and Business and Professions Code, sections 6069(m), and 6068(i).**
 - (d) Degree of prior discipline: **Six-month stayed suspension, two years' probation with conditions.**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below:
State Bar Court case # of prior case: 14-O-05631. See page 7-8, and Exhibit 2, 16 pages.
Date prior discipline effective: January 7, 2016
Rules of Professional Conduct/State Bar Act Violations: former rule 3-110(A)
Degree of prior discipline: One year stayed suspension, two years' probation with conditions, including a 30-day actual suspension.
State Bar Court case # of prior case: 17-O-01764 and 17-O-04243. See page 8, and Exhibit 3, 21 pages.

Date prior discipline effective: January 19, 2019

Rules of Professional Conduct/State Bar Act violations: former rule 3-700(D)(1), and Business and Professions Code, section 6068(i).

Degree of prior discipline: Two years' stayed suspension, two years' probation with conditions, including a six month actual suspension.

- (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 Respondent's misconduct. **See page 8.**
- (10) **Lack of Candor/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 8.**
- (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 [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.

(Do not write above this line.)

- (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.
- (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 subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances: Pretrial Stipulation, see page 8.

D. Recommended Discipline:

Disbarment

Respondent is disbarred from the practice of law in California and Respondent's name is stricken from the roll of attorneys.

E. Additional Requirements:

- (1) **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).)

- (2) **Restitution (Single Payee):** Respondent must make restitution in the amount of \$ _____, plus 10 percent interest per year from _____, to _____ (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).
- (3) **Restitution (Multiple Payees):** Respondent must make restitution 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>

- (4) **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements: _____.

9. Respondent failed to submit his final quarterly report, which was due by January 7, 2018.

10. The Disciplinary Order further required respondent, within one year of the effective date of the discipline, January 7, 2017, to provide the Office of Probation with satisfactory proof of attendance at a session of the State Bar's Ethics School, and passage of the test given at the end of that session.

11. On January 11, 2017, respondent untimely filed proof of his attendance at Ethics School and passage of the exam to the Office of Probation.

12. On May 2, 2017, a Probation Deputy from the Office of Probation sent respondent a non-compliance letter regarding respondent's late scheduling of his meeting with his probation deputy; late submission of quarterly reports for April 10, 2016, October 10, 2016, and January 10, 2017, and the then unfiled April 10, 2017, quarterly report; respondent's late submission of his completion of Ethics School. The letter was sent to respondent's membership mailing and email address and was not returned as undeliverable. Respondent received the letter and email.

13. On February 16, 2018, a Probation Deputy from the Office of Probation second respondent a second non-compliance letter advising respondent that he scheduled his required meeting late; filed his proof of passage of Ethics School late; filed three quarterly reports late; had failed to file three quarterly reports; and failed to file his final quarterly report. This letter was sent to respondent's membership mailing and email address. The letter that was mailed to respondent's membership mailing address was returned as undeliverable on or about February 26, 2018. Respondent, however, received the letter sent to his email address, as it was not returned.

14. To date, respondent has not submitted the quarterly reports which were due by April 10, 2017, July 10, 2017, and October 10, 2017, nor has he filed his final quarterly report.

CONCLUSIONS OF LAW:

1. By failing to schedule his required meeting with his Probation Deputy by February 6, 2016; failing to timely submit proof of attendance at Ethics School and passage of the exam; failing to timely submit three quarterly reports by their due dates of April 10, 2016, October 10, 2016, and January 10, 2017; failing to submit three quarterly reports due by April 10, 2017, July 10, 2017, and October 10, 2017; and by failing to submit his final quarterly report by January 7, 2018, respondent willfully violated Business and Professions Code, section 6068(k).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): In case no. 03-O-01950, respondent committed misconduct in two client matters between October 2002 and September 2003. Respondent failed to perform, failed to refund unearned fees, failed to return a client file, failed to respond to client inquiries, and failed to participate in the State Bar's investigation. Mitigation included the absence of prior discipline over 10 years of practice, the absence of harm, and remorse. Aggravation consisted of respondent's indifference and a lack of cooperation. The discipline imposed consisted of a six-month stayed suspension and two-years' probation with conditions. The discipline was effective August 7, 2004. The parties stipulate that Exhibit 1 is a certified copy of respondent's prior record of discipline.

In case no. 14-O-05631, respondent failed to perform. The misconduct in this matter occurred between August 2011 and April 2012. In mitigation, respondent suffered emotional and physical

difficulties, family problems, submitted good character letters, and entered into a pre-filing stipulation. In aggravation, respondent had a prior record of discipline. The discipline imposed consisted of a one year stayed suspension and two years' probation with conditions, including a 30-day actual suspension. The discipline was effective January 7, 2016. The parties stipulation that Exhibit 2 is a certified copy of respondent's prior record of discipline.

In case nos. 17-O-01764 and 17-O-04243, respondent failed to return client files and failed to cooperate in the State Bar's investigation in two separate client matters. The misconduct occurred between October 2016 and July 2017. In mitigation, respondent entered into a pretrial stipulation. In aggravation, respondent had two prior records of discipline and committed multiple acts of misconduct. The discipline imposed consisted of two years' stayed suspension, two years probation with conditions, including a six-month actual suspension. The discipline became effective January 19, 2019. The parties stipulate that Exhibit 3 is a certified copy of respondent's prior record of discipline.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent engaged in nine (9) acts of misconduct in violation of the conditions of his probation in case no. 14-O-05631 (S229463) by failing to timely schedule his required meeting with his probation deputy; submitting his proof of Ethics School late; untimely filing three quarterly reports; and failing to submit three quarterly reports and his final quarterly report to the Office of Probation.

Indifference (Std. 1.5(k)): Despite receiving two non-compliance letters from a Probation Deputy from the Office of Probation, respondent has still failed to file three quarterly reports and his final quarterly report. 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.

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged his misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaiht* (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).)

In this matter, Standard 2.14 applies to a violation of Business and Professions Code, section 6068(k). Pursuant to Standard 2.14, actual suspension is the presumed sanction for failure to comply with a condition of discipline. However, due to respondent’s two prior records of discipline, Standard 1.8(b) is also applicable.

