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**State Bar Court of California**  
**Hearing Department**  
**Los Angeles**

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<p>Counsel For Respondent</p> <p>Dennis E. McGoldrick  Law Office of Dennis E. McGoldrick  350 Crenshaw Blvd., Ste. A207B  Torrance, CA 90503  Tel: (310) 328-1001</p> <p>Bar # 97720</p>	<p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND  DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of:  Ellen D. McGoldrick</p> <p>Bar # 97721</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 May 29, 1981.
- (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 15 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."

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- (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):
  - ☒ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - ☐ costs to be paid in equal amounts prior to February 1 for the following membership years:  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - ☐ costs entirely waived

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
  - (a) ☐ State Bar Court case # of prior case
  - (b) ☐ Date prior discipline effective
  - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
  - (d) ☐ Degree of prior discipline
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (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 PAGE 11.
- (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.

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- (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. SEE PAGE 11.
- (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.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

## D. Discipline:

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of 4 years.
- i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.

(2) ☐ **Probation:**

Respondent must be placed on probation for a period of 4 years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of two years.
- i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

## E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code. Respondent must also report any change in her e-mail address (See California Rules of Court, rule 9.7) within (10) ten days.

- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☒ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: \_\_\_\_\_
- (9) ☒ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:
- |  |   |
|--|---|
| <input type="checkbox"/> Substance Abuse Conditions    | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions             |

#### F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: \_\_\_\_\_

- (2) ☐ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- ☒ **NOT REQUIRED:** Respondent has been inactive since December 31, 2000.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☒ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: November 20, 2009.
- (5) ☒ **Other Conditions:**  
**MEDICAL CONDITIONS:**  
Respondent shall obtain psychiatric or psychological help from a duly licensed psychiatrist or a clinical psychologist at her own expense and shall furnish proof satisfactory to the Office of Probation of the State Bar of California that she is so complying with each report that she is required to render under these conditions of probation; provided, however, that should it be determined by said psychiatrist or psychologist that respondent has sufficiently recovered from depression and alcohol problems, she may furnish to the Office of Probation a written statement from said psychiatrist or psychologist so certifying by affidavit or under penalty of perjury, in which event, and subject to the approval of the court, no reports or further reports under this paragraph shall be required and she shall not be required to obtain further psychiatric or psychological help.

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

IN THE MATTER OF: **ELLEN DOUGLAS MCGOLDRICK** MEMBER# **97721**

CASE NUMBER(s): **08-C-14670; 09-C-11822; 09-C-11821 (not consolidated)**

**PENDING PROCEEDINGS**

The disclosure date referred to on page one, paragraph A. (6), is August 27, 2010.

**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 she is culpable of violations of the specified statutes and/or Rules of Professional Conduct, or has otherwise committed acts of misconduct warranting discipline, as follows:

**Case No. 09-C-11822**

**Stipulated Facts and Circumstances for Case No. 09-C-11822**

1. On July 23, 2002, at Longs Drugstore in Los Angeles, a store employee observed Respondent conceal store merchandise in her purse and leave the store without attempting to pay for the concealed items (which totaled \$391.77). The store employee placed Respondent under a private person's arrest for Penal Code §484(a) (petty theft).
2. Two police officers arrived on the scene and took Respondent into custody. They transported her to the West Los Angeles Police station where she was booked for the charge and released on her signature as a promise to appear.
3. On August 7, 2002, a complaint was filed against Respondent in Los Angeles Superior Court, case no. 2WL02563, entitled *People v. McGoldrick*, one count for a misdemeanor violation of Penal Code sections 484(a) (petty theft – personal property under \$400).
4. On August 13, 2002, Respondent pled *nolo contendere* and was convicted on the count. Imposition of sentencing was stayed and she was placed on 18 months summary probation, on conditions that included she stay away from Long's Drug store and obey all laws and orders of the court.

**Conclusions of Law for Case No. 09-C-11822**

5. The facts and circumstances surrounding Respondent's misdemeanor conviction involving Penal Code section 484(a) (petty theft), do involve moral turpitude and warrant discipline pursuant to Business and Professions Code section 6101 and 6102.

