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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Hugh G. Radigan Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 213-765-1206 Bar # 94251	Case Number(s): 08-O-10097	For Court use only PUBLIC MATTER FILED APR 14 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent John R. Schiro 4804 Laurel Canyon Blvd. Suite 356 Studio City, California 91607 Bar # 86394	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: John R. Schiro Bar # 86394 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 31, 1979.
- (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 12 pages, not including the order.

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- (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):
 - ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: Two billing cycles following the effective date of the Supreme Court discipline order. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are 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 05-O-03399
 - (b) ☒ Date prior discipline effective August 12, 2007
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rules 3-110(A), 3-700(D)(2), and Business and Professions Code section 6068(m).
 - (d) ☒ Degree of prior discipline thirty days actual, one year stayed suspension and one year probation.
 - (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.

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- (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. Respondent participated within this proceeding exhibiting candor and cooperation with the State Bar subsequent to the filing of the Notice of Disciplinary charges.
- (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:

D. Discipline:

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of one year.
- 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 two 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 ninety days.
- 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:

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- (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 the 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.
- (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 type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

(Effective January 1, 2011)

Actual Suspension

- (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 5.162(A) & (E), 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.
- (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:
- (5) ☐ **Other Conditions:**

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Attachment language (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: John R. Schiro

CASE NUMBER(S): 08-O-10097

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 08-O-10097 (State Bar Investigation)

FACTS:

1. On March 16, 2007, Respondent entered into a Stipulation regarding Facts, Conclusions of Law and Disposition with the State Bar of California in case number 05~0-03399 (the "Stipulation").
2. On March 21, 2007, the Hearing Department of the State Bar Court filed an Order approving the Stipulation and recommending the disposition set forth in the Stipulation to the California Supreme Court.
3. On July 13, 2007, the California Supreme Court issued an order (S152571), effective on August 12, 2007, actually suspending Respondent from the practice of law for 30 days.
4. On July 13, 2007, the California Supreme Court properly served a copy of its July 13, 2007 order on Respondent at his State Bar membership records address. Respondent received the California Supreme Court's July 13, 2007 order.
5. The July 13, 2007 California Supreme Court Order became effective on August 12, 2007. Respondent was actually suspended and not entitled to practice law from August 12, 2007 to September 11, 2007. Respondent stipulated to the discipline in his State Bar matter and was aware of his actual suspension.
6. On July 13, 2007, Respondent, on behalf of his client Malka Fogel ("Fogel"), filed a Notice to Quit against Stacy Fruhman in Malka Fogel v. Stacy Ilene Fruhman, in Los Angeles County Superior Court, case no. 07U00530 (the "unlawful detainer action"). Fruhman hired attorney Richard Lubetzky ("Lubetzky") to represent her in the unlawful detainer action.
7. On August 13, 2007, while Respondent was actually suspended from the practice of law, Respondent appeared at a deposition as counsel for Fogel.
8. On August 14, 2007, while Respondent was actually suspended from the practice of law, Respondent sent a letter to Lubetzky regarding the unlawful detainer action. The heading on the August 14, 2007 letter from Respondent identified Respondent as "John R. Schiro, Esq., Attorney at Law".
9. On August 17, 2007, while Respondent was actually suspended from the practice of law, Respondent appeared in court as Fogel's counsel in the unlawful detainer action. The hearing in the unlawful detainer action was continued to August 28, 2007.

10. On August 28, 2007, while Respondent was actually suspended from the practice of law, Respondent appeared in court as Fogel's counsel at trial in the unlawful detainer action.
11. On August 31, 2007, while Respondent was actually suspended from the practice of law, Respondent sent a letter to Lubetzky concerning the unlawful detainer action. The heading of the August 31, 2007 letter from Respondent identified Respondent as "John R. Schiro, Esq., Attorney at Law."
12. Pursuant to the July 13, 2007 California Supreme Court Order, Respondent was ordered to comply with the provisions of the State Bar Act and Rules of Professional Conduct.
13. On September 7, 2007, a Probation Deputy with the Office of Probation of the State Bar of California wrote Respondent outlining the terms and conditions of his actual suspension and probation imposed pursuant to the July 13, 2007 California Supreme Court Order.
14. In the September 7, 2007 letter, the Probation Deputy specifically advised Respondent that the California Supreme Court order was effective August 12, 2007 and that pursuant to the Order, Respondent had been placed on actual suspension for period a thirty days. Enclosed with the letter to Respondent was a copy of the September 7, 2007 California Supreme Court Order. The Probation Deputy's September 7, 2007 letter to Respondent was properly mailed to Respondent at his official State Bar membership records address. Respondent received the September 7, 2007 letter with its enclosures.
15. On October 10, 2007, Respondent signed, under penalty of perjury, his October 10, 2007 quarterly report stating that "[d]uring the preceding calendar quarter, I have complied with all provisions of the State Bar Act and Rules of Professional Conduct." On or about October 17, 2007, Respondent submitted the October 10, 2007 quarterly report to the Office of Probation for filing.
16. At the time that Respondent completed and signed his October 10, 2007 quarterly report, he knew, or was grossly negligent in not knowing, that he had engaged in the unauthorized practice of law during the preceding calendar quarter.

