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State Bar Court of California Hearing Department Los Angeles			kwiktag® 018 040 019 
Counsel For The State Bar Donald R. Steedman 180 Howard Street, 7th Floor San Francisco, CA 94015 Bar # 104927 In Pro Per Respondent Robert C. Fishman 5709 Hempstead Drive Agoura Hills, CA 91301 Bar # 110630	Case Number (s) 09-C-10197	(for Court's use) <div style="text-align: center;"> PUBLIC MATTER FILED OCT 21 2010 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
In the Matter of: Robert C. Fishman Bar # 110630 A Member of the State Bar of California (Respondent)	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		

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 **December 12, 1983**.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (8) pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☒ Costs to be awarded to the State Bar
 - ☐ Costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - ☐ Costs entirely waived
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 220(c).

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
- (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. **See attachment**
- (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. **See attachment.**
- (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.

Additional mitigating circumstances:

- 1. Respondent has no prior record of discipline and has been admitted to practice since 1983.
- 2. During the period in question, respondent was experiencing personal problems relating (1) financial matters, (2) the care of his sick and elderly parents, and (3) a dispute with his parent's care provider.

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.
- (2) ☐ **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Client Security Fund Reimbursement:** Respondent must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and such payment obligation is enforceable as provided under Business and Professions Code section 6140.5.
- (4) ☐ **Other:**

Attachment language begins here (if any)

ATTACHMENT TO

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: ROBERT C. FISHMAN

CASE NUMBER(S): ET AL. 09-C-10197

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(6), was September 24, 2010.

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.

FACTS

1. On December 29, 2004, Respondent registered with Yahoo! under a fictitious name. Respondent's originating Internet Protocol (IP) address was 64.81.84.186
2. Between December 2004 and August 2007, Respondent maintained two email addresses from which he accessed Yahoo! Groups.
3. On August 11, 2005, Respondent posted 4 image photos ("jpg files") containing child pornography on a Yahoo! Group.
4. On October 3, 2006, Respondent uploaded 29 jpg files containing child pornography on a Yahoo! Group. For purposes of this stipulation, child pornography includes depictions of pre-pubescent children engaging in sexual acts including genital penetration.
5. On March 21, 2007, Respondent uploaded 3 jpg files containing child pornography and 2 jpg files containing child erotica on a Yahoo! Group.
6. In July 2007, the Los Angeles Regional Internet Crimes Against Children Task Force ("LAICAC") obtained the billing information related to the IP address 64.81.84.186. The billing address was that of the law office at which respondent was employed. LAICAC provided the law firm with the e-mail addresses used by Respondent. Subsequently, an activity-monitoring software installed on the firm's web server conclusively identified Robert C. Fishman as LAICAC suspect.
7. On August 2, 2007, Officers of LAPD Juvenile Division obtained and executed a search warrant at Respondent's family home.
8. When made aware that the LAPD believe that some member of this household was viewing, downloading, uploading, and exchanging of child pornography, Respondent responded, "It's me and nobody else". Respondent directed the search to the computer in the home office. Respondent also indicated that there would likely be evidence of child pornography on the other computers in the house. Respondent additionally indicated that he collected printed material or DVDs which he kept in an unlocked briefcase in the trunk of his car. He directed the detectives to the location of his keys.
9. The detectives opened the trunk of Respondent's car and discovered a black nylon briefcase. The briefcase contained two hundred and fifteen (215) 8 1/2 by 11 inch printed images, many of which

depicted images that constitute child pornography as defined by PC 311. Also within the briefcase was, one metal pipe and two glass pipes containing white residue.

10. A second black briefcase was discovered behind the driver's seat. It contained an additional ninety two (92) 8 1/2 x 11 printed images containing a mix of child erotica and child pornography.
11. On August 2, 2007, Respondent was placed under arrest. Respondent's home computer and an attached hard drive were retained by the Special Master.
12. LAICAC also conducted a forensic examination of the desktop computer on Respondent's desk at the law offices at which respondent was employed, and the hard drive was retained by the Special Master.
13. A post-arrest review of the property recovered from Respondent's residence and work address was determined to constitute child pornography contraband as follows:
 - 92 color and black/white photos of child pornography, found in the black briefcase located on rear-driver side floor of Respondent's automobile;
 - 215 color and black/white photos of child pornography, found in the black briefcase located in the trunk of Respondent's automobile; and,
 - 23 of the 27 CDR's, found in the briefcase located in the trunk of Respondent's car, contained 255 videos of child pornography.
14. Between March and July 2007, Respondent actively communicated with others regarding images of child pornography, posting, transmitting and exchanging images. In his email of April 20, 2007, Respondent baited for companionship by offering to share drugs.
15. On October 14, 2008, a criminal complaint was filed against Respondent in the Superior Court of California, County of Los Angeles, in the matter entitled People v. Robert Fishman, case no. BA335615, charging R with seven felony counts as follows:
 - Count One: Distribution of child pornography on August 11, 2005, in violation of PC 311.1(a);
 - Count Two: Distribution of child pornography on October 2, 2006, in violation of PC 311.1(a);
 - Count Three: Distribution of child pornography on March 21, 2007, in violation of PC 311.1(a);
 - Counts Four, Five, Six, and Seven: Possession of matter depicting minor engaging in sexual conduct on August 2, 2007, in violation of PC 311.1(a).
16. On December 19, 2008, Respondent entered a plea of nolo contendere to two counts of possession of child pornography in violation of Penal Code section 311.11(a), felonies. That same day, the Court accepted Respondent's plea, and Respondent was convicted.
17. Subsequent to his conviction, Respondent failed to report it to the State Bar.
18. On March 13, 2009, the Court suspended imposition of sentence and placed Respondent on formal probation for five years on terms and conditions that require 90 days in jail or electronic monitoring in lieu of jail, completion of a 52-week sexual offender counseling program, attendance at narcotics anonymous meetings, no access to the internet, except for employment purposes, pay various fines; and register as a sex offender [a lifetime requirement.]

