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

<p>Counsel For The State Bar</p> <p>Jessica A. Lienau Office of the Chief Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015</p> <p>Bar # 269753</p>	<p>Case Number(s): 11-C-14359-RAH</p> <p align="center">PUBLIC MATTER</p>	<p>For Court use only</p> <p align="center">FILED JAN 13 2012  STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Tyler Patrick Nixon 905 N. Van Buren Street Wilmington, DE 19806</p> <p>Bar # 220423</p>		
<p>In the Matter of: TYLER PATRICK NIXON</p> <p>Bar # 220423</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted July 18, 2002.
- (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 10 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 are added to membership fee for calendar year following effective date of discipline.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: the two (2) membership years following the effective date of this 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
 - (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 or a separate attachment entitled "Prior Discipline."
- (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.
- (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. Respondent was convicted of possession of controlled substances, and there was no harm to any client or specific individual.
- (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. Respondent provided several letters from members of his community attesting to his good character. The writers of those letters acknowledge their awareness of Respondent's misconduct.

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- (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

Respondent has been a member of the State Bar of California for more than nine (9) years with no prior record of discipline.

Respondent has chosen to enter into a stipulation with the State Bar as early as possible.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of one (1) 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:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is placed on probation for a period of two (2) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

(1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) ☒ 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.

(3) ☒ 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.

(4) ☒ 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.

(5) ☐ 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.

- (6) ☒ 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.
- (7) ☒ 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 State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☒ 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.
- (9) ☐ 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 within one year. **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) ☐ **Other Conditions:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: TYLER PATRICK NIXON

CASE NUMBER(S): 11-C-14359-RAH

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. 11-C-14359 (Conviction 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. On August 4, 2011, Respondent was convicted of violating Title 16 of the Delaware Code § 4754, Possession of a Non-Narcotic Schedule 1 Controlled Substance, specifically marijuana and ecstasy, misdemeanors, and Title 16 of the Delaware Code § 4771, Possession of Drug Paraphernalia, a misdemeanor.
3. On November 8, 2011, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues:

FACTS:

4. On January 10, 2011, Delaware State Police Corporal Robert Cassidy and members of the Delaware State Police Drug Unit executed a search warrant on Respondent's residence/home office, located in the State of Delaware. A total of 453.8 grams of marijuana was found and 57 MDMA (commonly known as "ecstasy") pills were found. A bong with marijuana residue was also located. 11 pipes with marijuana residue were located.

CONCLUSIONS OF LAW:

5. Respondent's misdemeanor convictions, discussed *supra.*, did not involve moral turpitude but did involve other misconduct warranting discipline.

MITIGATING CIRCUMSTANCES

ADDITIONAL MITIGATING CIRCUMSTANCES

Respondent is a U.S. Army Infantry veteran with active-duty enlisted service overseas, including combat duty in 1991 on deployment to the northern Iraqi border while serving in a rifle company in the U.S. Army Berlin Brigade (Germany). Following active-duty Infantry enlistment, Respondent served in

the 11th Special Forces Group (Airborne) on reserve duty until being commissioned as an Army officer upon graduation from Georgetown University in 1995. Respondent subsequently became an Army National Guard officer, serving as a platoon leader and eventually a detachment commander. In March 2005, Respondent received an Honorable Discharge as a Captain.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was December 2, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system 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."

Standard 3.4 provides that "Final conviction of a member of a crime which does not involve moral turpitude inherently or in the facts and circumstances surrounding the crime's commission but which does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of these standards appropriate to the nature and extent of the misconduct found to have been committed by the member."

Although there is no case law specifically addressing possession of a controlled substance, there is case law addressing possession of a controlled substance with intent to distribute as well as case law addressing criminal convictions not involving moral turpitude. In light of these two lines of case law, a one year stayed suspension with two years of probation and probationary conditions is an appropriate level of discipline for Respondent.

In the Matter of Carr (1992) 2 Cal. State Bar Ct. Rptr. 108, the respondent received three criminal convictions, not involving moral turpitude, consisting of an August 1985 conviction for driving with a suspended license due to a prior DUI conviction, a January 1986 conviction for being under the influence of PCP, and an August 1986 conviction for driving with knowledge of a suspended license. The Review Department recommended discipline consisting of a two year stayed suspension, two years probation with conditions including a six month actual suspension and until the respondent complies with standard 1.4(c)(ii). In aggravation, the respondent had a record of prior discipline, including a 1984 actual suspension of 60 days for two drug convictions in 1981 and 1982, a probation revocation matter in 1986, and six months actual suspension until 1.4(c)(ii) hearing in 1988 for two DUI convictions in 1983 and 1984. The respondent had been under continuous suspension for five years. In mitigation, the respondent had not had any arrests since 1986 until the time of the State Bar hearing in 1989, he had a valid driver's license at that time, and he had completed a chemical dependency program.

In *In re Kreamer*, 14 Cal. 3d at 532, the Supreme Court of California held that three years of suspension, stayed, was adequate discipline of an attorney who pled guilty to the offenses of possessing marijuana and conspiracy to possess marijuana with intent to distribute. The Court noted as mitigating factors that the respondent did not have any prior discipline over the course of approximately ten years that the respondent's involvement in the marijuana offenses was motivated by a financial crisis and occurred during a time of emotional crisis when the respondent had in essence ceased practicing law. (*Id.* at 531.) The Court also noted that the respondent's post-conviction rehabilitative efforts that were attested to be several members of his community. (*Id.*) The Court gave the respondent mitigation credit

for having been candid and cooperative with the State Bar and the courts throughout the disciplinary proceedings. (*Id.*) In closing, the Court stated that the respondent "has already 'suffered the ignominy of a criminal conviction, (and) has served time in a penal institution and on parole ...'". (*Id.* at 532 (internal citation omitted).)

In the instant case, the Respondent's misconduct was less serious than that of the respondents in the aforementioned cases. Respondent was convicted of possession of controlled substances. Respondent was not convicted of intent to distribute these controlled substances. Respondent has no prior record of discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 2, 2011, the prosecution costs in this matter are \$2,287.00. 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.

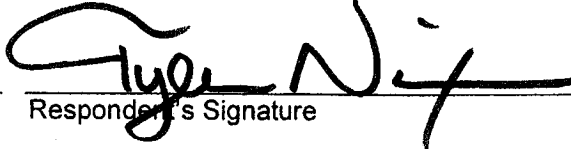
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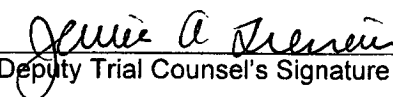
In the Matter of:
TYLER PATRICK NIXON

Case number(s):
11-C-14359-RAH

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.

15 Dec 2011  Tyler Patrick Nixon
Date Respondent's Signature Print Name

12/21/11  Jessica A. Lienau
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of:
TYLER PATRICK NIXON

Case Number(s):
11-C-14359-RAH

STAYED SUSPENSION ORDER

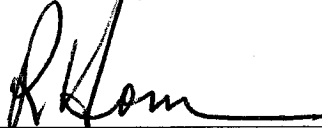
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ 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.

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.)

Date

1-10-12


RICHARD A. HONN
Judge of the State Bar Court

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 January 13, 2012, I deposited a true copy of the following document(s):

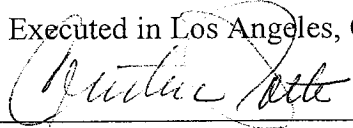
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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:
- TYLER P. NIXON
905 N VAN BUREN ST
WILMINGTON, DE 19806 - 4536
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Jessica A. Lienau, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 13, 2012.


Cristina Potter
Case Administrator
State Bar Court