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State Bar Court of California
Hearing Department
San Francisco

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Counsel For The State Bar

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In the Matter Of:
Johnnie Lee Taylor

Bar # 117532

A Member of the State Bar of California
(Respondent)

Case Number (s)
09-C-12634

(for Court's use)

PUBLIC MATTER

FILED

JUL 14 2010

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

Submitted to: **Settlement Judge**

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

ACTUAL SUSPENSION

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 May 29, 1985.
- (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 14 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."

(Do not write above this line.)

- (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 00-O-14819
 - (b) Date prior discipline effective August 21, 2002
 - (c) Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code § 6068 (o)(3)
 - (d) Degree of prior discipline Public Reprimand
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

91-O-06555; September 27, 1993; Rule 3-110(a), Rule 3-110(a), Rule 6-101(A); Business and Professions Code § 6068 (m)
- (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.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(Do not write above this line.)

- (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. Respondent and his wife were involved in a long custody and divorce dispute.
- (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 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:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of Three 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 Nine Months.

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.

(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:

- (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.

- (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: February 1, 2010.
- (5) **Other Conditions: LAWYERS ASSISTANCE PROGRAM:** Respondent must comply with all provisions and conditions of respondent's Participation Agreement/Plan with the Lawyer Assistance Program (LAP), and must provide the Office of Probation with written evidence of compliance with each quarterly report, and with written certification of completion of the LAP. Respondent must immediately report any non-compliance with any provision(s) or condition(s) of his Participation Agreement/Plan to the Office of Probation. Respondent must provide an appropriate written waiver authorizing the LAP to provide the Office of Probation, the Office of the Chief Trial Counsel, and the State Bar Court of respondent's participation in the LAP and his compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Respondent will be relieved of this condition upon providing to the Office of Probation satisfactory written certification of completion of the LAP.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Johnnie Lee Taylor

CASE NUMBER(S): ET AL. 09-C-12634

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and that the misconduct involved moral turpitude and warrants discipline.

FACTS AND CONCLUSIONS OF LAW.

STATEMENT OF FACTS

1. On August 31, 2007, the Superior Court issued a protective/restraining order against respondent, he was ordered to stay away from Mrs. Taylor and their son, no contact within 100 yards. The only exception was when there was an exchange of custody at those times the exchange was to be brief and peaceful.
2. Respondent was properly served with the order and was fully aware of the order.
3. Respondent violated the stay away order on September 3, 2007. Respondent entered Ms. Taylor's apartment pushed a friend of Ms. Taylor's and yelled at Ms. Taylor a number of expletives and threw some luggage at her.
4. Respondent violated the stay away order on September 14, 2007. Respondent telephoned Ms. Taylor and advised her that he has on his way to pick up their 9 year old son. Ms. Taylor reminded respondent that he was to stay at the gate of the apartment complex. Respondent became angry and told Ms. Taylor that he could do whatever he wanted. Respondent then proceeded to call Ms. Taylor 20 times from a blocked number. Later, on respondent arrived to retrieve his son, the pick-up occurred without further incident.
5. Respondent violated the stay away order on December 10, 2007. Respondent approached Mr. Starks when he was leaving Ms. Taylor's residence, via the garage, respondent informed Mr. Starks that he was not supposed to be living with Ms. Taylor, because he was on parole. At this point, respondent then confronted Ms. Taylor through the open garage door. Ms. Taylor informed respondent that she was going to call the police, and respondent replied "you better." Respondent left Ms. Taylor's residence respondent then called her residence twice, from a pay phone about two blocks from her residence. Respondent also called Mr. Starks and threatened to snap his neck if he ever saw him with his wife and child again.
6. Respondent violated the stay away order on December 11, 2007. Respondent called Ms. Taylor's home periodically throughout the night. She heard respondent's voice and hung up before he could continue. The calls came in so frequently that she disconnected the phone for the evening. Respondent was placing the calls from a pay phone less than two blocks from Ms. Taylor's residence.
7. Respondent violated the stay away order on December 11, 2007 at approximately 3:00 p.m. Ms. Taylor was so shaken up, that when the police arrived she could barely speak, she was shaking and crying uncontrollably. She stated to police officers "he came back he's never going to leave us alone." Ms. Taylor, her son and Mr. Starks where home, when someone repeatedly rang the doorbell. Ms. Taylor and her son approached the door, but did not answer it. The person ringing the doorbell then began to pound on the door with an object. Ms. Taylor heard Mr. Taylor scream "open the door,

expletive." Ms. Taylor feared for her safety and did not open the door. Her son crawled to the front window and whispered to Ms. Taylor I can see Dad walking away. Ms. Taylor went to the window and observed respondent walking on the sidewalk. Respondent had a long black rod in his hand, similar to a crow bar in his possession. Ms. Taylor called 911 immediately.

