

(Do not write above this line.)

<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
Counsel For The State Bar  Jessica A. Lienau 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1165  Bar # 269753	Case Number(s): 11-C-16339; Investigation No. 12-N-10818	For Court use only  <div style="text-align: center;"> <b>FILED</b>  <b>MAR 13 2012</b>  STATE BAR COURT  CLERK'S OFFICE  LOS ANGELES   <b>PUBLIC MATTER</b> </div>
In Pro Per Respondent  ROBERT A. HUFF  Bar # 182935	Submitted to: <b>Assigned Judge</b>	
In the Matter of: Robert A. Huff 3105 N. Ashland Ave. #320 Chicago, IL 60657 (312) 206-0418  Bar # 182935  A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <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 June 13, 1996.
- (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 13 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):
  - ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: three (3) billing cycles following the effective date of the Supreme Court 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.
- (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.
- (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:**

Although the misconduct herein is serious, Respondent has had no prior record of discipline in the more than fifteen years since he was admitted to the State Bar of California. Some mitigating credit for no prior discipline may be given even where the underlying misconduct is found to be serious or significant. (In the Matter of Stamper (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, n. 13).

Respondent has chosen to enter into a Stipulation with the State Bar prior to trial in Case No. 11-C-16339 and prior to the filing of disciplinary charges in Investigation No. 12-N-10818.

At the time Respondent committed the criminal acts at issue, Respondent was not practicing law and had not been practicing law for an extended period of time. Respondent was not charged with and did not use his law license to further the criminal acts. At the time the 9.20 Order was issued, Respondent was not practicing law and had no clients.

**D. Discipline:**

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of three (3) 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 four (4) 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 two (2) 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:

### 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 the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
  - ☒ No Ethics School recommended. Reason: Respondent resides outside of California. See "Other Conditions" in Section F, Number 5 for MCLE requirement in lieu of Ethics School.
- (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:

☐ Substance Abuse Conditions

☐ Law Office Management Conditions

☐ Medical Conditions

☐ 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 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason:
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☒ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: December 19, 2011.
- (5) ☒ **Other Conditions:** Respondent must complete six (6) hours of MCLE in general ethics. The MCLE hours may be online or participatory. The MCLE hours are in addition to the MCLE hours required by attorneys generally. The six (6) hours of MCLE must be completed within one (1) year of the effective date of the discipline herein.

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      ROBERT A. HUFF

CASE NUMBER(S):                      11-C-16339; Investigation No. 12-N-10818

**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-16339 (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. Respondent was charged in two counts of a five count superseding indictment in the United States District Court, Eastern District of Wisconsin, Case No. 08-CR-36, which was filed on February 5, 2008, which alleged violations of Title 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A) & 846; Title 18 U.S.C. §§ 2, 922(g)(3), 924(c), 981(a)(1)(c), 982 (a)(1), 1512(c)(2), 1956(h); and Title 28 U.S.C. § 2461(c).
3. On July 23, 2009, Respondent signed a Plea Agreement that was filed with the United States District Court for the Eastern District of Wisconsin on July 30, 2009. In the Plea Agreement, Respondent pled guilty to one of the two counts with which he was charged and admitted that beginning sometime in 2006 and continuing through January 24, 2008, in the State and Eastern District of Wisconsin and elsewhere, that he knowingly and intentionally conspired with persons to possess with the intent to distribute a controlled substance, in violation of Title 21 U.S.C. § 841(a)(1). Respondent also admitted that the offense involved 1,000 kilograms or more of a mixture and substance containing marijuana, a Schedule I controlled substance. Respondent admitted that all of these actions were in violation of Title 21 U.S.C. §§ 841 (b)(1)(A) and 846 and Title 18 U.S.C. § 2.
4. On December 14, 2009, U.S. District Judge Michael J. Reagan entered judgment against Respondent based on the Plea Agreement in Case No. 08-CR-36.
5. On December 18, 2009, Respondent appealed his conviction to the United States Court of Appeals for the Seventh Circuit. On August 26, 2010, the United States Court of Appeals for the Seventh Circuit dismissed Respondent's appeal.
6. On September 29, 2010, Respondent was convicted of violating 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(A), a felony, for conspiracy to distribute 1,000 kilograms or more of marijuana.
7. On December 1, 2011, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues: whether the facts and circumstances surrounding the violations which Respondent was convicted involved moral turpitude or other misconduct warranting discipline, and if so found, the discipline to be imposed.