Standard 1.8(b) provides that “If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct: 1. Actual suspension was ordered in any one of the prior disciplinary matters; 2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or 3. The prior disciplinary matters coupled with the current record demonstrate the member’s unwillingness or inability to conform to ethical responsibilities.”

In the instant case, under Standard 1.8(b), respondent’s prior discipline included no actual suspension in his first disciplinary matter, a 30-day actual suspension in his second disciplinary matter, and a six-month actual suspension in his third disciplinary matter. Additionally, respondent’s prior disciplinary matters coupled with the current record demonstrate respondent’s unwillingness or inability to conform to his ethical responsibilities. In aggravation, respondent has three prior disciplinary records, he committed multiple acts of wrongdoing, and his misconduct demonstrates indifference. In mitigation, respondent entered into a pretrial stipulation. Because the aggravation outweighs the mitigation, and because no deviation from Standard 1.8(b) is warranted, disbarment is the appropriate level of discipline.

Case law also supports disbarment. In *In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, the probation violation was the attorney’s fourth disciplinary matter. The attorney had been suspended for three years, stayed, and was placed on probation for three years with conditions, including actual suspension for one year and until he was in compliance with Standard 1.4(c)(ii). The conditions of the attorney’s probation required, among other things, that the attorney complete State Bar Ethics School, develop an approved law office management plan and complete an approved law office management course within one year of the effective date of discipline. The attorney failed to timely comply with any of these three conditions. However, after the Office of Probation informed the attorney that he had failed to timely comply, he belatedly complied with all three conditions almost one year after the original completion due date. The Review Department applied Standard 1.7(b), the predecessor to Standard 1.8(b), and recommended discipline consisting of disbarment. In mitigation, the attorney received some weight for his cooperation and candor, and significant weight for his community service. In aggravation, the attorney’s misconduct involved multiple acts, and the attorney had three prior

disciplinary records which consisted of a five year stayed suspension, five years' probation, with conditions including a two year actual suspension, in his first disciplinary matter; a three year stayed suspension, three years' probation, with conditions including a one year actual suspension, in his second disciplinary record; and a two year stayed suspension and two years' probation with conditions including a nine month actual suspension in his third discipline matter.

Here, like *Rose*, respondent was actually suspended in three prior disciplinary matters. Additionally, respondent's misconduct demonstrates his inability to conform to his ethical responsibilities despite the ample opportunity he was provided to reform his conduct. Where *Rose* at least made the belated effort to comply with his probation conditions, respondent has not. Probation and suspension have likewise proven inadequate to protect against future misconduct by respondent. Accordingly, like *Rose*, disbarment is appropriate level of discipline.

In light of the above, disbarment will best serve the goals of protection of the public, the courts, and the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.


Respondent acknowledges that the Office of Chief Trial Counsel informed respondent that as of April 19, 2019, the discipline costs in this matter are \$6,114. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

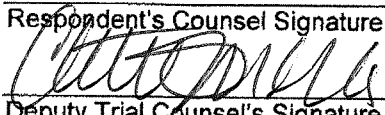
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In the Matter of: JONATHAN EDWARD ROBERTS	Case Number(s): 18-O-13876
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SIGNATURE OF THE PARTIES

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

Date 4/26/19 Respondent's Signature  Jonathan Edward Roberts
Print Name

Date 4/26/19 Respondent's Counsel Signature  Print Name
Date 4/26/19 Deputy Trial Counsel's Signature Caitlin M. Elen
Print Name

(Do not write above this line.)

In the Matter of: JONATHAN EDWARD ROBERTS	Case Number(s): 18-O-13876
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DISBARMENT ORDER

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

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

1. On page 2 of the Stipulation, at paragraph B.(1)(a), "15 pages" is deleted, and in its place is inserted "16 pages".
2. On page 6 of the Stipulation, at numbered paragraph 1., line 4, "three years" is deleted, and in its place is inserted "two years".
3. On page 7 of the Stipulation, "Prior Record of Discipline," line 6, "indifference and a" is deleted. (See Exhibit 1, page 14 – Order).

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).)**

Respondent Jonathan Edward Roberts is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date May 24, 2019

Rebecca Meyer Rosenberg
REBECCA MEYER ROSENBERG, JUDGE PRO TEM
Judge of the State Bar Court

(State Bar Court Case No. 03-O-01950; 03-O-03567)

SUPREME COURT
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IN THE SUPREME COURT OF CALIFORNIA

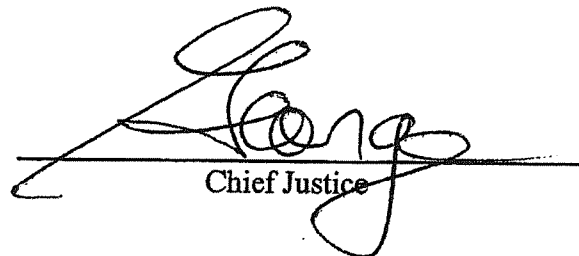
Frederick K. Ohlrich Clerk

EN BANC

DEPUTY

IN RE JONATHAN EDWARD ROBERTS ON DISCIPLINE

It is ordered that **JONATHAN EDWARD ROBERTS**, State Bar No. **166043**, be suspended from the practice of law for six months, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on February 25, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.


Chief Justice

ORIGINAL

<p>Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT WILLIAM F. STRALKA, No. 056147 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1091</p>	<p>Case number(s) 03-0-01950-RAH [03-0-03567]</p>	<p>(for Court's use) FILED FEB 25 2004 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel for Respondent KENNETH A. ROBERTS, No. 62536 575 Anton Blvd., #300 Costa Mesa, CA 92626 (714) 432-6480</p>	<p style="text-align: center; font-size: 2em;">PUBLIC MATTER</p>	
<p>In the Matter of JONATHAN EDWARD ROBERTS, Bar # 166043, A Member of the State Bar of California (Respondent)</p>		
<p>Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted November 22, 1993
 (date)
- (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 and order consist of 13 pages.
- (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) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - costs added to membership fee for calendar year following effective date of discipline
 - costs to be paid in equal amounts prior to February 1 for the following membership years:

 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth under "Partial Waiver of Costs"
 - costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

B. Aggravating Circumstance. () definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b.) Facts supporting aggravating circumstances are required.

