

**ORIGINAL**

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<b>State Bar Court of California</b>		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar <b>DAVID T. SAUBER</b> Deputy Trial Counsel 1149 South Hill Street, 9 <sup>th</sup> Floor Los Angeles, CA 90015-2299 Telephone: (213) 765-1000  Bar #    176554	Case number(s)  04-C-15195 04-C-15110  kwiktag®    022 604 776 	(for Court's use)  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>pm</i>  NOV 03 2005  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent <b>MAYNARD D. DAVIS</b> 3415 S. Sepulveda Blvd., #320 Los Angeles, California 90034-6060 Telephone: (310) 479-4111  Bar #    26228	Submitted to <input type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND          DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of <b>RICHARD E. ACKERKNECHT</b>  Bar #    132175 A Member of the State Bar of California (Respondent)		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted December 11, 1987  
(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 11 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) 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.

(Do not write above this line.)

(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 284, Rules of Procedure.
- costs to be paid in equal amounts prior to February 1 for the following membership years:  
2006 and 2007  
(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

**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.

(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.

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

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- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's 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 must be suspended from the practice of law for a period of 12 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 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 24 months, which will commence upon the effective date of the Supreme Court order in this matter.  
(See rule 953, Calif. Rules of Ct.)

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(3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of Thirty (30) days

- 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 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 learning and ability in general law, pursuant to standard 1.4(c)(ii), 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.

(Do not write above this line.)

- (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)  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 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended. Reason: \_\_\_\_\_
- (2)  **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, 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 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, 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:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW**

IN THE MATTER OF:       **RICHARD E. ACKERKNECHT, SB#132175**

CASE NUMBERS:           **04-C-15195; 04-C-15110**

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was July 29, 2005.

**WAIVER OF FINALITY OF CONVICTION (rule 607):**

Pursuant to the Rules of Procedure of the State Bar of California, rule 607 the parties stipulate that the Court may decide the issues as to the discipline to be imposed even if the criminal convictions discussed herein are not final.

Respondent waives finality of his conviction and consents to the State Bar Court's acceptance of this Stipulation as to facts, conclusions of law and discipline in all respects as if the conviction was final, including the entry of findings consistent with this Stipulation, imposition of discipline, or entry of a recommendation as to the degree of the discipline to be imposed.

Respondent waives any right to challenge on the basis of a lack of finality of his conviction the State Bar Court's recommendation of discipline, if any, and the actual imposition of discipline, if any, by the State Bar Court or the California Supreme Court.

Respondent further waives any right he may have to seek review or reconsideration on the basis of any relief he may receive as a result of any appeal of, or petition regarding, the criminal conviction underlying any recommendation of and/or actual imposition of discipline by the State Bar Court or the California Supreme Court.

**STIPULATION AS TO 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 for Case No. 04-C-15195:**

On June 4, 1999, Respondent was observed while shopping at the West Los Angeles Robinson-May Company, through closed circuit television. After Respondent took a shirt in the Polo department, he concealed it in his Robinson-May shopping bag. Respondent proceeded to another department, selected other shirts and went into the fitting room. Twenty minutes later, Respondent was observed exiting with all of the clothing he had selected from that department. The clerk checked the fitting room and did not see the first shirt Respondent had selected from the Polo department. When Respondent paid at the register, he did not pay for one of the shirts he had previously selected in the second department, nor did he pay for the first shirt he had concealed in his Robinson-May Company shopping bag. Respondent then attempted to exit the store with both

of the unpaid shirts draped over his shoulder. After being confronted by security, the shirts were recovered. Further, at the time of the arrest, five little black balls containing heroin were discovered on Respondent's person.

While in the Robinson-May Company security office, Respondent verbally admitted to the facts which were later contained in the arrest report.

On June 4, 1999, the District Attorney's office filed a felony complaint in the Los Angeles Municipal Court in case no. SA036129, consisting of one felony offense for the above described incident:

Count One: Violation of Health and Safety Code section 11351, possession for sale of a controlled substance, heroin.

On July 14, 1999, the complaint was amended by interlineation, adding two more felony offenses consisting of the following:

Count Two: Violation of Health and Safety Code section 11350(a), possession of a controlled substance.

Count Three: Violation of Penal Code section 484(a), theft of property.

On that same day, the matter was referred out for a deferred entry of judgment, a Penal Code section 1000.1 probation referral issued and Respondent was referred to probation for a diversion evaluation.

On August 25, 1999, the Penal Code section 484(a) theft charge in count three was deemed a misdemeanor, pursuant to Penal Code section 17(b)4, to which Respondent pled no contest. The certified plea was also sent to the Los Angeles Superior Court, West District where a new complaint was filed reflecting the change consisting of two felony offenses and one misdemeanor offense.

