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MAY 24 2005

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - LOS ANGELES SAN FRANCISCO  
STATE BAR COURT CLERK'S OFFICE

In the Matter of

**ROBERT STANLEY SHATZEN,**

**Member No. 54542,**

**A Member of the State Bar.**

**Case No. 04-J-14374-PEM**

**DECISION**

## I. Introduction

In July 2004, a Trial Panel of the Disciplinary Board of the State Bar of Oregon (the Oregon trial panel)<sup>1</sup> issued a disciplinary opinion in *In re: Complaint as to the Conduct of Robert S. Shatzen, Accused*, Oregon State Bar case number 03-121, in which it actually suspended respondent Robert Stanley Shatzen<sup>2</sup> from the practice of law in Oregon for 120 days and until he completed a “formal reinstatement” in accordance with rule 8.1 of the Oregon State Bar Rules of Procedure.<sup>3</sup> That discipline was imposed on respondent because he was found to have violated four of the Disciplinary

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<sup>1</sup>Oregon trial panels are the equivalent of trial courts and, as such, make decisions, rather than recommendations. (*In re Conduct of Kluge* (Or. 2003) 66 P.3d 492, 495, fn. 1.)

<sup>2</sup>Respondent was admitted to the practice of law in the State of California on December 13, 1972, and has been a member of the State Bar since that time. He does not have a prior record of discipline in California, and other than the discipline imposed on him Oregon State Bar case number 03-121, he has no record of attorney discipline in Oregon.

<sup>3</sup>All references to Oregon Rules of Procedure are to these Oregon State Bar Rules of Procedure.

1 Rules of the Oregon Code of Professional Responsibility.<sup>4</sup> Neither the Oregon State Bar nor  
2 respondent sought review of the Oregon opinion in the Oregon Supreme Court. Thus, under rule  
3 10.1 of the Oregon Rules of Procedure, the Oregon trial panel's July 2004 disciplinary opinion  
4 (hereafter the Oregon opinion) became final and respondent's 120-day actual suspension began on  
5 September 8, 2004.

6 The present proceeding is an expedited disciplinary proceeding based on the respondent's  
7 formal record of discipline in Oregon. (See, generally, Rules Proc. of State Bar of Cal., rule 620 et  
8 seq.)<sup>5</sup> Gordon L. Grenier appeared for the Office of the Chief Trial Counsel of the State Bar of  
9 California (hereafter California State Bar). Even though he had actual knowledge of this proceeding,  
10 respondent never filed a response to the notice of disciplinary charges (hereafter NDC). Nor did  
11 respondent otherwise appear in this proceeding.

12 Under California Business and Professions Code section 6049.1,<sup>6</sup> an attorney's formal record  
13 of discipline in another state is *conclusive evidence* that the attorney is culpable of professional  
14 misconduct in California unless, as a matter of law, the attorney's misconduct in the other state  
15 would not warrant discipline in this state (§ 6049.1, subd. (b)(2)) or unless the proceedings in the  
16 other state lacked *fundamental* constitutional protection (§ 6049.1, subd. (b)(3)). Moreover, unless  
17 it is apparent from the face of the record, the attorney bears the burden of establishing that his or her  
18 misconduct in the other state does not warrant discipline in California and that the proceeding in the  
19 other state lacked fundamental constitutional protection. (§ 6049.1, subd. (b).) However, respondent  
20 defaulted in this proceeding and, therefore, did not present any evidence on either of these issues.  
21 Accordingly, the primary issues now before this court are what California rule and statutory  
22 violations, if any, are established by the record in the Oregon disciplinary proceeding (§6049.1,  
23 subd.(a)) and what is the appropriate level of discipline, if any, to impose on respondent in

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25 <sup>4</sup>Unless otherwise indicated, all references to Oregon DR's are to these Disciplinary Rules  
of the Oregon Code of Professional Responsibility.

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27 <sup>5</sup>All references to California Rules of Procedure are to these Rules of Procedure of the  
State Bar of California.

28 <sup>6</sup>All statutory references are to this code.