(1) Prior record of discipline [see standard 1.2(f)]

(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 under "Prior Discipline".

(2) Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) 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.

(4) Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5) Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6) Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances (Standard 1.2(e).) 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 deemed serious.
- (2) No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) Candor/Cooperation: Respondent displayed spontaneous candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) Remorse: Respondent promptly took objective steps spontaneously demonstrating 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 in good faith.
- (8) Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities.
- (9) 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.
- (10) 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.
- (11) Good Character: Respondent's 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:

D. Discipline

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of six (6) months

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- iii. and until Respondent does the following: _____

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of two (2) years which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, 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) Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall 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. If the first report would cover less than 30 days, that report shall 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.
- (4) Respondent shall be assigned a probation monitor. Respondent shall 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 shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (5) Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel 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.

- (6) Within one (1) year of the effective date of the discipline, respondent shall provide to the Probation Unit 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.
- (7) Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (8) The following conditions are attached hereto and incorporated:
- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions Financial Conditions
- (9) Other conditions negotiated by the parties:

- Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JONATHAN EDWARD ROBERTS

CASE NUMBER(S): 03-O-01950 [03-O-03567]

PENDING PROCEEDINGS:

The disclosure date referred to, on page one, paragraph A.(6), was January 13, 2004.

PARTIES ARE BOUND BY THE STIPULATED FACTS:

The parties intend to be and are hereby bound by the stipulated facts contained in this stipulation. This stipulation as to facts and the facts so stipulated shall independently survive even if the conclusions of law and/or stipulated disposition set forth herein are rejected or changed in any manner whatsoever by the Hearing Department, or the Review Department of the State Bar Court, or by the California Supreme Court.

STIPULATION AS TO THE 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, or has otherwise committed acts of misconduct warranting discipline.

FACTS:

CASE NO. 03-O-01950

1. On October 28, 2002, Geraldine McKenzie ("Geraldine") on behalf of Gerald McKenzie ("Gerald"), employed Respondent to represent Gerald in a Petition for Writ of Habeas Corpus, filed on or about April 25, 2002 in the United States District Court entitled Gerald McKenzie v. J. McGrath, case no. 02-CV-3405 ("the petition for writ"). At that time, Geraldine paid Respondent \$2,000.00 in advanced fees.
2. From and after October 28, 2002, Respondent failed to contact Geraldine or Gerald.
3. On October 29, 2002, Brad McKenzie ("Brad") on behalf of Gerald, paid Respondent an additional \$500.00 in advanced fees. After being employed by Geraldine in October 2002, Respondent failed to file a substitution of attorney in court to substitute in as attorney for Gerald.
4. Respondent failed to perform any legal services for Gerald and failed to file any pleadings in court to continue with the petition for writ process.
5. On March 2, 2003, after not receiving any communications from Respondent, Gerald sent a letter to Respondent at his membership records address by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return Gerald's letter as undeliverable or for any other reason. In the letter, Gerald informed Respondent that Gerald still had not received confirmation from the court or from Respondent indicating that Respondent had substituted in as attorney of record to continue with the petition for writ on behalf of Gerald. Further, Gerald requested Respondent to contact him as soon as possible. Respondent failed to respond to Gerald's letter or otherwise communicate with Gerald.
6. As of this date, Respondent has failed to file a substitution of attorney with the court and Gerald is still pro se in the case.
7. On May 16, 2003, the State Bar opened an investigation, case no. 03-O-01950, pursuant to a complaint filed by Gerald McKenzie ("the McKenzie matter").
8. On February 17, 2004, Jonathan E. Roberts refunded advanced fees of \$2,500.00 to Geraldine McKenzie.

9. On June 4, 2003, State Bar Investigator Craig Von Freyman wrote to Respondent regarding the McKenzie matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar of California membership records address at the time. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason.

10. The investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the McKenzie matter. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator

11. On July 14, 2003, the investigator wrote to Respondent again informing Respondent that he had not yet received a response to the allegations brought up in the McKenzie matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar of California membership records address at the time. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason.

12. The investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the McKenzie matter. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator.

CONCLUSIONS OF LAW:

By failing to perform any services for Gerald and failing to file a substitution of attorney with the court, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violations of Rules of Professions Conduct, rule 3-110(A).

Respondent did not earn any portion of the fees advanced by Geraldine. By not promptly refunding the \$2,000.00 to Geraldine and the \$500.00 to Brad, Respondent failed to promptly refund unearned fees in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

By never meeting with Gerald or speaking to him on the telephone and by failing to respond to Gerald's letter, Respondent failed to respond to Gerald's reasonable status inquiries in wilful violation of Business and Professions Code, section 6068(m).

By not providing a written response to the allegations in the McKenzie matter or otherwise cooperating in the investigation of the McKenzie matter, Respondent failed to cooperate in a disciplinary investigation, in wilful violation of Business and Professions Code, section 6068(i).

CASE NO. 03-O-03567:

13. On July 28, 2002, Barbara E. Brown ("Brown") retained Respondent to represent her daughter, Lea Wooten ("Lea") and Robin Silver ("Robin") in the Orange County Superior Court entitled People v. Lea Wooten, case no. 02HM03456 ("the criminal matter"). At that time, Respondent agreed to accept a fee of \$2,500.00 to represent Brown during the pretrial stage, with the understanding that if the criminal matter went before a jury trial, Brown would pay an additional \$2,500.00. On July 31, 2002, Brown paid Respondent \$1,250.00 in advanced fees for his services. On or about August 31, 2002, Brown paid Respondent \$1,250.00 in advanced fees totaling \$2,500.00 for representation at the pre-trial stage.

14. Subsequently, on July 31, 2002, Brown sent a memo to Respondent with regard to her understanding of Respondent's representation and the advanced fees.

15. The jury trial was scheduled to start on January 13, 2003, however, the jury trial was postponed to January 15, 2003. After Brown and Respondent left the court room, Respondent asked Brown to pay the jury trial fee of \$2,500.00. Brown immediately issued a check for \$2,500.00 to pay Respondent.