8. The police contacted respondent and inquired if he had been at Ms. Taylor's residence. Respondent denied that he had been at Ms. Taylor's residence and stated that she was a liar.

9. Respondent violated the stay away order on January 17, 2008. Ms. Taylor believed that respondent was responsible for the slashing of her vehicle's tires about three times, within a four week time period. She and Mr. Starks began parking the vehicle away from the residence, usually three to four blocks. On January 17, 2008, Mr. Starks walked the three blocks to retrieve the vehicle. As Mr. Starks was getting into the vehicle, respondent suddenly appeared next to him. Respondent was in his own vehicle. Mr. Starks drove to Ms. Taylor's residence and stationed the vehicle in the driveway. Ms. Taylor and her son were in the residence and the garage door was open. Mr. Starks observed respondent sitting in the passenger side of his own vehicle with an unknown individual in the driver side. As Mr. Starks exited the vehicle he noticed that respondent took a photograph of him with a disposable camera. Mr. Starks heard respondent say "you're a dead N word." Respondent pointed his finger at Mr. Starks as if simulating a handgun and pulling the trigger. Ms. Taylor observed the entire encounter between respondent and Mr. Starks.

10. Respondent violated the stay away order on February 7, 2008. At approximately 7:20 a.m., an unknown individual rang the doorbell at Ms. Taylor's residence. Ms. Taylor answered the door and the unknown individual told her that he was looking for Mr. Starks, because he owed him \$1,500.00. Mr. Starks assumed that respondent was involved. Mr. Starks went outside to look for respondent or respondent's vehicle. Mr. Starks walked down a block, he saw respondent's vehicle. Respondent's vehicle approached Mr. Starks, the driver was not the respondent. However respondent was in the passenger seat. Respondent exited the vehicle with a four to five feet piece of rebar and start swinging it at Mr. Starks. At the same time, respondent stated "I told you I was going to kill you." Mr. Starks was able to evade respondent's swings and threw respondent to the ground. The driver of the vehicle then proceeded to exit the vehicle with a shorter piece of rebar and tried to hit Mr. Starks. Mr. Starks was able to evade the driver's swings and threw him to the ground as well. Mr. Starks hit the front windshield of respondent's vehicle causing it to break. Mr. Starks then walked away and headed toward his residence. He looked back and saw that respondent's vehicle was approaching him again. The vehicle jumped the curb, drove across the front lawn, and pinned Mr. Starks between the car and the garage door. The respondent's vehicle drove off afterwards. Mr. Starks crawled into his house and Ms. Taylor called 911. Mr. Starks was taken to the hospital for treatment of his injuries. A broken tibia and contusions on both forearms.

11. On February 7, 2008 respondent drove while under the influence. At approximately 9:00 p.m. Sergeant Martin was driving in the area around Ms. Taylor's residence as the police had been looking for the vehicle that had pinned Mr. Starks up against the garage door. Sergeant Martin spotted respondent's vehicle and proceeded to follow the vehicle onto the freeway. Sergeant Martin broadcasted his position and waited for other units to join him. Respondent's vehicle accelerated up to 70 mph, Sergeant Martin followed respondent's vehicle and when he was joined by other units proceeded to activate his lights (red and blue). Respondent's vehicle continued on, without pulling over on to I-880. Other police vehicles blocked off the northbound traffic. Respondent's vehicle slowed to 40 mph. At this point Sergeant Martin executed a pursuit intervention technique causing respondent's vehicle to spin counter clockwise. Respondent was behind the wheel of the vehicle. Respondent was subsequently taken into custody and transported to Hayward Jail for booking. During the transport, Officer Olsen could smell the strong odor of alcohol coming from respondent. Respondent was not

admitted into the jail, due to a laceration on his face that had occurred prior to the police stop. Respondent was then transported to Kaiser for medical clearance. Respondent was read his Miranda rights.