**Case No. 09-C-11821**

**Stipulated Facts and Circumstances for Case No. 09-C-11821**

6. On January 23, 2005, a Loss Prevention Officer ("LPO") at a Von's Pavilions store in Torrance, California continually observed Respondent select items and conceal them in two bags she was carrying, and then exit the store without paying for the items. Outside the store the LPO identified himself to Respondent as store security and confronted Respondent about the items she had taken. Respondent voluntarily came back inside the store into the LPO office.



7. While being interviewed, Respondent readily admitted that she had taken the items totaling \$96.78. When Respondent was asked why she took the items, she stated that she had been having a hard time with money. The store's property was recovered, Respondent was placed under private person's arrest for violation of Penal Code §484(a) (petty theft).
8. Torrance Police Department officers arrived at the store and took Respondent into custody. They transported Respondent to the Torrance Police Department for booking. Respondent's first petty theft conviction in 2002 was discovered at that time from a criminal history check.
9. On March 7, 2005, a misdemeanor complaint was filed against Respondent in Los Angeles Superior Court case no. 5SBO1862, entitled *People v. McGoldrick*, consisting of two counts: Penal Code §484(a) (petty theft – personal property under \$400) and §666 (petty theft – with a prior conviction).
10. On March 22, 2005, Respondent pled *nolo contendere* and was convicted on count two, a violation of Penal Code §666 (petty theft – with a prior conviction), a misdemeanor. With that plea, Count one was dismissed. Imposition of sentencing was stayed and Respondent was placed on three (3) years' summary probation, and on conditions that included she have no association with/stay away from all Pavilions stores, and obey all laws and orders of the court, and not commit a similar offense during her probation period.

#### **Conclusions of Law for Case No. 09-C-11821**

11. The facts and circumstances surrounding Respondent's misdemeanor conviction involving Penal Code section 666 (petty theft with a prior conviction), do involve moral turpitude and warrant discipline pursuant to Business and Professions Code section 6101 and 6102.

#### **Case No. 08-C-14670**

#### **Stipulated Facts and Circumstances for Case No. 08-C-14670**

12. September 20, 2008, in a Rite Aid store in San Pedro, California, a LPO working surveillance in the store's camera room noticed certain actions of Respondent consistent with someone who may be in the act of stealing from the store. The LPO engaged in continuous surveillance of the Respondent. Through a security monitor screen, the LPA observed Respondent as she selected four store items from two different aisles and conceal them inside her purse while walking through the store. Respondent then walked right apst the check-out stands and left the store without paying for the items. Outside the store the

LPO identified himself to Respondent and confronted Respondent about the stolen items. Respondent was cooperative as the LPO escorted her back to his office so they could talk. There, all of the stolen items were recovered from Respondent.

13. On September 23, 2008, the Los Angeles County District Attorney's office filed a Felony Complaint against Respondent against Respondent in Los Angeles Superior Court case no. NA079712, entitled *People v. McGoldrick*, consisting of one count, a violation of Penal Code §666 (petty theft with priors), a felony.
14. On December 15, 2008, at the preliminary hearing, the LPO testified in court in the above-described matter against Respondent.
15. On December 30, 2008, the Los Angeles County District Attorney's office filed an Information against Respondent in Los Angeles Superior Court case no. NA079712, entitled *The People of the State of California v. Ellen Douglas McGoldrick*, consisting of one count: Penal Code sections 666 (petty theft with priors), a felony.
16. On January 6, 2009, at the arraignment, Respondent pled *nolo contendere* and was convicted on the count of Penal Code §666 (petty theft – with prior convictions), as a felony. The court accepted Respondent's plea and found her guilty. At this time, Respondent also admitted to the two prior convictions.
17. On October 9, 2009, on the court's motion, the Information was amended to change count one to read violation of Penal Code section 484(a) (petty theft) instead of Penal Code section 666 (petty theft with priors). Pursuant to a plea agreement, the court also deemed to allege count one as a misdemeanor instead of a felony, pursuant to Penal Code §17(b) (1-5). The court then accepted Respondent's original plea and deemed her convicted under the amended count. The priors were also stricken at this time.
18. On the same day, imposition of sentence was suspended, and Respondent was placed on One (1) year summary probation and fines and fees totaling \$160.00.