16. On January 15, 2003, Brown pled Nolo Contendere right before the case was to be called in court that day. Consequently, after Brown entered her plea, Respondent left the court premises before the paperwork had been finalized. As soon as Brown's paperwork was finalized, Brown immediately called Respondent on his cell phone and left a message requesting Respondent refund the \$2,500.00 she had paid to Respondent on January 13, 2003. Respondent failed to return Brown's call.

17. On January 17, 2003, Brown called Respondent at his cell phone telephone number and left a second message requesting Respondent refund the jury trial fee. Respondent failed to return Brown's calls.

18. On January 24, 2003, Brown called Respondent at his cell phone and another message requesting Respondent refund the jury trial fee. Respondent failed to return Brown's calls.

19. On February 7, 2003, Brown called Respondent at his cell phone telephone number and left another message requesting Respondent refund the \$2,500.00. Respondent failed to return Brown's calls.

20. Respondent did not provide services of any value to Brown. Respondent did not earn any of the advanced fees paid by Brown with regard to the jury trial.

21. On April 15, 2003, Brown called Respondent requesting Respondent to forward the case file in order for Brown to prepare for a civil suit stemming from the criminal matter. Respondent did not respond to Brown's message.

22. Subsequently, on April 17, 2003, Brown was served with a civil suit regarding the criminal matter.

23. On April 18, 2003, Brown called Respondent at his cell telephone number requesting Respondent to release her file as she has just been served with the civil suit. Respondent failed to return Brown's telephone call.

24. On May 1, 2003, Brown discovered through Lea, that Respondent did not have any files to return to Brown.

25. At no time did Respondent release Brown's file to Brown or communicate with Brown regarding how Brown could obtain the file.

26. On September 5, 2003, the State Bar opened an investigation, case no. 03-O-03567, pursuant to a complaint filed by Barbara E. Brown ("the Brown matter").

27. On February 17, 2004, Jonathan E. Roberts refunded advanced fees of \$2,500.00 to Barbara Brown.

28. On September 11, 2003, State Bar Investigator Craig Von Freyman wrote to Respondent regarding the Brown matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar of California membership records address at the time. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason.

29. The investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Brown matter. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator.

30. On September 29, 2003, Investigator Craig Von Freyman wrote to Respondent again informing Respondent that he had not yet received a response to the allegations brought up in the Brown matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar of California membership records address at the time. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letter as undeliverable or for any other reason.

CONCLUSIONS OF LAW:

The investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Brown matter. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator. By not providing a written response to the allegations in the Brown matter or otherwise cooperating in the investigation of the Brown matter, Respondent failed to cooperate in a disciplinary investigation, in wilful violation of Business and Professions Code, section 6068(i).

By not promptly refunding the \$2,500.00 to Brown, Respondent failed to promptly refund unearned fees in wilful violation of Rule of Profession Conduct, rule 3-700(D)(2).

By not releasing the client filed to Brown, Respondent failed, upon termination of employment, to release promptly to a client, at the request of the client, all the client papers, in wilful violation of Rule of Professional Conduct, rule 3-700(D)(1).

CASE SUPPORT:

In the Matter of Kopinski (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 716.

Respondent represented a mother and daughter, as well as other members of their family, in various legal matters. He was found culpable of failing to communicate adequately with both

clients, of failing to return the mother's file promptly on demand when she terminated his employment, and of failing to take steps to avoid prejudice to the daughter when he withdrew from representing her. The court recommended that respondent be suspended for six months, stayed, with two years probation on conditions, and no actual suspension.

COSTS OF DISCIPLINARY PROCEEDINGS:

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of January 9, 2004. The estimated prosecution costs in this matter are approximately \$2,969.35. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment.

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.

WAIVER OF REVIEW BY REVIEW DEPARTMENT:

Pursuant to Rules of Procedure of the State Bar of California, rule 251, the parties hereto stipulate to a waiver of review by the Review Department and request that the disciplinary recommendation in this matter be transmitted to the Supreme Court on an expedited basis.

V:\CTC\Staff\Trial Unit 2\William Stralka\Roberts StipAtt.wpd

2-3-04
Date


Ident's signature

JONATHAN EDWARD ROBERTS
print name

2-3-04
Date


Respondent's Counsel's signature

KENNETH A. ROBERTS
print name

2-18-04
Date


Deputy Trial Counsel's signature

WILLIAM F. STRALKA
print name

ORDER

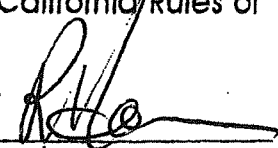
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

1. On page 2, B.(5), delete the "X" on the box before "Indifference:"

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 135(b), 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 953(a), California Rules of Court.)

2-20-04
Date

RICHARD A. HONN 
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 February 25, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed February 25, 2004**

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

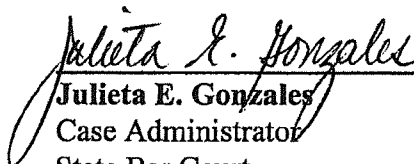
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**KENNETH A ROBERTS ESQ
575 ANTON BLVD #300
COSTA MESA, CA 92626**

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

William F. Stralka, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 25, 2004.**



Julieta E. Gonzales
Case Administrator
State Bar Court



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 April 15, 2019

State Bar Court, State Bar of California,
Los Angeles

By _____
Clerk

DEC 08 2015

(State Bar Court No. 14-O-05631)

S229463

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re JONATHAN EDWARD ROBERTS on Discipline

The court orders that Jonathan Edward Roberts, State Bar Number 166043, 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 two years subject to the following conditions:

1. Jonathan Edward Roberts is suspended from the practice of law for the first 30 days of probation;
2. Jonathan Edward Roberts must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on July 27, 2015; and
3. At the expiration of the period of probation, if Jonathan Edward Roberts has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Jonathan Edward Roberts 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 in Los Angeles 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-half of the costs must be paid with his membership fees for each of the years 2017 and 2018. If Jonathan Edward Roberts 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, Frank A. McGuire, 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 DEC 08 2016 20_____

Clerk

By: _____

Deputy

CANTIL-SAKAUYE

Chief Justice

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		ORIGINAL PUBLIC MATTER
Counsel For The State Bar William Todd Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017 213-765-1491 Bar # 259194	Case Number(s): 14-O-05631	For Court use only FILED P.B. JUL 27 2015 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent Arthur L. Margolis Margolis & Margolis, LLP 2000 Riverside Drive Los Angeles, California 90039 323-953-8996 Bar # 57703	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: JONATHAN EDWARD ROBERTS Bar # 166043 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 **November 22, 1993**.
- (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."

kwiktao • 407 145 233

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **the two billing cycles immediately following the Supreme Court order in this matter.** (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 **03-O-01950**
 - (b) Date prior discipline effective **August 7, 2004**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct rules 3-110(A), 3-700(D)(1) and 3-700(D)(2); Business and Professions Code sections 6068(i) and 6068(m)**
 - (d) Degree of prior discipline **Six months of stayed suspension with two years of probation**
 - (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.