## FACTS:

8. During the spring of 2007, federal agents learned from confidential informants, surveillance, telephone records, and past seizures of marijuana, that David P. LeBlanc operates a large-scale marijuana distribution organization in the Milwaukee, WI area. The investigation revealed that LeBlanc obtains several hundred pounds of high-grade marijuana from Oskar Sheldon. Sheldon also supplied marijuana to several individuals in the Chicago area. Sheldon obtained the marijuana from outdoor and indoor grow operations he ran jointly with Patrick O'Brien, "Z" (believed to be Zachary Nelson) and "AJ" (believed to be Aaron Johnson) in Humboldt and Mendocino Counties in Northern California, and through Johnny Morton and Justin Wells in the Olympia, WA area. Sheldon arranged for the transportation of the marijuana to the Midwest via couriers, usually white females, who traveled by interstate highways. Sheldon eventually sent the proceeds of marijuana sales back to California or Washington. These proceeds amount to tens of thousands of dollars, and Sheldon and his associates obtained money orders in various large denominations, and bulk shipped the monetary instruments in express mail packages.

9. The federal investigation included traditional law enforcement methods, including, but was not limited to: interviews with citizen witnesses, confidential informants, and cooperating defendants; information from other law enforcement officers; documentary evidence; pen register, trap and trace, and telephone toll data; controlled buys of drugs and controlled payments of money; physical surveillance; cellsite data; GPS surveillance; and court-authorized wire taps of cellular telephones used by LeBlanc, Sheldon, and Justin Wells.

10. As to Respondent specifically, the evidence shows that Sheldon sold most of the marijuana to customers in California, Milwaukee, and Chicago, including Respondent. Sheldon used female couriers to transport 100-200 pounds of marijuana at a time, at least once a month for the past year (2007-2008), to the Midwest for distribution to his customers in Milwaukee and Chicago.

11. During the distribution of one load of marijuana in October 2007, Sheldon stayed at the vacation home of Respondent located in Gary, IN. With Respondent's permission, Sheldon stayed at Respondent's residence a couple days until the bulk of the load could be transported to Chicago and Milwaukee.

12. In early November 2007, Respondent and an associate traveled to California to meet with Sheldon and make arrangements for a delivery of marijuana to Chicago. Prior to the meeting, case agents monitored a call between Respondent and Sheldon during which Respondent told Sheldon that Sheldon better not be wasting Respondent and Respondent's associate's time because the associate is the type to "bust knee caps" of Respondent. Documents regarding the travel of Respondent and his associate, including the rental of a "pod" storage container, were found in Sheldon's belongings on January 24, 2008, when Sheldon was arrested in San Francisco.

13. When Respondent was arrested at his vacation home in Gary, IN on January 24, 2008, case agents seized approximately 14 pounds and approximately \$2,287.00 cash. A search of Respondent's Chicago condo revealed several money orders in the amounts of \$1,000 being sent to Sheldon in California. A subsequent search of a safe taken from the condo revealed approximately \$26,650.00 cash.



14. Debriefing interviews with several co-conspirators since January 24, 2008, including Minahan and Sheldon, confirmed that Respondent received marijuana from Sheldon on at least three separate occasions between September 2007 and January 24, 2008.

#### CONCLUSIONS OF LAW:

15. The facts and circumstances surrounding the above-described violations involved moral turpitude. (See e.g. *In re Kreamer* (1975) 14 Cal. 3d 524, 530; *In re Leardo* (1991) 53 Cal. 3d 1, 10 (*en banc*); *In re Higbie* (1972) 6 Cal. 3d 562, 573 (*en banc*).)