12. Officer Sorenson was called to the hospital to evaluate respondent's sobriety. Officer Sorenson inquired if respondent had been drinking. Respondent informed him that he had some alcohol at about 4:00 p.m. Respondent then informed Officer Sorenson that he would not answer anymore questions. While speaking with respondent Officer Sorenson noticed that respondent's eyes were blood shot, glassy and his eye lids were droopy. Respondent's pupillary reaction to light was sluggish with the presence of horizontal nystagmus. Officer Sorenson asked respondent if he would submit to preliminary alcohol screening test. Respondent stated that he would only submit if it was mandatory. Officer Sorenson then placed respondent under arrest for driving under the influence. Respondent was advised that a chemical test was required and that he had the option for a breath test or blood test. Respondent opted for a breath test. However, because respondent was at the hospital, and still needed medical attention, the breath test was not an option. Respondent was advised of the situation and refused to submit to a blood test, because he had already agreed to provide a breath test.

13. In April 2008, Ms. Taylor moved to Modesto, California for a period of nine months. She continued to work in Oakland, California. Respondent would call her at her place of business and shout obscenities over the phone to her.

14. Respondent violated the stay away order on March 4, 2009. Respondent went to Ms. Taylor's residence, she had moved in with her sister. Respondent knocked on the front door. Ms. Taylor's sister answered the door and stepped out on to the front porch she advised respondent that he was not allowed to be there and that he needed to leave. Respondent stated in a loud voice "I can go anywhere I want and if anything happened to my son there will be hell to pay." Ms. Taylor informed the responding police officer that in the last two years she had moved at least six times and that she feared for her safety.

15. Respondent violated the stay away order on March 6, 2009. Ms. Taylor and Mr. Starks had just stepped out of their front door when they saw respondent standing on the north side of the residence. Respondent approached Mr. Starks and stated "Mother F****r I'm going to kill you." Respondent then followed up the threat by reaching into his pants pocket and he appeared to pull out a knife. Respondent pointed the knife at Mr. Starks in a threatening manner and continued to make threats, such as "I'm going to stab you", "You are a dead Mother F****r" Ms. Taylor then stated that she was going to call the police. Respondent then fled the scene.

16. Respondent violated the stay away order on March 9, 2009. Respondent drove by the residence and was observed by Ms. Taylor's brother. Respondent shouted obscenities at Ms. Taylor's brother.

17. Respondent violated the stay away order on March 17, 2009. Respondent drove by Ms. Taylor's residence, in a slow manner and made eye-contact with Ms. Taylor who was standing on the sidewalk getting into her vehicle.

18. Respondent was charged on February 26, 2008 included Penal Code §646.9(b) (felony) stalking; §245(a)(1) (felony) assault with a deadly weapon (vehicle); §245 (a)(1) (felony) assault with a deadly weapon (rebar pipe); §422.(felony) criminal threats towards Catherine Taylor, §422 (felony) criminal threats towards Dale Starks, and one Vehicle Code §23152(a) (misdemeanor) driving under the influence.

19. On April 13, 2009, the charges were amended and a nine count criminal complaint was filed and included respondent's co-defendant as follows: Penal Code §245(a)(1) (felony) assault with a deadly weapon (vehicle); §245(a)(1) (felony) assault with a deadly weapon (rebar); Vehicle Code §23152(a) (misdemeanor) driving while under the influence; Penal Code §646.9(b) (felony) stalking of Catherine

Taylor; Penal Code §422.(felony) criminal threats against Dale Starks; Penal Code §646.9(a) (felony) stalking of Dale Starks; Penal Code §646.9(b) (felony) stalking of Dale Starks; Penal Code §245(a)(1) (felony) assault with a deadly weapon (knife), and lastly Penal Code §422 (felony) criminal threats against Dale Starks.

