



**CONFIDENTIAL**  
**PUBLIC MATTER**

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<b>State Bar Court of California</b> Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco <b>PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES</b>		
Counsel for the State Bar <b>OFFICE OF THE CHIEF TRIAL COUNSEL - ENFORCEMENT</b> <b>CHARLES A. MURRAY</b> 1149 South Hill Street, 9 <sup>th</sup> Floor Los Angeles, CA 90015-2299 Telephone: (213) 765-1252 Bar # 146069	Case Number(s) 05-C-03326  <div style="text-align: center;"> <b>FILED</b>           APR 05 2010          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>	(for Court use)  <div style="text-align: center;"> <del><b>ORIGINAL</b></del>   <del><b>LODGED</b></del>           JAN 31 2007          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per <b>ROBERT E. SCHROTH, JR.</b> 2044 1 <sup>st</sup> Avenue, Suite 200 San Diego, California 92101 Telephone: (619) 233-7521  Bar # 212936	Submitted to Program Judge  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of <b>ROBERT ELMER SCHROTH, JR.</b> Bar # 212936 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 May 29, 2001  
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- (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, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 7 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."  
See Attachment
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."  
See Attachment

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- (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 and will pay timely any disciplinary costs imposed in this proceeding.

**B. Aggravating Circumstances [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 Action 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" (above)
- (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 the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances are involved.**

**Additional aggravating circumstances:**

(Do not write above this line.)

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**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 ~~violence 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 of 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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs 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.
- (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:**

**ATTACHMENT TO**  
**ADP STIPULATION RE FACTS & CONCLUSIONS OF LAW**

IN THE MATTER OF:        **ROBERT E. SCHROTH, JR. (Respondent"),**  
   **State Bar No. 212936**

CASE NUMBERS:            **05-C-03326**

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was August 23, 2006.

**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.

**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 statues and/or Rules of Professional Conduct, or has otherwise committed acts of misconduct warranting discipline:

**STIPULATED FACTS AND CIRCUMSTANCES:**

Respondent was convicted of drunk driving in 1994. Seven years later, on May 29, 2001, Respondent was admitted to the State Bar of California.

On August 3, 2003, Respondent was arrested for resisting arrest. On January 19, 2005, he entered a guilty plea to a misdemeanor count for resisting arrest for that incident. The court ordered Respondent on informal probation for three (3) years on conditions that included he violate no laws (minor traffic violations excepted).

On February 22, 2005, Respondent was stopped by police for driving without his headlights on after dark. Respondent exhibited objective signs of intoxication and was arrested for drunk driving. He refused to submit to chemical testing to determine the concentration of alcohol in his blood (BAC) and a specimen had to be forcibly taken. His BAC tested at .19%. He was charged with misdemeanor drunk driving, with an allegation that he refused a BAC test.

On March 28, 2005, Respondent pled guilty to driving under the influence of alcohol [VC 223152(a)], with the test refusal as an enhancement, and the remaining charges were dismissed. Respondent was placed on five years probation on conditions that included, among others: violate no laws (minor traffic violations excepted); not drive with a measurable amount of alcohol in his system; violate no laws regarding driving a motor vehicle while under the influence of alcohol; complete a multiple offender DUI conviction program [SB 38]; and his CDL was restricted for 90 days to run consecutive to any DMV suspension.

This March 28, 2005 drunk driving conviction was a violation of the court order resulting from his January 19, 2005 resisting arrest conviction.

On May 18, 2005, Respondent was stopped by police officers for having an expired car registration. The officers noticed that Respondent exhibited objective symptoms of being under the influence of an alcoholic beverage. Respondent did not have a valid driver's license in his possession. Respondent was arrested and booked. His BAC tested at .19%.

On June 20, 2005, a criminal complaint was filed in San Diego Superior Court case no. M964734 for the May 18, 2005 incident, consisting of misdemeanor offenses for drunk driving and driving without a valid license.

On September 9, 2005, Respondent pled guilty to a misdemeanor count of drunk driving [VC 23152(b) - driving with a BAC of .08% or more], enhanced by his prior DUI conviction, and to driving without a valid license [VC 12500(a)].

On September 9, 2005, the Court imposed a sentence of 365 days in jail, suspended, with five (5) years probation on conditions that included, among others: he violate no laws (minor traffic violations excepted); serve 96 hours in custody on consecutive weekends; not drive with a measurable amount of alcohol in his system; submit to an alcohol test if requested; violate no laws regarding driving a motor vehicle while under the influence of alcohol; complete a multiple DUI conviction program [SB 38]; and his CDL was restricted until he completes the SB 38 program.

The May 18, 2006 drunk driving incident was a violation of both the January 19, 2005 and March 28, 2005 court orders imposing conditions of probation.

#### **CONCLUSIONS OF LAW:**

The facts and circumstances surrounding Respondent's conviction for wilfully violating Vehicle Code section 23152(b), driving a vehicle while under the influence of alcohol or drugs with a blood/alcohol content of 0.08 percent or more, enhanced by his prior driving under the influence of alcohol; and Vehicle Code section 12500(a), driving without a valid California driver's license, do not involve moral turpitude but do involve other misconduct warranting discipline.

Respondent's drunk driving on February 22, 2005 was a violation of the criminal court's order of probation for his January 19, 2005 conviction; and, Respondent's drunk driving on May 18, 2005 was a violation of the criminal court's orders of probation of January 19, 2005 and March 28, 2005, in wilful violation of Business and Professions Code section 6103.

(Do not write above this line.)

In the Matter of  ROBERT ELMER SCHROTH, JR. Member # 212936	Case number(s):  05-C-03326-RAH
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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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

Date 9/1/06 Respondent's signature  Print name ROBERT E. SCHROTH, JR.

Date 9/18/06 Respondent's Counsel's signature  Print name CHARLES A. MURRAY

(Do not write above this line.)

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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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

01-31-07  
Date

  
\_\_\_\_\_  
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 Los Angeles, on January 31, 2007, I served a true copy of the following document(s):

**ORDER**

**CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS**

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S  
ALTERNATIVE DISCIPLINE PROGRAM**

**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

[X] by personally delivering ( in court) such documents to the following individuals at 1149 S. Hill St. Los Angeles Ca 90015:

**ROBERT E. SCHROTH, JR.**

**CHARLES MURRAY**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 31, 2007.**

  
\_\_\_\_\_  
**Johnnie Lee Smith**  
Case Administrator  
State Bar Court

cc: Probation Dept  
LAP