CONCLUSIONS OF LAW

19. The facts and circumstances surrounding Respondent's conviction for two felony counts of violation of Penal Code section 311.11(a), POSSESSION OR CONTROL OF CHILD PORNOGRAPHY, in that Respondent did knowingly and unlawfully possess matter, representation of information, data, or

image, including, but not limited to, computer-generated image, the production of which involved the use of a person under the age of 18 years, knowing that the matter depicted a person under the age of 18 years personally engaging in or simulating sexual conduct, as defined in Penal Code section 311.4(d), do involve moral turpitude, and constitute other misconduct warranting discipline pursuant to Business and Professions Code sections 6101 and 6102.

20. By distributing child pornography on August 11, 2005, Respondent committed an act of moral turpitude, in violation of Business and Professions Code section 6106.
21. By distributing child pornography on October 3, 2006, Respondent committed an act of moral turpitude, in violation of Business and Professions Code section 6106.
22. By distributing child pornography on March 21, 2007, Respondent committed moral turpitude, in violation of Business and Professions Code section 6106.
23. By failing to provide a written report of his conviction to the State Bar, Respondent violated Business and Professions Code section 6068(o).

AGGRAVATING CIRCUMSTANCES (page 2):

B(2) DISHONESTY AND CONCEALMENT:

For a period of three years, Respondent shielded himself and his misconduct from Law Enforcement by using a fictitious name. In addition, respondent used the privacy afforded by his private law office to view, chat, share, and distribute child pornography.

B(4) HARM:

By knowingly collecting and trading child pornography, Respondent stimulated the market for illegal child pornography, thus causing harm to society and children. By knowingly trading child pornography with other perpetrators, Respondent encouraged and facilitated their illegal conduct, thus causing further harm to society and children.

B(7) PATTERN OF MISCONDUCT

In addition to the hundreds of images and videos of children in suggestive, nude or pornographic activities, that he knowingly possessed on his computers or kept locked in his car, Respondent engaged in the receipt and distribution of images of child pornography in numerous emails with other Internet users.

Forensic analysis of his computers and photos found in his car revealed how, over at least three years, Respondent has been collecting pornographic images depicting children in suggestive, nude or pornographic activities.

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In the Matter of
Robert C. Fishman

Case number(s):
09-C-10197

SIGNATURE OF THE PARTIES

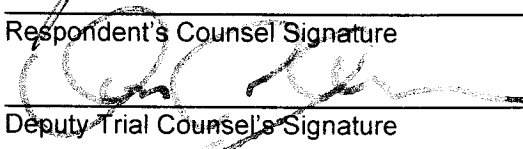
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

10/7/10
Date


Respondent's Signature

Robert C. Fishman
Print Name

10/12/2010
Date


Respondent's Counsel Signature

Print Name

Deputy Trial Counsel's Signature

Donald R. Steedman
Print Name

(Do not write above this line.)

In the Matter of
Robert C. Fishman

Case Number(s):
09-C-10197

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 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.)**

Respondent **Robert C. Fishman** is ordered transferred to involuntary inactive status pursuant to
Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive
enrollment will be effective three (3) calendar days after this order is served by mail and will
terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as
provided for by rule 490(b) of the Rules of Procedure of the State Bar of California, or as
otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

10/20/10

Judge of the State Bar Court


DONALD F. MILES

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 October 21, 2010, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

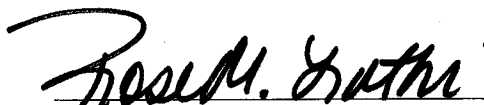
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ROBERT C. FISHMAN
5709 HEMPSTEAD DR
AGOURA HILLS, CA 91301

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

DONALD STEEDMAN, ESQ., Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 21, 2010.



Rose Luthi
Case Administrator
State Bar Court