#### Investigation No. 12-N-10818 (Rule 9.20 Violation)

#### FACTS:

16. On December 1, 2011, the Review Department of the State Bar Court of California filed an Order in State Bar Case No. 11-C-16339 (hereinafter "Order"). The Order included a requirement that Respondent comply with Rule 9.20, California Rules of Court, by performing the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively, after the effective date of Respondent's interim suspension, which was December 19, 2011.

17. On December 1, 2011, the Clerk of the Review Department of the State Bar Court of California properly served upon Respondent a copy of the 9.20 Order.

18. The interim suspension became effective on December 19, 2011, pursuant to the Review Department's December 1, 2011 Order. Thus, Respondent was ordered to comply with subdivision (a) of rule 9.20 of the California Rules of Court no later than January 18, 2012, and was ordered to comply with subdivision (c) of Rule 9.20 no later than January 30, 2012.

19. Respondent failed to file with the clerk of the State Bar Court a declaration of compliance with Rule 9.20 (a), California Rules of Court by January 30, 2012, as required by Rule 9.20(c).

20. On February 16, 2012, Respondent completed and mailed to the State Bar Court his completed Rule 9.20 Declaration.

#### CONCLUSIONS OF LAW:

21. By failing to timely file a declaration of compliance with Rule 9.20 in conformity with the requirements of Rule 9.20(c), Respondent failed to timely comply with the provisions of the Review Department of the State Bar Court of California's Order in State Bar Case No. 11-C-16339 requiring compliance with Rule 9.20, California Rules of Court. By the foregoing conduct, Respondent willfully violated rule 9.20, California Rules of Court by willfully disobeying or violating an order of the court.

#### OTHER MITIGATION.

On October 21, 2008, Respondent was granted by the U.S. District Court, on motion of the government, a reduced sentence, from 24 months imprisonment to 18 months imprisonment, in the underlying criminal matter for his substantial assistance to the federal government in the investigation and prosecution of other individuals within the conspiracy. Respondent provided the federal government key details about marijuana transactions, gave information about co-defendants, debriefed with federal

agents about potential organized crime figures and stood ready to testify against co-defendants if needed.

Respondent was temporarily living in the U.S. Virgin Islands serving his sentence from the underlying criminal matter both when the 9.20 Order was issued as well as when the 9.20 compliance date passed. Respondent's accessibility to computer, phone and mail resources is severely limited.

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was February 16, 2012.

### **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 3.2 states that the final conviction of an attorney of a crime which involves moral turpitude, either inherently or in the facts and circumstances surrounding the crime's commission, shall result in disbarment. Standard 3.2 further states that disbarment shall be the level of discipline unless the most compelling mitigating circumstances clearly predominate, in which case a two-year actual suspension should be imposed. A two-year actual suspension should be imposed in this matter.

Respondent's misconduct was serious and calls for disbarment in the absence of compelling mitigating circumstances. However, based on the caselaw and the facts and circumstances surrounding Respondent's misconduct, a three year suspension, stayed, on the condition that two years of the suspension be actual suspension and with four years of probation, is an appropriate level of discipline to protect the public, the profession and the courts.

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).)

Similarly, in *In re Cohen* (1974) 11 Cal. 3d 416, 422-23 (*en banc*), the Supreme Court of California held that a three year suspension, stayed, with two years of actual suspension was an adequate level of discipline for an attorney who was convicted of possession of marijuana for sale. The Court found that the respondent's excuse that he participated in the criminal acts with his friends out of a sense of adventure and friendship to merit little to no mitigation. (*Id.* at 420-22.) The Court found that the facts and circumstances surrounding the respondent's misconduct supported a finding of moral

turpitude. (*Id.* at 421.) However, the Court held that the mitigating factors present supported discipline less than disbarment, which included no prior record of discipline, the fact that respondent's criminal acts "did not grow out of a motive for personal enrichment," and the respondent was cooperative and honest in his dealings with law enforcement. (*Id.* at 422-23.)