As to count two, on August 25, 1999, Respondent was placed on deferred entry of judgment for a period of 18 months. Respondent was also ordered not to use or possess any narcotics, dangerous or restricted drugs or assorted paraphernalia (except with valid prescription), to stay away from associated places (except an authorized drug counseling program), and to pay fees and fines totaling \$250. Count one was dismissed.

As to count three, on February 24, 2000, Respondent was placed on 24 months summary probation and was ordered to serve one day in the Los Angeles County jail minus credit for one day, perform 100 hours community service and pay a \$100 restitution fine.

On February 27, 2001, Respondent pled guilty to the previously deferred felony count two. The deferred entry of judgment was terminated and the cause was dismissed.

On September 28, 2001, Respondent filed a petition and order under Penal Code section 1203.4 and 1203.4a. On January 30, 2002, the guilty plea as to count two was set aside and dismissed pursuant to Penal Code section 1203.4 and a not guilty plea was entered.

**Conclusions of Law for Case No. 04-C-15195:**

Respondent's conviction for wilfully violating Penal Code section 484(a): Theft of property,

a misdemeanor, involved moral turpitude pursuant to Business and Professions Code, sections 6101 and 6102.

**Facts for Case No. 04-C-15110:**

On or about October 11, 2004, Respondent was observed in a Vons Grocery Store by a store security officer. While in the store and prior to proceeding through the checkout aisle, Respondent was seen to place several items into his backpack. These items included: cheese, bologna, ham, light bulbs, candles, beef jerky, and beans. Respondent then proceeded to the checkout aisle and paid for only those items in his shopping cart. Respondent did not attempt to pay for the items concealed in his backpack.

After completing the checkout, Respondent proceeded towards the exit. Just prior to exiting the store, Respondent took a halloween pail and left the store without paying for it.

Respondent was contacted by store security after exiting the Vons Store. Respondent agreed to reenter the store and admitted to taking the items identified above. Respondent told the security guards that he was financially unstable. Respondent was found to be carrying \$4.00 cash, four credit cards, and one check book.

On or about October 13, 2004, a misdemeanor complaint was filed against Respondent, Case No. 4WL04267, charging Respondent with a violation of Penal Code, section 484(a), with an additional allegation of a prior conviction of Penal Code, section 666/484(a) in Case No. SA036129.

On or about March 2, 2005, Respondent pled nolo contendere to violating Penal Code, section 666 as set forth in the misdemeanor complaint. Respondent was placed on summary probation for 36 months, 15 days in county jail, and a \$500 fine or 16 days of Cal Trans work. All fines and fees due totaled \$1645.00.

**Conclusions of Law for Case No. 04-C-15110:**

Respondent's conviction for wilfully violating Penal Code section 666/484(a): Theft of property, a misdemeanor, involved moral turpitude pursuant to Business and Professions Code, sections 6101 and 6102.

(Do not write above this line.)

In the Matter of  RICHARD E. ACKERKNECHT	Case number(s): 04-C-15195 04-C-15110
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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.

9/2/05      *Richard E. Ackerknecht*      RICHARD E. ACKERKNECHT  
 Date              Respondent's signature              Print name

9-8-05      *Maynard D. Davis*      MAYNARD D. DAVIS  
 Date              Respondent's Counsel's signature              Print name

9-28-05      *David T. Sauber*      DAVID T. SAUBER  
 Date              Deputy Trial Counsel's signature              Print name

(Do not write above this line.)

In the Matter of RICHARD E. ACKERKNECHT	Case number(s): 04-C-15195 04-C-15110
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## 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 1, in the caption, an "x" is inserted in the box indicating that the stipulation is submitted to the assigned judge.
2. On page 2, under section A(8), the year "2006" is deleted and the year "2008" is inserted. By the time the disciplinary recommendation is effective, it will be too late to bill respondent for the 2006 membership year. Thus, respondent is to pay costs in equal amounts prior to February 1 for the 2007 and 2008 membership years.
3. On page 4, under section D(1), an "x" is inserted in the box next to paragraph (b), indication that the 12 months suspension is stayed.

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.)

11-3-05  
Date

  
JOANN M. REMKE  
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 November 3, 2005, 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:

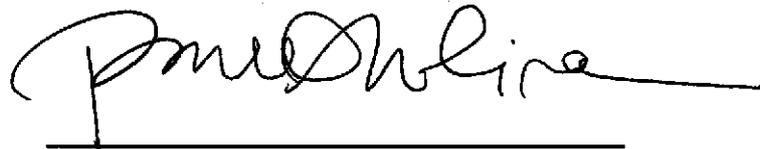
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**MAYNARD DONALD DAVIS  
3415 S SEPULVEDA BLVD # 320  
LOS ANGELES CA 90034 6060**

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

**DAVID SAUBER, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **November 3, 2005.**



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**Bernadette C. O. Molina**  
Case Administrator  
State Bar Court