1 California (§6049/1. subd..(b)(1)).

2 The degree of discipline in a disciplinary proceeding based on an attorney's record of  
3 discipline in another state, such as the present one, is independently determined by the State Bar  
4 Court in the same manner as all other disciplinary proceedings. (*In the Matter of Jenkins* (Review  
5 Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157, 163-164.) Unlike some states, California does not defer  
6 to the degree of discipline imposed by the sister state. (*Ibid.*)

7 The court holds that the record establishes (1) that respondent is culpable of three violations  
8 California rules and statutes in comparison to the four violations found in Oregon, (2) that there are  
9 two aggravating circumstances in this proceeding in comparison to the three in the Oregon  
10 proceeding; and (3) that, just as there was in the Oregon proceeding, there is one mitigating  
11 circumstance in this proceeding. In view of the nature and extent of these violations under the  
12 record, the aggravating and mitigating circumstances, and all the other relevant factors, the court  
13 concludes that the appropriate level of discipline in this proceeding is three years' stayed suspension  
14 and four months' actual suspension with the actual suspension continuing until: (1) respondent files  
15 and the State Bar Court grants a motion, under rule 205 of the California Rules of Procedure, to  
16 terminate his actual suspension; and (2) if he remains actually suspended for two or more years, he  
17 establishes his rehabilitation, fitness, and legal learning in accordance with standard 1.4(c)(ii) of the  
18 Standards for Attorney Sanctions for Professional Misconduct.<sup>7</sup>

## 19 II. Procedural History of Present Proceeding

20 On November 4, 2004, the State Bar filed the NDC in this proceeding and, in accordance  
21 with section 6002.1, subdivision (c) and rule 60 of the California Rules of Procedure, properly served  
22 a copy of it on respondent by certified mail, return receipt requested, at respondent's latest address  
23 shown on the official membership records of the California State Bar (hereafter official address).  
24 However, the United States Postal Service (hereafter Postal Service) returned that copy of the NDC  
25 returned to the California State Bar undelivered and marked "Return to Sender, Not Deliverable as  
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28 <sup>7</sup>The standards are found in title IV of the California Rules of Procedure. All further  
references to California standards are to this source.

1 Addressed, Unable to Forward.” Even though that copy of the NDC was returned to the State Bar  
2 undelivered, service on respondent was deemed complete when it was mailed on November 4, 2004.  
3 (§ 6002.1, subd. (c); *Bowles v. State Bar* (1989) 48 Cal.3d 100, 107-108.)

4 The declaration of a California State Bar deputy trial counsel, which is attached to the  
5 California State Bar’s January 10, 2005 motion for entry of default in this proceeding, establishes  
6 that, as a courtesy to respondent, the California State Bar exceeded its duty, under section 6002.1,  
7 subdivision (c), to give respondent notice of this disciplinary proceeding. Specifically, on November  
8 4, 2004, in addition to mailing a copy of the NDC to respondent at his official address, the California  
9 State Bar mailed a courtesy copy of the NDC to respondent, by first class mail, at 12469 SW.  
10 Edgewater Court, Tigard, OR 97223-3519. That courtesy copy was not returned undelivered to the  
11 California State Bar. Further, on January 10, 2005, the deputy trial counsel searched 411.com for  
12 a telephone listing for respondent, found the number (503) 579-1887, telephoned respondent at that  
13 number, and spoke to respondent. During that phone conversation, respondent told the deputy trial  
14 counsel that he (i.e., respondent) defaulted in his Oregon discipline case and that he wished for the  
15 present California case to proceed in the same fashion.

16 On January 10, 2005, the California State Bar filed a motion for entry of default in this  
17 proceeding and properly served a copy of that motion on respondent by certified mail, return receipt  
18 requested, at his official address. (Cal. Rules Proc., rules 60, 200(b).) At the same time, as a further  
19 courtesy to respondent, the bar mailed respondent another copy of that motion by first class mail at  
20 12469 SW. Edgewater Court, Tigard, Oregon 97223-3519. The record does not establish whether  
21 the Postal Serviced returned either of these copies to the California State Bar undelivered.

22 Respondent did not respond to the motion for entry of default, which properly recited all of  
23 the information required under rule 200(a) of the California Rules of Procedure. Thereafter, because  
24 all the statutory and rule prerequisites were met, this court filed an order on February 4, 2005,  
25 entering respondent’s default and, as mandated in section 6007, subdivision (e)(1), placing him on  
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1 involuntary inactive enrollment.<sup>8</sup> The State Bar Court Clerk properly served a copy of that order  
2 on respondent by certified mail, return receipt requested, at his official address, but the Postal  
3 Service returned that copy to the clerk undelivered.