**Conclusions of Law for Case No. 09-C-14670**

19. The facts and circumstances surrounding Respondent's misdemeanor conviction for violation of Penal Code §484(a) (petty theft) do involve moral turpitude and warrant discipline pursuant to Business and Professions Code section 6101 and 6102.

## **AGGRAVATING CIRCUMSTANCES**

### **B(4) HARM**

Shoplifting is not a victimless crime. It has a big impact on every business owner (large and small) and every consumer. It results in higher prices for consumers and reduced purchase power; decreased retail store profit and survivability; and through store closings, subsequent retail employee job losses. [Offender Solutions™ web site ( [www.offendersolutions.com](http://www.offendersolutions.com) ) - Copyright © 2007-2008 Offender Solutions™, All Rights Reserved and this limited license.]

Statistics for this crime, provided by the National Association for Shoplifting Prevention (NASP) a nonprofit organization providing research-based shoplifting prevention initiatives including education, prevention, justice and rehabilitation programs:

- More than \$13 billion worth of goods are stolen from retailers each year. That's more than \$35 million per day.
- Shoplifting affects more than the offender. It overburdens the police and the courts, adds to a store's security expenses, costs consumers more for goods, costs communities lost dollars in sales taxes and hurts children and families.
- Shoplifters steal from all types of stores including department stores, specialty shops, supermarkets, drug stores, discounters, music stores, convenience stores and thrift shops.

### **B(7) MULTIPLE ACTS**

Three shoplifting arrests/convictions.

## **MITIGATING CIRCUMSTANCES**

### **C(1) NO PRIOR DISCIPLINE**

Respondent practiced law for 20 years without a record of discipline before voluntarily transferring to inactive status prior to the first shoplifting incident. All three shoplifting incidents occurred while Respondent was on inactive status and not engaged in the practice of law.

### **C(3) CANDOR/COOPERATION**

Respondent displayed candor and cooperation to the State Bar throughout these proceedings.

## ADDITIONAL CIRCUMSTANCES

During the time of these incidents, Respondent was experiencing personal problems in her life involving depression and excessive use of alcohol which resulted in strained relationships with her family, including her living apart from them for significant periods of time. Since the last incident which occurred two years ago, Respondent has for the past year and one-half followed a course of recommended treatment for her conditions and she has reunited with her family.

## DISCIPLINE

Standard 3.2 provides, "Final conviction of a member of a crime which involves moral turpitude, either inherently or in the facts and circumstances surrounding the crime's commission shall result in disbarment. Only if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a two-year actual suspension, prospective to any interim suspension imposed, irrespective of mitigating circumstances."

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. (Std. 1.6(a).)

Although the standards are not binding, and though both the Supreme Court and the Review Department have been explicit in stating that the courts are "not bound to follow the standards in talismanic fashion." (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994, quoting *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.), the standards are to be afforded great weight because "they promote the consistent and uniform application of disciplinary measures." (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.)

Nevertheless, both the Supreme Court and the Review Department have been explicit in stating that the courts are "not bound to follow the standards in talismanic fashion." (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994, quoting *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.)

In assessing the discipline appropriate in a particular case, the courts are permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*Howard v. State Bar*, *supra*; *Greenbaum v. State Bar* (1987) 43 Cal.3d 543, 550; *Boehme v. State Bar* (1988) 47 Cal.3d 448, 454; *In the Matter of Van Sickle*, *supra*; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

In determining what discipline to recommend or impose, the courts may also consider relevant case law. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 703.)

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In determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *In the Matter of Oheb, supra*, 4 Cal. State Bar Ct. Rptr. at p. 940.)

In assessing the discipline appropriate in a particular case, the courts are permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*Howard v. State Bar, supra*; *Greenbaum v. State Bar* (1987) 43 Cal.3d 543, 550; *Boehme v. State Bar* (1988) 47 Cal.3d 448, 454; *In the Matter of Van Sickel, supra*; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

Here, discipline must be determined considering that this was not a single act of petty theft but rather three separate acts of theft committed over a period of six years contributing to a significant societal harm. This is tempered by the mitigating effect of Respondent's twenty years of practice of the law without a record of discipline, her condor and cooperation with the State Bar in these proceedings, and with consideration of her personal problems [Respondent is unable at this time to show a sustained period of recovery sufficient to establish that she no longer suffers from her issues related to depression and alcohol to receive mitigating credit under the standards. That will be a significant issue to be dealt with in a future standard 1.4(c)(ii) should she seek a return to active status.]