(Do not write above this line.)

- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary 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

(Do not write above this line.)

or disabilities no longer pose a risk that Respondent will commit misconduct. **Please see "Attachment to Stipulation," at page eight.**

- (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:

Please see 'Family Problems' in "Attachment to Stipulation," at page eight.

Please see 'Good Character' in "Attachment to Stipulation," at page eight.

Please see 'Pre-filing Stipulation' in "Attachment to Stipulation," at page nine.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) **Actual Suspension:**
- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **30 days**.

(Do not write above this line.)

- 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.

(Do not write above this line.)

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

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason: .
- (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:**

CONCLUSION OF LAW:

8. By repeatedly failing to file Leon's opening brief, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent's prior record of discipline, effective August 7, 2004, includes two client matters. In the first matter, Respondent failed to perform, failed to refund unearned fees, failed to respond to client inquiries and failed to participate in the State Bar's subsequent investigation. In a second matter, Respondent failed to return a client file, failed to refund unearned fees, and failed to participate in a subsequent State Bar investigation. Mitigation included the absence of prior discipline and the absence of harm and remorse, while aggravation included Respondent's indifference and a lack of cooperation. The court ordered six-months stayed suspension and a two-year probation with no actual suspension.

MITIGATING CIRCUMSTANCES.

Emotional/Physical Difficulties (Std. 1.6(d)): In November 2011, Respondent began suffering bursitis in his right elbow which continued until April 2012 when Respondent was treated surgically for a drug-resistant bacterial infection. According to Respondent's physician, as attempts to treat the infection with wound care and medication over several months failed, Respondent suffered fatigue and pain that impaired his ability to perform his duties in the Leon matter. However, the infection has since resolved with no lingering effect on Respondent's professional duties.

Family Problems: Respondent's wife began suffering significant back problems in September 2010, and Respondent has provided her daily care since then. Respondent explains that the combination of his illness and his wife's medical problems together affected his work obligations in 2011 and 2012, but that he has since relocated his family to be nearer to his extended family so that those extended family members can assist in his wife's care. Respondent's family problems are a mitigating factor. (See *In the Matter of Heiner* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 559, 566 (attorney entitled to mitigation for personal problems that affected his performance as an attorney including a bitter divorce and difficulties as sole custodian of three of his minor children).)

Good Character: Respondent provided character evidence from six character witnesses, including four fellow attorneys. All of these witnesses claim a knowledge of Respondent's misconduct, and each speaks highly of Respondent. However, the sources do not constitute a broad range of references from legal and general communities, and thus are entitled to only limited weight in mitigation. (See *In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 387.) Respondent has also provided pro bono services to criminal clients, and these pro bono services are mitigating. (See *In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 339.) However, because Respondent is the sole source of evidence in support of Respondent's pro bono activities he is entitled to only limited weight in mitigation. (See *In the Matter of Van Sickle*, 4 Cal. State Bar Ct. Rptr. 980 (when an attorney's testimony is the only evidence of pro bono activities, the extent of the attorney's pro bono service cannot be confirmed, and thus is entitled to only limited weight in mitigation).)

Prefiling Stipulation: Respondent has accepted responsibility for his actions by entering into this stipulation prior to filing, thereby sparing State Bar Court time and resources. (See *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating 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. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

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

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

In this matter, Respondent admits to committing one act of professional misconduct. The sanction applicable to Respondent’s misconduct is Standard 2.7(c), which applies to Respondent’s violation of Rules of Professional Conduct rule 3-110(A). Standard 2.7(c) provides that suspension or reproof is the presumed sanction for performance, communication, or withdrawal violations, which are limited in scope or time, while the degree of sanction depends on the extent of the misconduct and the degree of harm to the client or clients. However, Respondent also has a prior record of discipline, which triggers Standard 1.8(a). Standard 1.8(a) provides that the current sanction must be greater than the previously imposed sanction, unless the prior discipline was remote or the current conduct is minor. Neither is true in this case, and so the appropriate level of discipline here will include, at a minimum, 30 days of actual suspension.

Here, Respondent agreed to file an opening appellate brief on behalf of Douglas Leon, and accepted \$20,000 in fees. Unfortunately, he did not file the brief despite multiple continuances, and the court dismissed Leon’s appeal. Though the court later reopened Leon’s appeal and a subsequent counsel was able to file a brief on Leon’s behalf, Respondent remains culpable for his failure to perform. This failure is aggravated by Respondent’s similar prior discipline, and mitigated by Respondent’s evidence

of physical difficulties, family problems and good character, as well as his agreement to enter into a pre-filing stipulation. Consistent with these factors, the necessary discipline falls at the low end of the possible range, which means the appropriate level of discipline is a one-year suspension, stayed, alongside a two-year probation with conditions including a 30-day actual suspension. Ethics School and the MPRE are also required. This level of discipline is consistent with the applicable standards and serves the purposes of attorney discipline which include protection of the public, the courts, and the legal profession.