4 On February 17, 2005, the State Bar filed a request for waiver of default hearing and brief  
5 on culpability and discipline. And, on February 24, 2005, the court took the matter under submission  
6 for decision without hearing.

### 7 III. Evidentiary Record

8 The evidentiary record in this proceeding is very limited. The only evidence that the  
9 California State Bar proffered into evidence and the only things that it requested this court to  
10 judicially notice are exhibits 1 through 5 of the NDC.<sup>9</sup> In accordance with the California State Bar's  
11 proffer, the court admits, into evidence, exhibits 1 and 3 of the NDC are admitted into evidence,  
12 which are certified copies of the Oregon opinion and of a September 8, 2004 letter from an Oregon  
13 State Bar assistant disciplinary counsel establishing that the Oregon opinion became effective on  
14 September 8, 2004. (§ 6049.1, subd. (d); Cal. Rules of Proc., rule 624.) In addition, in accordance  
15 the California Bar's request, this court takes judicial notice of exhibits 2, 4, and 5 of the NDC, which  
16 are copies of various Oregon Rules of Procedure and Oregon rules as adopted by Oregon State Bar,  
17 which is an Oregon public corporation and an instrumentality of the Oregon Judicial Department.  
18 (Cal. Evid. Code, § 452, subd. (c) [permissive judicial notice of, inter alia, official acts of the judicial  
19 department of any state of the United States].)

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22 <sup>8</sup>Respondent was involuntarily enrolled inactive on February 7, 2005, and has  
23 continuously been involuntarily enrolled inactive since that time. Of course, attorneys on  
24 inactive enrollment are not entitled to practice law in California. Unless otherwise ordered by  
25 the Supreme Court or the State Bar Court, respondent will remain on involuntary inactive  
enrollment under the court's February 4, 2005 order until the effective date of the Supreme  
Court order in this matter. (§ 6007, subd. (e)(2).)

26 <sup>9</sup>Even though it is true that the factual allegations contained in the NDC are deemed  
27 admitted by the entry of respondent's default (§ 6088; Cal. Rules Proc., rule 200(d)(1)(A)), the  
28 NDC in this proceeding, like the NDC in all expedited proceeding based on discipline imposed  
in another jurisdiction, does not contain any significant factual allegations (Cal. Rules Proc., rule  
621(b)).



1 maintains his office in Washington County, Oregon. In Oregon, respondent held a valid Certified  
2 Public Accountant certificate and permit, which lapsed in June 1983. The Oregon opinion does not  
3 state why respondent's CPA certificate and permit lapsed; nor does it identify what the difference  
4 is between respondent's CPA certificate and permit and the license he was issued by the Oregon  
5 Board of Accountancy (hereafter Board of Accountancy).

6 During a period of about six years beginning at some unspecified time after June 1983,<sup>11</sup>  
7 respondent continued (1) to advertise that he was a CPA in various telephone directories, (2) to list  
8 himself as a CPA in the Oregon State Bar Membership Directory, and (3) to tell his clients that he  
9 was a CPA. Two individuals filed complaints against respondent (presumably with the Board of  
10 Accountancy) because, as a CPA, he failed to prepare their returns (presumably their tax returns).

11 In April 2003, the Board of Accountancy issued a "notice of proposed civil penalty, license  
12 revocation and notice of right to hearing," which was "delivered" to respondent by regular and  
13 certified mail. Respondent did not request a hearing, and the Board of Accountancy, apparently on  
14 August 27, 2003, revoked his CPA license<sup>12</sup> and assessed \$52,000 in civil penalties against him.

15 Thereafter, the Board of Accountancy provided its "conclusions" to the Oregon State Bar,  
16 which forwarded them to respondent with a request that he provide it with a response by September  
17 24, 2003. Respondent did not respond by September 24, 2003. The Oregon Bar then requested that  
18 respondent provide it with a response by October 10, 2003. But he did not do so. And, in December  
19 2003, the Oregon Bar initiated disciplinary proceedings against respondent.