The respondent's criminal acts were repetitive over an extended period of time and not aberrational in nature. Though it has been two years since her last known crime, that is not a reliable indicator that Respondent is not a significant risk to re-offend as it was two and one-half years between her first and second crimes and three and three-quarter years between her second and third crimes.

Though her crimes did not involve clients or the practice of law, they are an equally contributory part of a societal crime [shoplifting] that results in increased costs for everyday items and necessities, a significant harm to everyone else, particularly in today's distressed economy.

Though decisional cases may be discussed where a lesser level of discipline was imposed for a crime involving moral turpitude, including cases where the courts have not even imposed the two-year minimum actual suspension provision of standard 3.2 (See, e.g., *In re Young* (1989) 49 Cal.3d. 257, 268-270; *In the Matter of DeMassa* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737; *In the Matter of Moriarty* (Review Dept.) 1 Cal. State Bar Ct. Rptr. 245, 251.), those matters are all clearly distinguishable due to greater mitigation and/or the aberrational nature of the acts.

There is no case involving three separate criminal acts involving moral turpitude committed over an extended period of time which resulted in a deviation from the standards.

Attorney discipline serves to maintain the highest possible professional standards for all attorneys

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and to preserve public confidence in the legal profession. (*In the Matter of DeMassa, supra*, 1 Cal. State Bar Ct. Rptr. at p. 752.) A deviation from disbarment is justified under the circumstances in this matter, however there is no adequate justification in this matter to deviate below the two-year actual suspension minimum.

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In the Matter of ELLEN D. McGOLDRICK	Case number(s): 08-C-14670, 09-C-11822, 09-C-11821 (not consolidated)
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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.

9-13-10  
Date

9-13-2010  
Date

9/13/2010  
Date

Ellen D. McGoldrick  
Respondent's Signature

Ellen D McGoldrick ELLEN D. McGOLDRICK  
Print Name

Dennis E. McGoldrick  
Respondent's Counsel Signature

Dennis E. McGoldrick  
Print Name

Charles A. Murray  
Deputy Trial Counsel's Signature

Charles A. Murray  
Print Name

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In the Matter Of  
**ELLEN D. McGOLDRICK**

Case Number(s):  
**08-C-14670, 09-C-11822, 09-C-11821**

## ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

The box for Paragraph D (2) [Probation] should be checked, to make clear that Respondent is being placed on probation for a period of 4 years.

The requirement that Respondent must be assigned a probation monitor as a probation condition is deleted. (Para. E (6).)

Respondent is required to comply with rule 9.20. The box for paragraph F (2) is deemed checked and the inserted language and box indicating that compliance with rule 9.20 is not required is deleted. Respondent is required to file a rule 9.20(c) affidavit even if she has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

In the second and third paragraphs on page 7, the words "his" should be changed to "her" and "he" should be changed to "she".

On page 10, the subheading between paragraphs 18 and 19 should refer to Case no. 08-C-14670, not 09-C-14670.

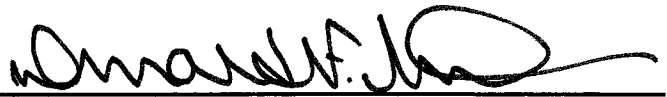
Harm as an aggravating factor [Para. B (4)], and the verbage on page 11 purporting to support that finding, are deleted.



The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

9/22/10

Date



Judge of the State Bar Court

**DONALD F. MILES**

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## 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 September 22, 2010, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND  
ORDER APPROVING

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

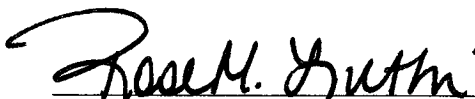
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DENNIS EDWARD MCGOLDRICK  
LAW OFFICE OF DENNIS MCGOLDRICK  
350 CRENSHAW BLVD STE A207B  
TORRANCE, CA 90503

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

CHARLES MURRAY, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 22, 2010.



Rose Luthi  
Case Administrator  
State Bar Court