Case law supports the recommended level of discipline. For example, in *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, an attorney repeatedly failed to file an opening brief ("brief") in a death penalty appellate case despite eight extensions of time from the California Supreme Court over a 16-month period between August of 1999 and December of 2000. Even after the court advised that there would be no further extensions, the attorney still did not file the brief. The client's appeal was delayed by more than two years as a result of the attorney's failure to file the brief as ordered, which the Review Dept. described as significant harm to the administration of justice. At the same time, the Review Dept. concluded that the attorney's 17 years of practice without a prior record of misconduct was mitigating, and consistent with the Review Dept. recommendation the Supreme Court ultimately ordered a six-month stayed suspension with no actual suspension.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 22, 2015, the prosecution costs in this matter are \$3,066. 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 State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: JONATHAN EDWARD ROBERTS	Case number(s): 14-O-05631
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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>6-27-15</u> Date	<u>[Signature]</u> Respondent's Signature	<u>Jonathan E. Roberts</u> Print Name
<u>7/9/15</u> Date	<u>Arthur L. Margolis</u> Respondent's Counsel Signature	<u>Arthur L. Margolis</u> Print Name
<u>7-13-15</u> Date	<u>[Signature]</u> Deputy Trial Counsel's Signature	<u>William Todd</u> Print Name

(Do not write above this line.)

In the Matter of: JONATHAN EDWARD ROBERTS	Case Number(s): 14-O-05631
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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.

On page 9 of the Stipulation, fourth paragraph under the heading "Authorities Supporting Discipline," line 9, "at a minimum" is deleted.

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.)

July 27, 2015
Date

Rebecca Meyer Rosenberg
REBECCA MEYER ROSENBERG, JUDGE PRO TEM
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 July 27, 2015, 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:

**ARTHUR LEWIS MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039**

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

William S. Todd, Enforcement, Los Angeles

Terrie Goldade, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 27, 2015.



Paul Barona
Case Administrator
State Bar Court



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 April 15, 2019

State Bar Court, State Bar of California,
Los Angeles

By *Christine Delle*
Clerk

(State Bar Court Nos. 17-O-01764 (17-O-04243))

S251928

IN THE SUPREME COURT OF CALIFORNIA

SUPREME COURT
FILED

En Banc

DEC 20 2018

In re JONATHAN EDWARD ROBERTS on Discipline

Jorge Navarrete Clerk

Deputy

The court orders that Jonathan Edward Roberts (Respondent), State Bar Number 166043, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and Respondent is placed on probation for two years subject to the following conditions:

1. Respondent is suspended from the practice of law for the first six months of probation;
2. Respondent must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on September 5, 2018; and
3. At the expiration of the period of probation, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Respondent must provide to the State Bar's Office of Probation proof of taking and passing the Multistate Professional Responsibility Examination as recommended by the Hearing Department in its Order Approving Stipulation filed on September 5, 2018. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Respondent must also comply with California Rules of Court, rule 9.20, 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 this order. Failure to do so may result in disbarment or suspension. Respondent must also maintain the records of compliance as required by the conditions of probation.

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.

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 DEC 20 2018 20

By:  Deputy

CANTIL-SAKAUYE

Chief Justice

ORIGINAL

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel for the State Bar Kathleen M. Elen Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1853 Bar # 272163	Case Number(s): 17-O-01764-DFM 17-O-04243	For Court use only <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold;">SEP 05 2018</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
In Pro Per Respondent Jonathan E. Roberts 12749 Norwalk Blvd., Suite 100 Norwalk, CA 90650 (562) 832-7311 Bar # 166043	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: JONATHAN EDWARD ROBERTS Bar # 166043 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 November 22, 1993.
- (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 18 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."

(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. 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: 03-O-01950. See page 15 and Exhibit 1, 42 pages.
 - (b) Date prior discipline effective: August 7, 2004
 - (c) Rules of Professional Conduct/ State Bar Act violations: 3-110(A) [failure to perform]; 3-700(D)(2) [failure to return unearned fees]; 6068(m) [failure to respond to reasonable status inquiries]; 6068(l) [failure to cooperate in State Bar investigation]; and 3-700(D)(1) [failure to release client file]
 - (d) Degree of prior discipline: Six months' stayed suspension, two years' probation with conditions.
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
State Bar Court case # of prior case: 14-O-05631. See page 15 and Exhibit 1, 42 pages.

Date prior discipline effective: January 7, 2016

Rules of Professional Conduct/State Bar Act violations: 3-110(A) [failure to perform]

Degree of prior discipline: one year stayed suspension, two years' probation with conditions, including a 30 days' actual suspension.

(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 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 15.
- (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 [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.

(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 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.
- (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 15.

D. Recommended Discipline:

- (1) **Actual Suspension:**

Respondent is suspended from the practice of law for two (2) years, the execution of that suspension is stayed, and Respondent is placed on probation for two (2) years with the following conditions.

- Respondent must be suspended from the practice of law for the first six (6) months 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

(Do not write above this line.)

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:
 - 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 _____ 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 _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

(Do not write above this line.)

- 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 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. 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

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report); (3) filed 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
- (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

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- (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. (*Atheam 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. (*Atheam 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:

of attorney Mr. Mejia signed authorizing Mr. Howard to obtain Mr. Mejia's files. Respondent received the letter.

8. To date, respondent has failed to return Mr. Mejia's case files to Mr. Mejia and/or Mr. Howard.

9. On March 6, 2017, on behalf of Mr. Mejia, Mr. Howard filed a State Bar complaint against respondent requesting the return of Mr. Mejia's case files.

10. On April 10, 2017, a State Bar investigator sent a letter to respondent at respondent's membership records address requesting a response to Mr. Howard's allegations by April 24, 2017. Respondent received the letter, but did not provide a response.

11. On April 26, 2017, the State Bar investigator sent a letter to respondent at respondent's membership records address and informed respondent that no response to the State Bar investigator's April 10, 2017, letter was received, and requested a response by May 10, 2017. Respondent received the letter, but did not provide a response.

12. On May 4, 2017, respondent left the State Bar investigator a voicemail message in which respondent stated that he had received the State Bar's letters and that he would respond as soon as he could.

13. On May 18, 2017, the State Bar investigator sent a letter to respondent at respondent's membership records address and advised respondent that respondent never responded to the State Bar investigator's April 10, 2017, and April 26, 2017, letters and requested a response by June 2, 2017. Respondent received the letter, but did not provide a response.

14. On June 6, 2017, the State Bar investigator sent a letter to respondent at respondent's membership records address and informed respondent that no response to the April 10, 2017, April 26, 2017, and May 18, 2017, letters had been received and requested a response by June 20, 2017. Respondent received the letter, but did not provide a response.