20 On December 19, 2003, the Oregon State Bar served the "formal complaint" and a "notice  
21 to answer" on respondent by first class mail. Respondent, however, did not file an answer. Thus,  
22 in March 2004, the Oregon Bar served a "notice of intent to take default" on respondent by first class  
23 mail. But respondent still failed to file an answer. And, in April 2004, the Oregon Disciplinary  
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26 <sup>11</sup>Even though the record does not establish exactly when this period of about six years  
27 began, it suggests that it began sometime in the late 1990's.

28 <sup>12</sup>While the Oregon opinion makes clear that there is a difference between a CPA  
certificate and permit and

1 Board Chairperson entered a<sup>11</sup>n order of default against respondent.

2 In May 2004, Disciplinary Counsel's Office of the Oregon State Bar submitted and mailed  
3 to respondent a "memorandum re: sanctions." The Oregon trial panel did not receive a responsive  
4 memorandum from respondent. And, as note *ante*, in July 2004, the Oregon trial panel issued the  
5 Oregon opinion, which became final in September 2004 since neither the Oregon State Bar nor  
6 respondent sought review from the Oregon Supreme Court.

7 **A. Misconduct in Communications and Solicitations**  
8 **(§ 6106; Cal. rules 1-400(D)(1), 1-400(D)(2).)**

9 Based on the fact that the violations were admitted by respondent's failure to respond to the  
10 formal complaint, the Oregon trial panel found that respondent "represented to clients that he was  
11 a CPA when his certificate and permit had expired and subsequently when his license was revoked.  
12 [Respondent] advertised in various telephone directories that he was a CPA when he did not hold  
13 a valid certificate and permit or license. [Respondent] indicated that he was a CPA in the [Oregon  
14 State Bar] Membership Directory when his certificate and permit had lapsed. [Respondent] violated  
15 [Oregon Revised Statutes section] 673.320(3) when he used the title or designation of CPA when  
16 he did not hold a valid certificate and permit." The Oregon panel further found that respondent's  
17 actions were dishonest and intentional as it noted that, "Due to the fact that [respondent] did not  
18 respond, there are no facts before us that would indicate anything other than [that respondent] acted  
19 intentionally to deceive, especially since the deception continued over six years."

20 The Oregon trial panel further found that respondent's conduct violated Oregon DR's  
21 1-102(A)(3), 2-101(A)(1), and 2-102(A).<sup>12</sup> The California State Bar contends that these violations  
22 found in the Oregon opinion establish that respondent is culpable of violating section 6106 and  
23 California rules 1-400(D)(2) and 1-400(D)(1), respectively. This court agrees, but as noted *post*,  
24 declines to hold respondent culpable of violating California rule 1-400(D)(2) because it is duplicative  
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28 <sup>12</sup>Rule 5.2 of the Oregon Rules of Procedure provides that the Oregon State Bar has the  
burden to prove misconduct by clear and convincing evidence.



1 of the California rule 1-400(D)(1) violation.

2 Under section 6049.1, subdivision (a), respondent's violation of Oregon DR 1-102(A)(3)  
3 establishes his culpability for violating section 6106 because Oregon DR 1-102(A)(3), which  
4 proscribes conduct involving dishonesty, fraud, deceit, or misrepresentation, is substantially identical  
5 to section 6106, which proscribes conduct involving moral turpitude, dishonesty, or corruption.  
6 Likewise, respondent's violation of Oregon DR 2-101(A)(1), which proscribes communications that,  
7 inter alia, contain material misrepresentations of fact or law is substantially identical to California  
8 rule 1-400(D)(1), which proscribes communications and solicitations that contain any untrue  
9 statements. Likewise, respondent's violation of Oregon DR 2-102(A), which permits attorneys to  
10 use, inter alia, telephone and directory listings so long as the information in them complies with  
11 Oregon DR 2-101 (i.e., not contain any material misrepresentations of fact or law) and the other  
12 applicable Oregon DR's, is substantially identical to California rule 1-400(D)(2), which proscribes  
13 communications and solicitations (including advertisements in telephone directories) that contain,  
14 inter alia, any matter that is false or deceptive.

15 However, even though the court concludes that the Oregon opinion establishes respondent's  
16 culpability for violating California rule 1-400(D)(2), the court declines to hold respondent's culpable  
17 of the violation because it is clearly duplicative to the California rule 1-400(D)(1) violation. It is  
18 inappropriate to find duplicative violations. (*In the Matter of Stansbury* (Review Dept. 2000) 4 Cal.  
19 State Bar Ct. Rptr. 103, 108; *In the Matter of Dixon* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr.  
20 23, 31.)