Respondent here has been cooperative with the State Bar and the Court since these disciplinary proceedings began. Respondent has no prior disciplinary record with the State Bar of California for almost 16 years. At the time of the misconduct, Respondent's status with the State Bar of California was voluntary inactive and he was not practicing law in California at the time of the misconduct. A three year suspension, stayed, with two years of actual suspension and four years of probation is an appropriate level of discipline in this matter based on the facts and circumstances surrounding the misconduct as well as the pertinent caselaw.

Rule 9.20, California Rules of Court, supports disbarment. Rule 9.20 states, in pertinent part:

... A suspended member's willful failure to comply with the provisions of this rule constitutes a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime.

The fact that the legislature considers non-compliance with rule 9.20 not only as professional misconduct, but also as a crime, conveys the serious nature with which the legislature views the violation. Disbarment in rule 9.20 violation cases is appropriate where the respondent has exhibited repeated noncompliance with the disciplinary system. (*In the Matter of Esau* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 131.)

Suspension, as opposed to disbarment, has been ordered in some rule 9.20 violation cases where there has been indicia of substantial compliance with the rule 9.20 order and evidence of mitigation. (See e.g., *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192; *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527; *Shapiro v. State Bar* (1990) (*en banc*) 51 Cal. 3d 251.) For example, in *In the Matter of Rose*, 3 Cal. State Bar Ct. Rptr. 192, the Court, in determining that the appropriate level of discipline was two years stayed suspension on the condition of nine months actual suspension, considered the fact that the respondent had filed his rule 9.20 declaration within a few weeks after the due date and that the respondent did not have any clients at the time to notify so there was no harm to clients. Similarly, in *In the Matter of Friedman*, 2 Cal. State Bar Ct. Rptr. 527, the respondent was given 30 days actual suspension for his failure to comply with rule 9.20. The respondent filed his rule 9.20 declaration two weeks after it was due, but before formal disciplinary proceedings were commenced. (*Id.*) The Court considered the respondent's cooperation with the State Bar in mitigation. (*Id.*)

Although Respondent's failure to timely file a rule 9.20 declaration is serious misconduct, suspension, not disbarment, is the appropriate level of discipline in this matter. Respondent has since come into compliance with rule 9.20, less than one month after the original due date. Respondent has no prior discipline. At the time the rule 9.20 order was issued, Respondent was under federal custody in the U.S. Virgin Islands serving his sentence from the underlying criminal matter. Although this fact does not excuse Respondent's dilatoriness in filing the 9.20 Declaration, Respondent's accessibility to computer, phone and mail resources is severely limited. Respondent had no clients, courts, or counsel to

notify of his suspension as he was not practicing law at the time of the 9.20 Order, so there was no client harm from Respondent's late filing.

Both the Standards and caselaw warrant the imposition of discipline consisting of three years stayed suspension on the conditions of two years actual suspension and four years of probation with probationary conditions.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 16, 2012, the prosecution costs in this matter are \$4,612.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of:  
ROBERT A. HUFF

Case Number(s):  
11-C-16339; Investigation No. 12-N-10818

### ACTUAL SUSPENSION ORDER

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

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

Page 4: The "X" in the box next to paragraph D.(1)(a)(i) is deleted.

Page 5: The "X" in the box next to paragraph E.(1) is deleted.

Page 5: The "X" in the box next to paragraph E.(8), indicating that respondent must complete Ethics School, is deleted.

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.)**

3/13/12

Date



DONALD F. MILES  
Judge of the State Bar Court

(Do not write above this line.)

In the Matter of:  
ROBERT A. HUFF

Case number(s):  
11-C-16339; Investigation No. 12-N-10818

### 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.

22 Feb 12

Date



Respondent's Signature

Robert A. Huff

Print Name

Date

Respondent's Counsel Signature

Print Name

5 March 2012

Date



Deputy Trial Counsel's Signature

Jessica A. Lienau

Print Name

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

### STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

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 A. HUFF  
3105 N ASHLAND AVE #320  
CHICAGO, IL 60657**

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

**JESSICA LIENAU, Enforcement, Los Angeles**

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



Tammy Cleaver  
Case Administrator  
State Bar Court