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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>ALTERNATIVE DISCIPLINE PROGRAM</b>		
<b>Counsel For The State Bar</b>  Erica L. M. Dennings State Bar of California 180 Howard Street San Francisco, CA 94105 (415) 538-2285  Bar # 145755	<b>Case Number (s)</b> 08-C-12923-PEM	(for Court's use)  <div style="text-align: center; font-size: 1.2em; font-weight: bold;">PUBLIC MATTER</div>  <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.2em;">FEB 08 2010</div> <div style="text-align: center; font-size: 0.8em;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
<b>Counsel For Respondent</b>  Vicki H. Young Law Offices of Vicki Young 706 Cowper Street, Suite 202 Palo Alto, CA 94301  Bar # 73261	Submitted to: <b>Program Judge</b>  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: Robert Ronald Lux  Bar # 189191  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 June 5, 1997.
- (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, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the 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 consists of 7 pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (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 [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:
- (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. See attachment.
- (5)  Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  No aggravating circumstances are involved.

**Additional aggravating circumstances:**

See attachment.

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2)  **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. See attachment.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities. See attachment.
- (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. See attachment.
- (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.

ATTACHMENT TO  
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: ROBERT RONALD LUX (#189191)

CASE NUMBER(S):           08-C-12923

**FACTS.**

Respondent admits that the following facts are true.

Procedural Background

This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court. On October 30, 2008, respondent pled no contest to a violation of section 23153 (b) of the Vehicle Code, a felony, [driving under the influence of alcohol with a blood alcohol level of .08% and causing injury]. Respondent was placed on formal probation for three years, ordered to serve 180 days in jail, and given 135 days credit for his residential treatment programs. He was ordered to serve the remainder of the jail term (45 days) on the weekend work program. He was ordered to participate in substance abuse treatment and his driving privilege was suspended. On July 10, 2009, the Review Department of the State Bar Court issued an order suspending respondent from the practice of law effective August 7, 2009 pending final disposition of the proceeding. In the same order the Review Department referred the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the facts and circumstances surrounding the conviction involved moral turpitude or other misconduct warranting discipline.

On or about October 28, 2009, the Review Department issued an order granting respondent's motion to vacate interim suspension, effective upon the filing of this order.

Facts

On the morning of June 8, 2008, respondent drank. On June 8, 2008 approximately 1:00 p.m., respondent was driving his car on Los Gatos Boulevard when he struck Ray Darrow from behind. Darrow was on his motorcycle stopped at a traffic light. The impact threw Darrow over the handlebars of his motorcycle and made him land on the pavement. After the collision, respondent got out of his car and went to Darrow to see if he was okay. He told Darrow that he was sorry and that he didn't see him before the collision. Respondent was administered several field sobriety tests. After the tests, respondent was arrested for violating Vehicle Code section 23153(A). Respondent admitted to drinking two beers in the morning before the accident. Respondent also admitted he had taken 40 milligrams of Paxil, 25 milligrams of Topomax, and an unknown amount of Flovent (an asthma inhaler). A search of respondent's car revealed the following: medication: proventic 200 inhalations, cyclobenzaprin 10 mg, 10 tabs; Topomax 25 mg about 60 tabs, Nicorette 4 mg, 115 chewable tablets. Respondent had current prescriptions

for the medications he had taken that morning as well as for the medications found in his car, i.e. the paxil, topomax, flovent, proventic, and cyclobenzaprin. There were also several alcohol containers in respondent's car: New Amsterdam gin 50 ml, three empty bottles; Gilbeys Gin 375 ml bottle, 3/4 full; Steel Reserve Beer, two 24 oz cans, empty; the Club Gin Martini 200 ml, 42 proof, five cans empty; the Club Vodka Martini 200 ml, 42 proof, one empty can; Steel Reserve Beer, 24 oz can, sealed new and cold.

Darrow was taken to the hospital and treated for his injuries. Darrow suffered serious physical injuries including fractured vertebrae, fractured ribs, injuries to his right knee, and injuries to his ankles, contusions, and muscle spasms. Darrow has undergone numerous medical treatments and tests. Darrow was hospitalized for two days for these injuries and his medical bills total over \$40,000. Darrow continues to present complaints about moderate to severe low back pain, as well as pain in his shoulder, knee, and arm. The basis for Darrow's continuing complaints is at issue in the *Darrow v. Lux* civil matter, which is still pending.