21 In short, the court holds that respondent is culpable of willfully violating California rule  
22 1-400(D)(1) and that, because his conduct underlying his violation of that rule was deliberate and  
23 involved an intent to deceive, it rises to an act involving not only moral turpitude, but also dishonesty  
24 in willful violation of section 6106.<sup>13</sup>

25 **B. Failure to Cooperate (§ 6068, subd. (i).)**

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28 <sup>13</sup>Under these facts, it is not duplicative to hold respondent's culpable of violating both  
California rule 1-400(D)(1) and section 6106.



1 and the Oregon Bar's directory for some six years amounts to a pattern of misconduct.<sup>14</sup> (Std.  
2 1.2(b)(ii); *Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149-1150 & 1150, fn. 14 [only serious  
3 misconduct that is repeated over an extended period of time supports a finding of pattern-of-  
4 misconduct aggravation].)

5 This court rejects the Oregon trial panel's aggravation finding based on the fact that  
6 respondent committed multiple acts of misconduct. This court has relied on respondent's multiple  
7 acts of misconduct as a basis for its pattern-of-misconduct finding. It would be duplicative to again  
8 them as an independent basis of aggravation.

9 **2. Failure to File a Response to the NDC**

10 Respondent's failure to file a response either to the Oregon Bar's formal complaint or the  
11 NDC in this proceeding, which allowed his defaults to be entered, are serious aggravation.  
12 (*Conroy v. State Bar* (1990) 51 Cal.3d 799, 805.) First, it establishes that he fails to appreciate  
13 the seriousness of the charges against him. (*Ibid.*) And, second, "it establishes that [he] does not  
14 comprehend the duty as an officer of the court to participate in disciplinary proceedings.  
15 [Citation.]" (*In the Matter of Stansbury* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103, 109;  
16 but see *Bledsoe v. State Bar, supra*, 52 Cal.3d at p. 1080 [failure to participate in a default  
17 hearing is not an aggravating circumstance].)

18 **3. Lack of Insight**

19 Respondent's failure pay the \$52,000 in civil penalties assessed against him by the Board  
20 of Accountancy (or at least his failure to establish that he made payments on those penalties in  
21 accordance with his ability to pay) establishes that respondent lacks insight into the seriousness of  
22 his misconduct, which is an aggravating circumstance. Moreover, such lack of insight is particularly  
23 troubling because it suggests that an attorney's misconduct may reoccur. (*Blair v. State Bar* (1989)  
24 49 Cal.3d 762, 781-782.)

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27 <sup>14</sup>The Oregon opinion states "multiple offenses (yellow page advertising, Bar directory,  
28 business cards and letterhead.)" This parenthetical reference is the only reference to business  
cards or letterhead in the record. And it is insufficient to establish in this court that respondent  
misrepresented his status as a CPA on either his business cards or his letterhead.

1           **4.     Bad Faith, Dishonest, or Concealment**

2           This court reject's the California State Bar's contention that the Oregon trial panel finding  
3 "that, for over a six year period, the Respondent acted intentionally to deceive"<sup>15</sup> establishes bad  
4 faith, dishonesty, or concealment aggravation under standard 1.2(b)(iii). Even though the Oregon  
5 trial panel did make such a finding it, it did not consider it to be an aggravating circumstance.  
6 Instead, it properly considered it for purposes of establishing respondent's culpability for violating  
7 Oregon DR 1-101(A)(3), which as noted *ante*, proscribes conduct involving dishonesty, fraud, deceit,  
8 or misrepresentation. And this court likewise relied on it for purposes of holding that respondent  
9 is culpable of violating section 6106's proscription of acts involving moral turpitude and dishonesty.  
10 Accordingly, it would be improper for this court to again rely upon it to establish an aggravating  
11 circumstance.

12       **B.     Mitigation**

13           **1.     No Prior Record of Discipline**

14           As noted above, respondent has no prior record of discipline in California, and other than the  
15 discipline imposed on him in Oregon in October 2003, he has no prior record of discipline in  
16 Oregon. Of course, respondent's October 2003 discipline in Oregon cannot be a prior record of  
17 discipline in the present proceeding under rule 216(a) of the California Rules of Procedure because  
18 the misconduct for which respondent was disciplined in Oregon is the same misconduct that is the  
19 subject of this expedited disciplinary proceeding under section 6049.1.

