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

<p>Counsel For The State Bar</p> <p>Cydney Batchelor Deputy Trial Counsel 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204</p> <p>Bar # 114637</p>	<p>Case Number (s)</p> <p>04-C-11818-RAP</p>	<p>(for Court's use)</p> <p align="center">PUBLIC MATTER</p> <p align="center">FILED <i>ADS</i></p> <p align="center">JUN 01 2007</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>H. Wayne Green, Esq. West & Seegmiller 20162 Birch St., Suite 300 Newport Beach, CA 92660 Tele: 949/225-3939</p> <p>Bar # 92671</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PUBLIC REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of:</p> <p>MARK CARLSON LEE</p> <p>Bar # 157247</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 **December 16, 1991**.
- (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 **9** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline (public reproof)
 - case ineligible for costs (private reproof)
 - costs to be paid in equal amounts for the following membership years: **2008 and 2009**
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

B. Aggravating Circumstances [for 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 a separate attachment entitled "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.

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- (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. **See attachment**
- (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:

None

C. Mitigating Circumstances [see 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 with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. **See attachment**
- (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. **See attachment**
- (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. **See attachment**

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- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct. **See attachment**
- (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. **See attachment**
- (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:

See attachment

D. Discipline:

- (1) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproval:

- (1) Respondent must comply with the conditions attached to the reproof for a period of **two (2) years**.
- (2) During the condition period attached to the reproof, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of 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 condition period attached to the reproof. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reproof during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

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

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the conditions attached to the reprobation.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.
- No MPRE recommended. Reason: **Misconduct did not occur in practice of law.**
- (11) 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:

See attached

ATTACHMENT TO
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: **MARK CARLSON LEE**

CASE NUMBERS: **04-C-11818-RAP**

FACTS AND CONCLUSIONS OF LAW.

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

Procedural Background: This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court. On April 26, 2006, respondent pled guilty to a misdemeanor violation of Vehicle Code section 23153(b) [driving while intoxicated, causing physical injury to another person]. On August 10, 2006 and January 8, 2007, the Review Department of the State Bar issued its orders referring the matter to the Hearing Department for a hearing and decision recommending the decision to be imposed in the event that the facts and circumstances surrounding the convictions involved moral turpitude or other misconduct warranting discipline.

Facts: On August 23, 2003, respondent was involved in a traffic collision with another vehicle in Fresno, California. In the course of investigating the accident, the California Highway Patrol determined that respondent was under the influence of alcohol, and placed him under arrest. The driver in the other vehicle complained of pain to his shoulder and neck at the time; however, he did not require medical treatment at the scene or subsequently. Respondent voluntarily submitted to a blood test, and his blood alcohol level was determined to be .14%. On January 9, 2004, respondent was charged with felony violations of Vehicle Code section 23153(a) and 23153(b). The matter was continued a number of times to allow the parties to investigate the circumstances of the accident. As a result of those investigations, and on April 28, 2006, the district attorney reduced the charges to one misdemeanor violation of Vehicle Code section 23152(b), and respondent plead nolo contendere to the amended violation. Respondent was thereafter placed on three years informal probation.

Conclusions of Law: The facts and circumstances surrounding respondent's misdemeanor conviction for violating Vehicle Code section 23153(b) does not involve moral turpitude, but does involve other misconduct warranting discipline. The respondent acknowledges that by the conduct described herein, he willfully violated Business and Professions Code sections 6068(a).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was May 1, 2007.

AGGRAVATING CIRCUMSTANCES.

Harm: Respondent caused minor physical injuries to the other driver in the collision, and damage to his vehicle.

MITIGATING CIRCUMSTANCES.

Candor and cooperation: Although respondent was not required to do so, he voluntarily reported his criminal charge to the State Bar on August 12, 2004. Through his counsel, respondent has been completely cooperative with the State Bar in the resolution of this matter.

Objective steps demonstrating remorse: Respondent submitted to a chemical test for his blood alcohol level, and plead guilty in the underlying criminal offense. In addition, he paid full restitution to the other driver for the damage to his vehicle. Finally, on his own volition before the intervention of the State Bar, respondent enrolled in and successfully completed a 22-month chemical dependency program through Kaiser Permanente.

Financial Problems: In late 2002, respondent's law practice dissolved, causing extreme financial hardship to him.

Family Problems: During the year before the misconduct herein, respondent had the following family problems: his brother died and respondent assumed temporary custody of his brother's two teenaged sons; and respondent's daughter was placed in a care facility as a result of her Downs Syndrome.

Physical Difficulties: In February 2003, respondent was in an auto accident and suffered back, neck and head injuries.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Compliance with Underlying Probation: Respondent has fully and completely complied with all conditions of his criminal probation since he entered his plea in April 2006.

No prior record of discipline: Although the misconduct herein is serious, respondent has had no prior record of discipline since being admitted in December 1991, which was 12 years before the misconduct herein.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards for Attorney Sanctions for Professional Misconduct 1.2(b)(ii), 1.2(e)(v), 1.2(e)(vii), 2.6(a), 3.4; *In re Kelley* (1990) 52 Cal.3d 487; and *see generally In Re Silverton* (2005) 36 Cal.4th 81.

COMPLIANCE WITH CONDITIONS OF PROBATION IN UNDERLYING CRIMINAL MATTERS.

Respondent shall comply with all conditions of his probation that were imposed in the underlying criminal matters, and shall so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the State Bar Office of Probation.

STATE BAR ETHICS SCHOOL.

Respondent has agreed to attend State Bar Ethics School as part of this stipulation; therefore, he may receive Minimum Continuing Legal Education credit toward his required number of MCLE credits.

ELECTION NOT TO REQUEST STATE BAR COURT'S ALTERNATIVE DISCIPLINE PROGRAM.

By signing this stipulation, Respondent acknowledges that he was provided information about the State Bar Court's Alternative Discipline Program, that he was offered the opportunity to request referral to and participation in that program, and that he has elected not to do so.

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In the Matter of MARK CARLSON LEE	Case number(s): 04-C-11818-RAP
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SIGNATURE OF THE PARTIES

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

5/3/07
Date

May 3, 2007
Date

5/11/07
Date

M. Carlson Lee
Respondent's Signature

H. Wayne Green
Respondent's Counsel Signature

Cydney Batchelor
Deputy Trial Counsel's Signature

~~Cydney Batchelor~~ Mark Carlson Lee
Print Name

H. Wayne Green
Print Name

~~M. Carlson Lee~~ Cydney Batchelor
Print Name

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In the Matter Of MARK CARLSON LEE	Case Number(s): 04-C-11818-RAP
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

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

5/31/07
Date

George Mott
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 of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on June 1, 2007, I deposited a true copy of the following document(s):

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

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

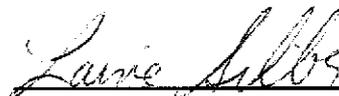
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**HAROLD WAYNE GREEN
ATTORNEY AT LAW
7522 N COLONIAL AVE #130
FRESNO, CA 93711 - 5706**

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

CYDNEY BATCHELOR, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **June 1, 2007.**



Laine Silber
Case Administrator
State Bar Court