20. On April 14, 2009, the charges were amended and an eleven count criminal complaint was filed against petitioner/respondent. The charges were as follows: Penal Code §245(a)(1) (felony) assault with a deadly weapon (vehicle); §245(a)(1) (felony) assault with a deadly weapon (rebar); Penal Code §646.9(b) (felony) stalking of Catherine Taylor; Penal Code §422 (felony) criminal threats against Dale Starks; Penal Code §646.9(a) (felony) stalking of Dale Starks; Penal Code §646.9(b) (felony) stalking of Dale Starks; Penal Code §245(a)(1) (felony) assault with a deadly weapon (knife); Penal Code §422 (felony) criminal threats against Dale Starks; Penal Code §273(a) (felony) child abuse on John Doe; Vehicle Code §23152(a) (misdemeanor) driving under the influence on October 19, 2007; Vehicle Code §23152(a) (misdemeanor) driving under the influence on February 7, 2008.

21. On May 4, 2009 the charges were amended and an eight count criminal complaint was filed against petitioner/respondent. The charges were as follows: Penal Code §245(a)(1) (felony) assault with a deadly weapon (vehicle); Penal Code §646.9(b) (felony) stalking of Catherine Taylor; Penal Code §646.9(a) (felony) stalking of Dale Starks; Penal Code §646.9(b) (felony) stalking of Dale Starks; Penal Code §245(a)(1) (felony) assault with a deadly weapon (knife); Penal Code §422 (felony) criminal threats against Dale Starks; Vehicle Code §23152(a) (misdemeanor) driving under the influence on February 7, 2008; Vehicle Code §23152(b) (misdemeanor) driving under the influence on February 7, 2008.

22. On August 18, 2009, respondent entered a no contest plea to the following charges: Penal Code §646.9(a) (felony) stalking of Dale Starks; Penal Code §646.9(b) (felony) stalking of Catherine Taylor; and Vehicle Code §23152(b) (misdemeanor) driving under the influence on February 7, 2008. The Superior Court of Alameda imposed a suspended sentence, five year probation term, credit for time served of 182 days, standard probation conditions; and stay away orders for a ten year period and 100 yards, 52 sessions of batterer's treatment program, submission of DNA; attended drinking driver program, installation of ignition interlock device on any and all vehicles owned by the defendant, payment of restitution and fines.

CONCLUSIONS OF LAW

23. The facts and circumstances surrounding respondent's felony convictions of Penal Code §646.9(a) and (b), involve moral turpitude, and his misdemeanor conviction of vehicle code § 23152(b) demonstrate violations of Business and Professions Code §§ 6068(a), 6068(b), 6103, and 6106.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(6), was June 15, 2010.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 14, 2010, the prosecution costs in this matter are \$3,680.00. 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.

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING.

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

2. Respondent was charged on February 26, 2008 included Penal Code §646.9(b) (felony) stalking;

§245(a)(1) (felony) assault with a deadly weapon (vehicle); §245 (a)(1) (felony) assault with a deadly weapon (rebar pipe); §422,(felony) criminal threats towards Catherine Taylor, §422 (felony) criminal threats towards Dale Starks, and one Vehicle Code §23152(a) (misdemeanor) driving under the influence.

3. On April 13, 2009, the charges were amended and a nine count criminal complaint was filed and included respondent's co-defendant as follows: Penal Code §245(a)(1) (felony) assault with a deadly weapon (vehicle); §245(a)(1) (felony) assault with a deadly weapon (rebar); Vehicle Code §23152(a) (misdemeanor) driving while under the influence; Penal Code §646.9(b) (felony) stalking of Catherine Taylor; Penal Code §422 (felony) criminal threats against Dale Starks; Penal Code §646.9(a) (felony) stalking of Dale Starks; Penal Code §646.9(b) (felony) stalking of Dale Starks; Penal Code §245(a)(1) (felony) assault with a deadly weapon (knife), and lastly Penal Code §422 (felony) criminal threats against Dale Starks.