20           Respondent apparently practiced law discipline-free for more that 20 years before he  
21 committed the misconduct found in the present proceeding. This court cannot determine the exact  
22 number of discipline-free years because the record does not establish exactly when respondent  
23 engaged in the found misconduct. (See footnote 11, *ante*.) Respondent's discipline-free practice for  
24 almost 20 years is a substantial mitigating circumstance. (Std. 1.2(e)(i).) And this is true even  
25 though the misconduct found in this proceeding and the Oregon proceeding is deemed serious. (*In*

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28           <sup>15</sup>The California State Bar incorrectly indicated in its request for waiver of default hearing  
and brief on culpability and discipline that the Oregon Supreme Court made this finding.

1 *the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn. 13, and cases there  
2 cited [notwithstanding standard 1.2(e)(i)'s plain language to the contrary, the absence of a prior  
3 record of discipline over many years of practice is strong mitigation even when the present  
4 misconduct is serious].) In light of the foregoing, it is clear that the California State Bar's  
5 representation in its February 17, 2005 request for waiver of default hearing and brief on culpability  
6 and discipline that contention that "There is no evidence of any mitigating circumstances in the  
7 record in this proceeding" is incorrect. This particularly true in light of the fact the Oregon opinion  
8 itself finds and gives respondent mitigating credit for the fact that "[respondent] has no prior  
9 disciplinary record."

10 **2. No Other Mitigating Circumstances**

11 Because of Respondent's failure to participate in this proceeding, there is no evidence of any  
12 additional mitigating circumstances.

13 **VI. Discipline Discussion**

14 The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect  
15 the public, to preserve public confidence in the profession and to maintain the highest possible  
16 professional standards for attorneys. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

17 In determining the appropriate level of discipline, the Court first looks to the standards for  
18 guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review  
19 Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) However, the standards are not to be applied in a  
20 talismanic fashion. (*Gary v. State Bar* (1988) 44 Cal.3d 820, 828.) Next, the Court looks to  
21 decisional law for guidance. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter*  
22 *of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

23 Looking to the standards first, standard 1.6(a) provides that, when two or more acts of  
24 misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for  
25 those acts, the recommended sanction is to be the most severe of the different sanctions. In the  
26 present proceeding, the most severe sanction for Respondent's misconduct is found in standard 2.3,  
27 which provides that an attorney's commission of an act involving moral turpitude "shall result in  
28 actual suspension or disbarment depending upon the extent to which the victim of the misconduct

1 is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to  
2 which it relates to the member's acts within the practice of law.”

3 The case of *In the Matter of Mitchell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 332  
4 involved dishonesty in that the attorney misrepresented his educational background on the resume  
5 that he mailed to law firms when seeking employment over a three-year period. Also, the attorney  
6 did not correct the misrepresentations during one interview. There were also aggravating  
7 circumstances -- lack of candor to the State Bar during discovery and multiple acts of misconduct.  
8 And mitigation for emotional problems. The discipline imposed was one year's stayed suspension  
9 and one year's probation on conditions, including a 60-day period of actual suspension.

10 In the case of *In the Matter of Wyrick* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83 the  
11 attorney deliberately failed to disclose his suspension from the practice of law on two applications  
12 for employment as an attorney. One of the applications was for employment as a judicial arbitrator,  
13 and the other was made while the attorney was on interim suspension. In addition, that attorney also  
14 served as a judicial arbitrator while on interim suspension in violation of rule 1604(b) of the  
15 California Rules of Court. Moreover, the attorney had a prior record of discipline. The discipline  
16 imposed was two years' stayed suspension and two years' probation on conditions, including a six-  
17 month period of actual suspension.

18 In *In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166, 171-175, 177  
19 the attorney falsely represented to two judges that he had personally served papers on an opposing  
20 party. In aggravation the attorney had a prior record of discipline, did not admit to any wrongdoing,  
21 and his testimony in the State Bar Court lacked candor. In mitigation was the attorney's pro bono  
22 work. The discipline imposed was two years' stayed suspension and three years' probation on  
23 conditions, including a six-month period of actual suspension.

