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State Bar Court of California  
Hearing Department  
Los Angeles

<p>Counsel For The State Bar</p> <p><b>Nathan A. Reiersen</b> Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 Tel. (213) 765-1165 / Fax (213) 765-1383</p> <p>Bar # 204129</p>	<p>Case Number (s) 08-C-12734-DFM</p>	<p>(for Court's use)</p> <p><b>FILED</b></p> <p>DEC 10 2008 <i>hrc</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p><b>PUBLIC MATTER</b></p>
<p>In Pro Per Respondent</p> <p><b>Robert Yun Lee, Esq.</b> LEE &amp; GAFNI, LLP 3699 Wilshire Blvd Ste 1100 Los Angeles, CA, 90010 Tel. (213) 383-5400 / Fax (213) 383-5402</p> <p>Bar # 213848</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>PUBLIC REPROVAL</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: <b>Robert Yun Lee</b></p> <p>Bar # 213848</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 **June 5, 2001**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **11** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."



- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- 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:  
(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.

- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [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:**

See Attachment, p. 10.

**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 Reproof:**

- (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 reproval.
- (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 reproval.

No MPRE recommended. Reason: **Respondent's misconduct did not involve misconduct within the practice of law. Accordingly, the MPRE is not required for the protection of the public, courts and the legal profession.**

- (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:**

**Respondent shall not drive any vehicle with any measurable amount of alcohol or drugs in his blood, and shall not refuse to take and complete any blood alcohol/drug chemical test, any field sobriety test or any preliminary alcohol screening test when requested by any peace officer.**

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Attachment language (if any):

See "ATTACHMENT TO STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION."

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

IN THE MATTER OF:      ROBERT YUN LEE

CASE NO:                      08-C-12734-DFM

**FACTS AND CONCLUSIONS OF LAW:**

Respondent Robert Yun Lee ("Respondent") admits that the following facts are true and that he is culpable of the violations of the specified statutes as follows:

**Procedural Background in Conviction Proceeding:**

1. 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.
2. On or about July 16, 2008, Respondent pled guilty to and was convicted of violating Vehicle Code section 23152(b) (Driving Vehicle with .08% or More BAC), a misdemeanor.
3. On August 28, 2008, the Review Department of the State Bar Court ordered the initiation of a conviction referral matter for a hearing and report as to whether there is probable cause to believe that the facts and circumstances surrounding the offense involved moral turpitude. The order also stated that, if Respondent waives finality of the conviction, the Hearing Department is to conduct a hearing and file a decision as to whether the facts and circumstances surrounding the violations involved moral turpitude or other misconduct warranting discipline, and if so found, the discipline to be imposed or recommended.

**Facts**

4. On June 20, 2008, at 12:40 am, a Los Angeles Police Department ("LAPD") officer witnessed Respondent's vehicle driving at a high rate of speed and erratically. The officer activated his lights and Respondent pulled to the side of the road. The officer smelled an odor of alcohol emitting from the vehicle and requested an LAPD DUI unit to the scene. Upon arrival, the DUI unit officer immediately observed Respondent as displaying objective symptoms of intoxication. Respondent told the DUI unit officer that he was coming from a bar and that he had consumed a significant amount of alcohol. Respondent failed standard field sobriety tests and told the DUI Unit officer that he should just arrest him. Respondent completed a breath test with a result of 0.19% BAC. Respondent was booked for violating Vehicle Code section 23152(a) (DUI), a misdemeanor.

5. On or about July 14, 2008, a Misdemeanor Complaint was filed in Los Angeles County Superior Court in the matter of *The People of the State of California v. Robert Y. Lee*, Case No. 8MP08159, charging Respondent with two misdemeanor counts: (1) violation of Vehicle Code section 23152(a) (DUI), and (2) violation of Vehicle Code section 23152(b) (Driving Vehicle with .08% or More BAC). The Misdemeanor Complaint also listed a prior conviction on June 3, 2004 for violating Vehicle Code section 23103 (alcohol-related reckless driving – *i.e.*, “Wet Reckless”).
6. On or about July 16, 2008, Respondent signed a DUI Advisement of Rights, Waiver, and Plea Form, which was filed the same day, whereby Respondent acknowledged his prior 2004 conviction of Vehicle Code section 23103/23103.5, pled guilty to violating Count Two (Vehicle Code section 23152(b)), and Count One (Vehicle Code section 23152(a)) was dismissed.
7. Based on the prior Wet Reckless conviction, Respondent’s guilty plea constituted a second offense, and he was convicted and sentenced to (A) sixty (60) months probation; (B) either (i) serve 10 days in jail and pay fines/fees (or serve 13 additional days in jail), or (ii) perform 13 days Cal Trans, or (iii) perform 190 hours community service; (C) enroll and complete 18-month licensed second-offender alcohol program; and (D) pay fines/fees.

### **Conclusions of Law**

8. The parties stipulate that the facts and circumstances surrounding Respondent’s guilty plea and conviction for violating Vehicle Code section 23152(b) (Driving Vehicle with .08% or More BAC), a misdemeanor, did not involve moral turpitude but involved other misconduct warranting discipline.