4. On April 14, 2009, the charges were amended and an eleven count criminal complaint was filed against petitioner/respondent. The charges were as follows: Penal Code §245(a)(1) (felony) assault with a deadly weapon (vehicle); §245(a)(1) (felony) assault with a deadly weapon (rebar); Penal Code §646.9(b) (felony) stalking of Catherine Taylor; Penal Code §422 (felony) criminal threats against Dale Starks; Penal Code §646.9(a) (felony) stalking of Dale Starks; Penal Code §646.9(b) (felony) stalking of Dale Starks; Penal Code §245(a)(1) (felony) assault with a deadly weapon (knife); Penal Code §422 (felony) criminal threats against Dale Starks; Penal Code §273(a) (felony) child abuse on John Doe; Vehicle Code §23152(a) (misdemeanor) driving under the influence on October 19, 2007; Vehicle Code §23152(a) (misdemeanor) driving under the influence on February 7, 2008.

5. On May 4, 2009 the charges were amended and an eight count criminal complaint was filed against petitioner/respondent. The charges were as follows: Penal Code §245(a)(1) (felony) assault with a deadly weapon (vehicle); Penal Code §646.9(b) (felony) stalking of Catherine Taylor; Penal Code §646.9(a) (felony) stalking of Dale Starks; Penal Code §646.9(b) (felony) stalking of Dale Starks; Penal Code §245(a)(1) (felony) assault with a deadly weapon (knife); Penal Code §422 (felony) criminal threats against Dale Starks; Vehicle Code §23152(a) (misdemeanor) driving under the influence on February 7, 2008; Vehicle Code §23152(b) (misdemeanor) driving under the influence on February 7, 2008.

6. On August 18, 2009, respondent entered a no contest plea to the following charges: Penal Code §646.9(a) (felony) stalking of Dale Starks; Penal Code §646.9(b) (felony) stalking of Catherine Taylor; and Vehicle Code §23152(b) (misdemeanor) driving under the influence on February 7, 2008. The Superior Court of Alameda imposed a suspended sentence, five year probation term, credit for time served of 182 days, standard probation conditions; and stay away orders for a ten year period and 100 yards, 52 sessions of batterer's treatment program, submission of DNA; attended drinking driver program, installation of ignition interlock device on any and all vehicles owned by the defendant, payment of restitution and fines.

7. On December 1, 2009, the Review Department placed respondent on interim suspension to begin on January 6, 2010.

8. On December 28, 2009, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: for a hearing and decision recommending the discipline to be imposed in the event that the hearing department finds that the fact and circumstances surrounding respondent's conviction involved moral turpitude or other misconduct warranting discipline.

AUTHORITIES SUPPORTING DISCIPLINE.

Pursuant to Business & Professions Code §6101(a) respondent's conviction and the record of his

conviction is conclusive evidence of guilt of the crime of which he has been convicted. (See *In re Crooks* (1990) 51 Cal. 3d 1090, 1097 – respondent is conclusively presumed by his record of conviction to have committed all the elements of the crime of which he was convicted; *In re Duggan* (1976) 17 Cal.3d 416, 423 – respondent is conclusively presumed by his record of conviction to have committed all the elements of the crime of which he was convicted; *In the Matter of Respondent O* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 581, 588 – respondent is conclusively presumed by his record of conviction to have committed all the elements of the crime of which he was convicted.) Here, respondent's conviction is final and he was convicted of two felony counts of Penal Code §646.9(a) and (b), and Vehicle Code §23152(b).

Standard 2.3 states culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment or a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law.

Standard 1.6(a) states in pertinent part “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 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 3.2 states in pertinent part “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.”

Business & Professions Code §6106 provides in pertinent part the commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of his relations as an attorney or otherwise and whether the act is a felony or misdemeanor or not constitutes a cause for disbarment or suspension. “Moral turpitude determinations are a matter of law. (*In re Higbie* (1972) 6 Cal 3d 562, 569.) Moral turpitude is not a concept that fits a precise definition (*Chadwick v. State Bar* (1989) 49 Cal. 3d 103, 110), but has been consistently described as an “act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man.” (*In re Craig*, (1938) 12 Cal. 2d 93, 97) The Court has characterized the moral turpitude prohibition as a flexible “commonsense” standard (*In re Mostman* (1989) 47 Cal. 3d 725, 738) with its purpose not the punishment of attorneys, but the protection of the public and legal community against unsuitable practitioners. The Review Department has previously determined that conduct that impinges on another's rights or causes other individuals to fear for their safety constitutes moral turpitude. (See *In the Matter of Elkins* (Review Dept. Nov 2009) slip opinion pg. 7; [53 harassing and threatening voice mail messages to two individuals, viewed as intentional and constituted acts of moral turpitude pursuant to Business & Professions Code §6106] *In the Matter of Torres* (Review Dept. 2000) 4 Cal State Bar Ct. Rptr. 138, 147 [numerous phone calls to client resulting in harassment and intentional infliction of emotional distress constituted acts of moral turpitude.]; *In the Matter of Loftus* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80, 88 [harassing telephone call to juror threatening to report absence from jury duty to juror's employer constituted moral turpitude.]