24 On balance, the misconduct in *Mitchell* is less than that in the present, and the misconduct  
25 in *Wyrick* and *Chesnut* are more than that in the present case. However, the court is concerned with  
26 the six year period of respondent's misconduct. Thus, in light of standard 2.3, the foregoing case  
27 law, and all the other relevant factors, the Court concludes that the appropriate discipline to  
28 recommend is three years' stayed suspension and four months' actual suspension continuing until

1 respondent files and the State Bar Court grants a motion, under rule 205 of the Rules of Procedure,  
2 to terminate his actual suspension.

### 3 **VII. Discipline Recommendation**

4 This Court recommends that Robert Stanley Shatzen be suspended from the practice of law  
5 in the State of California for a period of three years, that execution of the three-year suspension be  
6 stayed, and that he be actually suspended from the practice of law for six months and until:

- 7 (1) he files and the State Bar Court grants a motion, under rule 205 of the Rules  
8 of Procedure of the State Bar, to terminate his actual suspension; and
- 9 (2) if he remains actually suspended for two or more years, he shows  
10 proof satisfactory to the State Bar Court of his rehabilitation, present  
11 fitness to practice, and present learning and ability in the general law  
12 in accordance with standard 1.4(c)(ii) of the Standards for Attorney  
13 Sanctions for Professional Misconduct.

14 Furthermore, in accordance with rule 205 of the Rules of Procedure of the State Bar, the  
15 Court recommends that, if the State Bar Court grants a motion to terminate Shatzen's actual  
16 suspension, it be authorized to place him on probation for a specified period of time and to impose  
17 on him such probation conditions as it deems necessary or appropriate in light of the misconduct  
18 found in this proceeding. The Court also recommends that Shatzen be ordered to comply with any  
19 such probation conditions imposed on him by the State Bar Court.

### 20 **VIII. Professional Responsibility Exam, Rule 955, and Costs**

21 The Court recommends that Shatzen be ordered to take and pass the Multistate  
22 Professional Responsibility Examination administered by the National Conference of Bar Examiners  
23 within the greater of one year after the effective date of the Supreme Court order in this matter or the  
24 period of his actual suspension and to provide satisfactory proof of such passage to the State Bar's  
25 Office of Probation in Los Angeles within that same time period.

26 The court further recommends that Shatzen be ordered to comply with rule 955 of the  
27 California Rules of Court and to perform the acts specified in subdivisions (a) and (c) of that rule  
28 within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in

1 this matter.<sup>16</sup>

2 Finally, the Court recommends that the costs incurred by the State Bar in this matter be  
3 awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that  
4 those costs be payable in accordance with Business and Professions Code section 6140.7.

5 **IX. Directive to Clerk Regarding Service**

6 In addition to servicing a copy of this decision on Shatzen at his official address, the Clerk  
7 of the State Bar Court is directed to send, by first class mail, a second copy of it to Shatzen at 12469  
8 SW. Edgewater Court, Tigard, OR 97223-3519.

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11 Dated: May 24, 2005.

12   
13 PAT McELROY  
14 Judge of the State Bar Court

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24 <sup>16</sup>If the Supreme Court adopts this rule 955 recommendation, Shatzen is required to file a  
25 rule 955(c) affidavit even if he has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d  
26 337, 341.) In addition to being punished as a crime or a contempt, Shatzen's failure to comply  
27 with rule 955 is also a ground for disbarment or suspension and for revocation of any pending  
28 probation. (Cal. Rules of Court, rule 955(d).) Even though sanctions less than disbarment are  
authorized, Shatzen is advised that, in the absence of *compelling* mitigating circumstances,  
disbarment is almost always ordered for an attorney's failure to comply with rule 955. (See  
*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131; *In the Matter of Lynch* (Review Dept. 1995) 3  
Cal. State Bar Ct. Rptr. 287, 296.)



**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 May 24, 2005, I deposited a true copy of the following document(s):

**DECISION**

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:

**ROBERT STANLEY SHATZEN**  
**4803 SW STONEBROOK CT**  
**PORTLAND OR 97201 1267**


(Courtesy Copy)

**ROBERT SHATZEN**  
**12469 SW EDGEWATER CT**  
**TIGARD OR 97223-3519**

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

**GORDON GRENIER, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **May 24, 2005**.



**Laurretta Cramer**  
Case Administrator  
State Bar Court