### **CONCLUSIONS OF LAW.**

The facts and circumstances surrounding the violation of section 23153 (b) of the Vehicle Code of which respondent was convicted, did not involve moral turpitude, but does involve other misconduct warranting discipline. The respondent acknowledges that by the conduct described herein, he willfully violated section 6068(a) of the Business and Professions Code.

### **AGGRAVATING CIRCUMSTANCES.**

(4) Harm: As a result of being hit by respondent, the victim suffered serious physical injuries. His medical bills exceed \$40,000.

#### Additional Aggravating Circumstances

Respondent had a blood alcohol level of .27% at the time he collided with Mr. Darrow.

### **MITIGATING CIRCUMSTANCES.**

(3) Candor/Cooperation: Respondent has been cooperative with the victim of the accident during the civil litigation brought against respondent, *Darrow v. Lux*, which is still pending. Respondent has cooperated throughout the disciplinary proceedings.

(4) Remorse: Respondent immediately sought in-patient treatment for his substance abuse issues.

(8) Emotional and physical difficulties: At the time of the accident, respondent was in the midst of a painful separation and divorce from his wife, which led to his alcoholism. Since the accident, respondent's family situation has stabilized after divorce, and he shares custody of the three children with his ex-wife. His alcoholism is currently being treated through counseling and participation in the State Bar LAP program.

(11) Good Character: Respondent has provided seven letters attesting to his good character. These letters come from a wide range of references in the legal and general communities and from people who are aware of the full extent of his misconduct.

Additional Mitigating Circumstances.

No prior record of discipline

Respondent was admitted to the practice of law in California on June 5, 1997 and has no prior record of discipline.

Substance Abuse Treatment: Between June 10, 2008 and July 10, 2008, respondent entered the Camp Recovery Center. Respondent was issued a certificate of successful completion on July 10, 2008. The Camp Recovery Center is an intensive rehabilitation residential program. During his stay at Camp Recovery Center, respondent participated in group and individual counseling, educational classes, and 12-Step AA/NA/CA meetings. A letter from case manager Beandra Canion indicates that respondent made significant progress in treatment and that he was compliant with all treatment criteria. Respondent resided at the TLC Residential Clean and Sober Living Home from July 10, 2008 to March 2009. TLC Clean and Sober living homes are for men and women serious about recovery and committed to a twelve step program. On September 15, 2008, respondent completed the Camp Recovery Center eight week intensive outpatient program. On June 24, 2009, respondent contacted the Lawyer Assistance Program and on October 1, 2009, respondent signed a LAP Participation Plan. Respondent has been in compliance since signing the participation plan.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A. (7), was January 20, 2010.

**COMPLIANCE WITH CONDITIONS OF PROBATION/PAROLE IN UNDERLYING CRIMINAL MATTER.**

Respondent shall comply with all conditions of his Probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the Probation Unit.

(Do not write above this line.)

In the Matter of ROBERT RONALD LUX (#189191)	Case number(s): 08-C-12923
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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, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

<u>1/23/10</u> Date	 Respondent's Signature	Robert Ronald Lux <u>Robert R. Lux</u> Print Name
<u>1/25/2010</u> Date	 Respondent's Counsel Signature	Vicki H. Young Print Name
<u>1/26/10</u> Date	 Deputy Trial Counsel's Signature	Erica L. M. Dennings Print Name



**CERTIFICATE OF SERVICE**  
**[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]**

I am a Case Administrator of the State Bar Court. 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 February 8, 2010, I deposited a true copy of the following document(s):

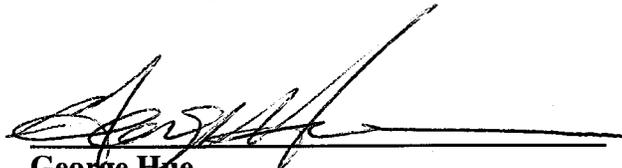
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

by personally delivering such documents to the following individuals at 180 Howard Street, 6th Floor, San Francisco, California 94105-1639:

**ROBERT LUX, ESQ.**  
**VICKI YOUNG, ESQ.**  
**ERICA DENNINGS, ESQ.**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **February 8, 2010**



**George Hue**  
Case Administrator  
State Bar Court