AGGRAVATING CIRCUMSTANCES.

Prior Discipline: Respondent has two previous impositions of discipline. Respondent received two public reprovls; one in 2002 and another in 1993.

Harm: Respondent's present misconduct involved the disobedience of a court order and respondent violated that court order on multiple occasions. Respondent's misconduct harmed the administration of justice.

MITIGATING CIRCUMSTANCES.

Family Problems: Respondent and his wife were embroiled in a contentious custody battle.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

LAWYERS ASSISTANCE PROGRAM PARTICIPATION: Respondent must comply with all provisions and conditions of respondent's Participation Agreement/Plan with the Lawyer Assistance Program (LAP), and must provide the Office of Probation with written evidence of compliance with each quarterly report, and with written certification of completion of the LAP. Respondent must immediately report any non-compliance with any provision(s) or condition(s) of his Participation Agreement/Plan to the Office of Probation. Respondent must provide an appropriate written waiver authorizing the LAP to provide the Office of Probation, the Office of the Chief Trial Counsel, and the State Bar Court of respondent's participation in the LAP and his compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Respondent will be relieved of this condition upon providing to the Office of Probation satisfactory written certification of completion of the LAP.

COMPLIANCE WITH CONDITIONS OF PROBATION IN UNDERLYING CRIMINAL MATTER.

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

(Do not write above this line.)

In the Matter of
Johnnie Lee Taylor

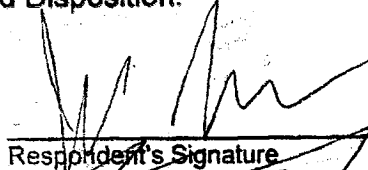
Case number(s):
09-C-12634

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.

6-23-10

Date



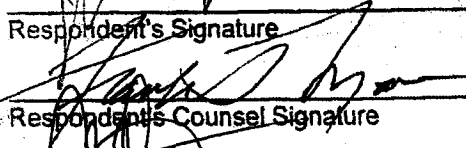
Respondent's Signature

Johnnie Lee Taylor

Print Name

6-28-10

Date



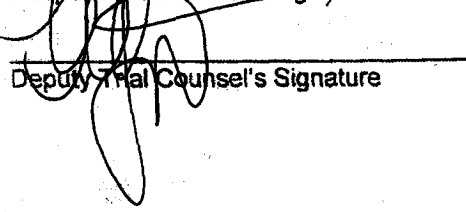
Respondent's Counsel Signature

Frank S. Moore

Print Name

6/20/10

Date



Deputy Trial Counsel's Signature

Maria J. Oropeza

Print Name

(Do not write above this line.)

In the Matter Of JOHNNIE LEE TAYLOR	Case Number(s): 09-C-12634
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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.

On page 4 of the stipulation, the "X" in box D(1)(a)(i) is deleted to remove the "and until" condition requiring that respondent's stayed suspension continue until he complies with standard 1.4(c)(ii). (It is inappropriate to attach "and until" conditions to periods of stayed suspension.)

On page 4 of the stipulation, the "X" in box E(1) is deleted to remove the conditional standard 1.4(c)(ii) requirement. (The conditional standard 1.4(c)(ii) requirement in paragraph E(1) is inappropriate because no "and until" condition is attached to respondent's nine-month suspension.)

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.)**

Date

July 13, 2010

Patrice E. McElroy
PATRICE E. 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 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 San Francisco, on July 14, 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 San Francisco, California, addressed as follows:

**FRANK S. MOORE
LAW OFC FRANK S MOORE
1374 PACIFIC AVE
SAN FRANCISCO, CA 94109**

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

MARIA J. OROPEZA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 14, 2010.



Bernadette C.O. Molina
Case Administrator
State Bar Court