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State Bar Court of California Hearing Department San Francisco ALTERNATIVE DISCIPLINE PROGRAM		kwiktag® 026 805 371 
Counsel For The State Bar Sherrie B. McLetchie 180 Howard San Francisco CA 94105 (415) 538-2297 Bar # 85447	Case Number (s) 08-O-11613 and 09-N-10047-PEM	(for Court's use) <div style="text-align: center;"> PUBLIC MATTER FILED OCT 19 2009 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO </div>
In Pro Per Respondent Chesterfield Spahr SUSPENDED 229 23rd Avenue San Francisco CA 94121 (415)298-9855. Bar # 190173	Submitted to: Assigned Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: Chesterfield Spahr Bar # 190173 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 November 26, 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 6 pages, excluding 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".

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- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [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:

In the Matter of Chesterfield Spahr, S165359 (05-O-04590),

- effective October 23, 2008;
- violations of Business and Professions Code sections 6068(b) (two counts), 6068(i), and 6103 [failure to obey court orders]; and
- a minimum 90-day actual suspension from the practice of law; and

In the Matter of Chesterfield Spahr, S172493 (07-O-14109),

- effective July 23, 2009;
- violations of rule 3-110(A), and Business and Professions Code sections 6068(i), 6068(m), and 6106 [misrepresentations to a client]; and
- a minimum one-year actual suspension.

- (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.

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- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. Both cases involve respondent's failure to recognize his ineligibility to practice law and to notify courts of his ineligibility.
- (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.
- (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.

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Additional mitigating circumstances:

None.

08-O-11613**Facts**

1. Effective February 3, 2008, respondent was involuntarily enrolled inactive as a result of his default in State Bar Court case number 05-O-4590 (later Supreme Court case number S165359).
2. Respondent appeared in Alameda County Superior Court on April 16, 2008, representing his client, Adam Domeier, in the criminal case of *People v. Shurn & Domeier*, case number 538401B, and represented Domeier at the preliminary examination.

Conclusions of Law

By appearing in court on behalf of a client when ineligible to practice law, respondent violated Business and Professions Code section 6068(a) by violation of Business and Professions Code section 6125.

By practicing law when he should have known that he was ineligible to do so, respondent was grossly negligent (Bus. & Prof. Code §6106).

09-N-10047**Facts**

1. By order filed September 23, 2008, the Supreme Court ordered, among other things, that respondent be actually suspended from the practice of law for a minimum of 90 days and that he comply with the provisions of subdivisions (a) and (c), rule 9.20, California Rules of Court, within 30 and 40 days, respectively, from its effective date.
2. The effective date of the September 23, 2008 Supreme Court suspension order was October 23, 2008.
3. Pursuant to the September 23, 2008 Supreme Court suspension order, respondent had to submit a rule 9.20 compliance affidavit or declaration no later than December 2, 2008.
4. Respondent did not submit a rule 9.20 declaration to the State Bar Court until March 16, 2009, three and one-half months after it was due, and then only at the urging of the State Bar.
5. Respondent has remained suspended from the practice of law at all time since October 23, 2008.

Conclusion of Law

By not timely complying with the Supreme Court's order, respondent wilfully violated Business and Professions Code section 6103.

Pending Proceedings

The disclosure date referred to on page one, paragraph A. (7) was September 15, 2009.

Costs of Disciplinary Proceedings

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 15, 2009, the costs in this matter are approximately \$3,664.38. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the

(Stipulation form approved by SBC Executive Committee 9/18/2002. Rev. 12/1/2008.)

Program

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costs in this matter may increase due to the cost of further proceedings. This figure does not include any costs associated with Lawyers' Assistance Program and/or Alternative Discipline Program costs and/or expenses, if any.

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In the Matter of
Chesterfield SpahrCase number(s):
08-O-11613; 09-N-10047**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.

9/24/2009
Date
Respondent's SignatureChesterfield Spahr
Print Name~~9-25-09~~
Date

Respondent's Counsel Signature

Print Name

9-25-09
Date
Deputy Trial Counsel's SignatureSherrie B. McLetchie
Print Name

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In the Matter Of
Chesterfield SpahrCase Number(s):
08-O-11613; 09-N-10047**ORDER**

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

- ☐ The stipulation as to facts and conclusions of law is APPROVED.
- ☐ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- ☐ All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(a), Rules of Procedure.)

Date

October 19, 2009Pat McElroy
Judge of the State Bar Court

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

I am a Case Administrator of the State Bar Court. 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 October 19, 2009 I deposited a true copy of the following document(s):

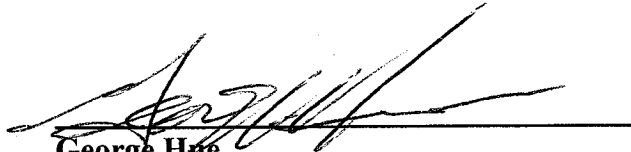
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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:

CHESTERFIELD SPAHR, ESQ.
SHERRIE B. McLETCHIE, ESQ.

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **October 19, 2009**


George Hae
Case Administrator
State Bar Court