CONCLUSIONS OF LAW:

17. By holding himself as an attorney entitled to practice law in California when he was not an active member of the State Bar of California and by practicing law when he was not an active member of the State Bar of California, Respondent failed to support the Constitution and laws of the United States and of this state in willful violation of Business and Professions Code section 6068(a), by advertising and holding himself out as practicing law when he was not an active member of the State Bar in violation of Business and Professions Code sections 6125 and 6126.

PENDING PROCEEDINGS.

The disclosure date referred to, on Page 2, paragraph A(7), was March 23, 2011

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct provides in pertinent part that, "[t]he primary purposes of disciplinary proceedings ... are the protection of the public, the courts, and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession."

The following Standards apply to these matters:

Standard 1.6(a) provides that, "The appropriate sanction for an act of professional misconduct shall be that set forth in the following standards for the particular act of misconduct found or acknowledged. If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions."

Standard 1.6(b)(i) provides for a greater degree of discipline than the appropriate sanction where aggravating circumstances are found to surround the complained of misconduct. In the case at bar there exists no mitigation of consequence existent at the operative period of Respondent's misconduct in the unlawful detainer matter.

Standard 1.7(a) provides that the degree of discipline to be imposed herein shall be greater than that imposed on the member within his prior discipline unless the prior was remote in time and the offense minimal in severity. Respondent's prior discipline is neither remote in time nor of minimal severity.

Standard 2.3 provides for actual suspension or disbarment for those acts of moral turpitude, fraud, intentional dishonesty towards a court and concealment of material facts to a court, client or other person. Respondent is charged with one count of moral turpitude herein associated with his misrepresentation under oath within a quarterly report to the Probation Department that his conduct was in compliance with the Rules of Professional Conduct when it was not.

Standard 2.6 provides for disbarment or suspension depending upon the gravity of the offense or harm where culpability for violation of sections 6068(a) is found.

The Standards should be followed whenever possible. *In re Silverton* (2005) 36 Cal. 4th 81, 92. Based on the Standards and applicable case law, and in consideration of the facts and circumstances present, the parties submit that the intent and goals of the Standards are met in this matter by the imposition a period of ninety days actual suspension, one year stayed suspension and two years probation.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
08-O-10097	Three	Business and Professions Code section 6068(d)
08-O-10097	Two	Business and Professions Code 6106

COSTS OF DISCIPLINARY PROCEEDINGS.

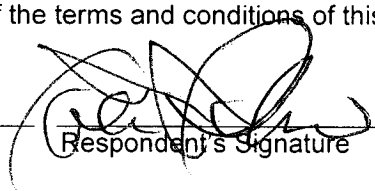
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of March 23, 2011, the prosecution costs in this matter are approximately \$2296.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: John R. Schiro	Case number(s): 08-O-10097
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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, Conclusions of Law, and Disposition.

<u>3/29/11</u> Date	 Respondent's Signature	<u>John R. Schiro</u> Print Name
<u>March 30 '11</u> Date	<u>Hugh G. Radigan</u> Respondent's Counsel Signature	<u>Hugh G. Radigan</u> Print Name
	<u>Deputy Trial Counsel's Signature</u>	

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In the Matter of:
JOHN R. SCHIRO

Case Number(s):
08-O-10097

ACTUAL SUSPENSION 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.

PAGE 6 - SECTION F(2) - PLACE CHECKMARK IN BOX

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 5.58(E) & (F), 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.)**

07-13-11

Date


Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 April 14, 2011, 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:

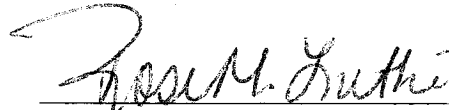
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOHN RAMSEY SCHIRO
4804 LAUREL CANYON BLVD #356
STUDIO CITY, CA 91607

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

HUGH RADIGAN, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 14, 2011.



Rose Luthi
Case Administrator
State Bar Court