15. On July 20, 2017, respondent left a voicemail message for the State Bar investigator in which respondent stated that he would respond to the State Bar investigator's letters by email. The State Bar investigator attempted to return respondent's call, but respondent's voice mailbox was full.

16. On July 20, 2017, the State Bar investigator sent an email to respondent at respondent's membership records email address and requested that respondent contact him to discuss the complaint. Respondent received the email, but did not provide a response.

17. On September 12, 2017, the State Bar investigator sent a letter to respondent at respondent's membership records address, and informed respondent that no response to the April 10, 2017, April 26, 2017, May 18, 2017, and June 6, 2017, letters, and July 20, 2017, email, had been received. Respondent received the letter, but did not provide a response.

CONCLUSIONS OF LAW:

18. By failing to promptly release, after termination of respondent's employment on or about October 18, 2016, to Michael Howard, on behalf of respondent's client, Edgar Mejia, or to respondent's

client, Edgar Mejia, all of the client's papers and property following Mr. Howard's request, on behalf of Mr. Mejia, for Mr. Mejia's file, respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct.

19. By failing to cooperate and participate in a disciplinary investigation pending against respondent by failing to provide a substantive response to the State Bar Investigator's letters of April 10, 2017, April 26, 2017, May 18, 2017, June 6, 2017, and September 12, 2017, and the State Bar investigator's email of July 20, 2017, which requested respondent's response to the allegations of misconduct being investigated in State Bar Case No. 17-O-01764, respondent willfully violated Business and Professions Code, section 6068(i).

Case No. 17-O-04243 (Complainant: Emigdio Preciado)

FACTS:

20. On June 29, 2010, respondent was appointed to represent Emigdio Preciado in Los Angeles County Superior Court Case No. VA062410, *People v. Emigdio Preciado* ("the criminal matter"). Mr. Preciado subsequently pled guilty to two felony violations of Penal Code section 245(d)(2) [assault of a peace officer or firefighter with a semiautomatic firearm] and was sentenced to 25 years in prison.

21. On October 18, 2016, Mr. Preciado employed Walter Gordon, III, and Antonio Rodriguez as his attorneys, to determine whether any grounds existed to set aside Mr. Preciado's guilty plea in the criminal matter and to request Mr. Preciado's records.

22. On November 7, 2016, Mr. Gordon called respondent at respondent's membership records telephone number regarding Mr. Preciado's file and left a voicemail message for respondent. Respondent did not respond.

23. On November 8, 2016, Mr. Gordon sent a letter to respondent at respondent's membership records address, and included a waiver which authorized respondent to return Mr. Preciado's file to Mr. Gordon or Mr. Rodriguez. Respondent received the letter and the waiver, but did not provide a response.

24. On November 17, 2016, Mr. Gordon sent a letter to respondent at respondent's membership records address, requesting Mr. Preciado's file. Respondent received the letter, but did not provide a response.

25. On November 17, 2016, Mr. Gordon attempted to reach respondent at respondent's membership records telephone number and left a voicemail message for respondent. Respondent did not respond.

26. On November 28, 2016, Mr. Gordon sent a letter to respondent at respondent's membership records address requesting Mr. Preciado's file. Respondent received the letter, but did not provide a response.

27. On May 8, 2017, Mr. Gordon sent a letter to respondent at respondent's membership records address and requested Mr. Preciado's file. Respondent received the letter, but did not provide a response.

28. On May 27, 2017, Mr. Gordon sent a letter to respondent at respondent's membership record's address and requested Mr. Preciado's file. Respondent received the letter, but did not provide a response.

29. On March 27, 2017, Mr. Preciado filed a State Bar complaint against respondent requesting Mr. Preciado's file.

30. On April 20, 2017, a State Bar Deputy Trial Counsel, sent a letter to respondent at respondent's membership records address requesting that respondent release Mr. Preciado's client file to Mr. Preciado or Mr. Gordon within ten days. Respondent received the letter, but did not provide a response.

31. On June 19, 2017, Mr. Preciado sent a letter to the State Bar and advised that he had not received his client file from respondent.

32. On August 11, 2017, a State Bar investigator sent respondent a letter to respondent at respondent's membership records address requesting a response to Mr. Preciado's allegations by August 25, 2017. Respondent received the letter, but did not provide a response.

33. On August 28, 2017, the State Bar investigator sent a letter to respondent at respondent's membership records address and informed respondent that no response to the State Bar investigator's August 11, 2017, letter was received and requested a response to Mr. Preciado's allegations by September 11, 2017. Respondent received the letter, but did not provide a response.

34. On September 12, 2017, the State Bar investigator sent a letter to respondent at respondent's membership records address and informed respondent that no response to the State Bar investigator's August 11, 2017, and August 28, 2017, letters was received and that his response was past due. Respondent received the letter, but did not provide a response.

35. In June 2018, respondent provided Mr. Preciado's with Mr. Preciado's files.

CONCLUSIONS OF LAW:

36. By failing to promptly release, after termination of respondent's employment on or about October 18, 2016, to attorney Walter Gordon, III, on behalf of respondent's client, Emigdio Preciado, or to respondent's client, Emigdio Preciado, all of the client's papers and property following Mr. Gordon's request, on behalf of Mr. Preciado, for Mr. Preciado's file on November 7, 2016, November 8, 2016, November 28, 2016, May 8, 2017, and May 27, 2017, respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct.

37. By failing to cooperate and participate in a disciplinary investigation pending against respondent by failing to provide a substantive response to the State Bar's letters of April 20, 2017, August 11, 2017, August 28, 2017, and September 12, 2017, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in State Bar Case No. 17-O-04243, respondent willfully violated Business and Professions Code, section 6068(i).

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AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has two prior records of discipline. In Case No. 03-O-1950, effective August 7, 2004, the discipline imposed consisted of a six-month stayed suspension and a two-year probation with conditions. In this case, respondent committed misconduct in two client matters between October 2002 and September 2003. Respondent failed to perform, failed to refund unearned fees, failed to return a client file, failed to respond to client inquiries, and failed to participate in the State Bar's investigation. Mitigation included the absence of prior discipline, the absence of harm, and remorse. Aggravation included Respondent's indifference and a lack of cooperation.