### **PENDING PROCEEDINGS:**

The disclosure date referred to, on page one, paragraph (A)(7) was November 21, 2008.

### **COSTS OF DISCIPLINARY PROCEEDINGS:**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of November 21, 2008, the costs in this matter are \$1,636.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

### **AUTHORITIES SUPPORTING DISPOSITION:**

The determination of the appropriate sanction must begin with the purposes of attorney discipline and Standard 1.3 of the *Standards for Attorney Sanctions for Professional Misconduct*. The

primary purposes are the protection of the public, the courts and the legal profession, the maintenance of high professional standards and the preservation of public confidence in the profession. The rehabilitation of the member is a permissible object only if the imposition of rehabilitative sanctions (and arguably lesser sanctions) is consistent with the primary purposes.

Standard 1.6(b)(ii) provides that the appropriate sanction shall be the sanction imposed unless "Mitigating circumstances are found to surround the particular act of misconduct found or acknowledged and the net effect of those mitigating circumstances, by themselves and in balance with any aggravating circumstances found, demonstrates that the purposes of imposing sanctions set forth in standard 1.3 will be properly fulfilled if a lesser degree of sanction is imposed. In that case, a lesser degree of sanction than the appropriate sanction shall be imposed or recommended."

Standard 3.4 provides, "Final conviction of a member of a crime which does not involve moral turpitude inherently or in the facts and circumstances surrounding the crime's commission but which does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of these standards appropriate to the nature and extent of the misconduct found to have been committed by the member."

The Supreme Court recognizes the importance of the Standards to promote consistency and uniform application, but as they are not binding on the Supreme Court, the Court has recognized that there may be bases, both under the facts and given mitigation, to deviate from them, as does the Review Department, where unique factors (and justice) may warrant. (See *Silverton v. State Bar* (2005) 36 Cal.4<sup>th</sup> 113; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980).

In *In re Kelly* (1990) 52 Cal.3d 487, the California Supreme Court ordered that a member be publicly reprovved and placed on disciplinary probation for three years subject to conditions set forth by the Review Department in its recommendation, including a referral to the State Bar Program on Alcohol Abuse. The member had two drunk driving convictions, the second of which occurred during the probationary period for the first offense. Additionally, the member was uncooperative with her arresting police officer. In the instant matter, a main justification for imposition of discipline remains: Respondent's behavior "evidences both a lack of respect for the legal system and an alcohol abuse problem. Both problems, if not checked, may spill over into [his] professional practice and adversely affect [his] representation of clients and [his] practice of law. Our task in disciplinary cases is preventative, protective and remedial, not punitive. (Cite.) Keeping this in mind, it is our responsibility to impose a discipline that will protect the public from this potential harm." (*Id* at 496.)

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**MITIGATING CIRCUMSTANCES:**

**Facts Supporting Mitigating Circumstances**

**“Additional Mitigating Circumstances”**

Respondent has no prior record of discipline.

**STATE BAR ETHICS SCHOOLS:**

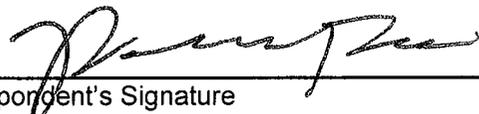
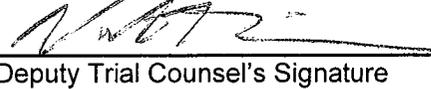
Because Respondent has agreed to attend State Bar Ethics School as part of this stipulation, Respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

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In the Matter of Robert Yun Lee	Case number(s): 08-C-12734-DFM
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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.

<u>11-24-08</u> Date	 Respondent's Signature	<u>Robert Yun Lee</u> Print Name
<u>                    </u> Date	<u>                    </u> Respondent's Counsel Signature	<u>N/A</u> Print Name
<u>12/1/08</u> Date	 Deputy Trial Counsel's Signature	<u>Nathan A. Reiersen</u> Print Name

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In the Matter Of <b>Robert Yun Lee</b>	Case Number(s): <b>08-C-12734-DFM</b>
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**ORDER**

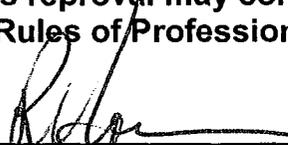
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, **IT IS ORDERED** that the requested dismissal of counts/charges, if any, is **GRANTED** without prejudice, and:

- 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 reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

12-8-08  
Date

  
Judge of the State Bar Court

**RICHARD A. HONN**

**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 December 10, 2008, I deposited a true copy of the following document(s):

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

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

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

ROBERT Y. LEE  
LEE LAW GROUP, APLC  
3699 WILSHIRE BLVD STE 1100  
LOS ANGELES, CA 90010

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

NATHAN REIERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 10, 2008.

  
\_\_\_\_\_  
Tammy Cleaver  
Case Administrator  
State Bar Court