In Case No. 14-O-05631, effective January 7, 2016, the discipline imposed consisted of a one year stayed suspension, two years' probation with conditions, including a 30-days' actual suspension. In this case, the misconduct consisted of a failure to perform which occurred between August 2011 and April 2012.

The parties stipulate that the certified copies of respondent's prior disciplinary matters, attached as Exhibit 1, consists of forty-two (42) pages, and are true and correct copies of respondent's prior record of discipline.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent committed four acts of misconduct in two client matters consisting of failing to provide client files and failing to cooperate in the State Bar's investigation. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar. Ct. Rptr. 631 [three instances of misconduct considered multiple acts].)

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged his misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaitth* (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].) However, this mitigation is tempered by respondent's failure to cooperate in the two instant State Bar matters.

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 Silvertan* (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).)

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

The most severe sanction applicable to respondent's misconduct is found in Standard 2.19, which applies to respondent's violation(s) of rule 3-700(D)(1) [failure to return client file]. Standard 2.19 provides that "Suspension not to exceed three years or revocation is the presumed sanction."

Respondent also has a prior disciplinary record. Standard 1.8(b) provides that where "a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct: actual suspension was ordered in any of the prior disciplinary matters; the prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or the prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities." Disbarring an attorney with two prior disciplinary records, without more analysis, is not proper in every case. (See *In the Matter of Sullivan* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189.) While respondent has two prior disciplinary records, the discipline imposed in his first prior did not involve an actual suspension, and the discipline in respondent's second prior included a 30-day actual suspension. Additionally, there is a period of approximately 12 years between respondent's effective discipline in his first prior and his second prior. Further, there does not appear to be a common thread, or pattern, of misconduct in regards to respondent's prior misconduct and the instant misconduct. Accordingly, a deviation from Standard 1.8(b) is warranted and discipline under Standard 2.19 is appropriate. (See *Id.* at 196.) However, progressive discipline under Standard 1.8(a) is nonetheless merited.

In this case, respondent failed to return a client file and failed to cooperate in the State Bar's investigation in two separate matters. His misconduct is aggravated by his prior disciplinary record, and multiple acts of wrongdoing. Respondent is entitled to some mitigative credit for entering into a pretrial stipulation, although this mitigation is tempered by his failure to cooperate in the two instant State Bar matters. Under Standard 2.19 a two year stayed suspension and two years' probation with the condition that he be actually suspended for six months is the appropriate level of discipline to protect the public, courts, and legal profession; maintain the highest professional standards and preserve public confidence in the legal profession.

Case law supports this level of discipline. In *In the Matter of Kaplan* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509, the Review Department recommended discipline consisting of a two year stayed

suspension, two years' probation with conditions, including 90-days' actual suspension. *Kaplan* failed to forward client files to new counsel in seven matters, failed to communicate in five cases, failed to perform in three matters, failed to endorse and return settlement drafts to former clients in two instances, and failed to pay court ordered sanctions. In mitigation, the attorney had nine years of discipline free practice and had made improvements within his office in an effort to ensure that the misconduct would not recur. In aggravation, there were multiple acts of misconduct, and the court found that respondent lacked candor during the hearing.

In *In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944, the discipline recommended by the Review Department consisted of a five year stayed suspension, five years' probation with conditions, including a two year actual suspension and until the requirements of former Standard 1.4(c)(ii) (the current Standard is 1.2(c)(1)) were satisfied. *Brockway* concerned 14 counts of misconduct in four client matters, including failing to perform, improper withdrawal, failure to provide an accounting, failure to return unearned fees, failure to communicate, and failure to return files. In aggravation, respondent had a prior record of discipline consisting of 90-days' actual suspension, committed multiple acts of wrongdoing, significantly harmed his clients, made no attempt to atone for the consequences of his misconduct, and overreached. The attorney presented one good character witness in mitigation, but the court assigned no weight to the evidence presented.

Here, respondent committed four acts of misconduct in two client matters. Respondent's misconduct is aggravated by his prior two disciplinary records, and multiple acts of wrongdoing. Because *Kaplan* had no prior discipline and had undertaken steps to ensure the misconduct would not recur, the instant case is more similar to *Brockway*. Like *Brockway*, respondent has prior discipline and committed multiple acts of misconduct. Unlike *Brockway*, there is no overreaching and respondent has, albeit belatedly, returned one client's file thereby demonstrating an attempt to atone for his misconduct. Accordingly, discipline consisting of a two year stayed suspension, two years' probation with conditions, including a six months' actual suspension is the appropriate level of discipline to protect the public, courts, and 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 August 27, 2018, the discipline costs in this matter are \$7,998. 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, ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: JONATHAN EDWARD ROBERTS	Case Number(s): 17-O-01764 and 17-O-04243
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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.

August 27, 2018 Date	 Respondent's Signature	Jonathan E. Roberts Print Name
Date	Respondent's Counsel Signature	Print Name
August 27, 2018 Date	 Deputy Trial Counsel's Signature	Caitlin M. Elen Print Name

(Do not write above this line.)

In the Matter of: JONATHAN EDWARD ROBERTS	Case Number(s): 17-O-01764 and 17-O-04243
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ACTUAL SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See 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 Sept 4, 2018


LUCY ARMENDARIZ
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 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 September 5, 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:

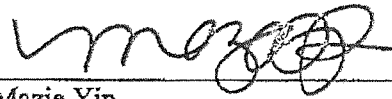
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JONATHAN EDWARD ROBERTS
12749 NORWALK BLVD STE 100
NORWALK, CA 90650

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

CAITLIN M. ELEN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 5, 2018.



Mazie Yip
Court Specialist
State Bar Court



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 April 15, 2019

State Bar Court, State Bar of California,
Los Angeles

By *Christina Roth*
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 May 24, 2019, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

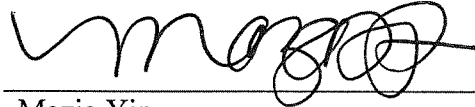
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JONATHAN EDWARD ROBERTS
PO BOX 2231
RCH CUCAMONGA, CA 91729 - 2231

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

CAITLIN M. ELEN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 24, 2019.



Mazie Yip
Court Specialist
State Bar Court