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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar PAUL T. O'BRIEN 1149 S. HILL STREET LOS ANGELES, CA 90015-2299 (213) 765-1378 Bar # 171252	Case Number(s): 11-J-10588-LMA	For Court use only <div style="text-align: center;"> PUBLIC MATTER FILED <i>Rv</i> AUG 04 2011 </div> <div style="text-align: center;"> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO </div>
In Pro Per Respondent SUNG IL OH 710 QUAIL VALLEY LANE WEST COVINA, CA 91791 (626) 332-7262 Bar # 201634	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: SUNG IL OH Bar # 201634 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 10, 1999.
- (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."



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- (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: two 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.

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- (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. Respondent has cooperated with the Office of the Chief Trial Counsel's inquiry into the facts and circumstances surrounding his discipline before the USPTO and has entered into the stipulation herein.
- (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.

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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:

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 two 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 90 days.

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.

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- (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**

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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:
- (5) ☐ **Other Conditions:**

Attachment language (if any):

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SUNG IL OH

CASE NUMBER(S): 11-J-10588-LMA

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-J-10588-LMA (Discipline in Other Jurisdiction)

PROCEDURAL BACKGROUND IN OTHER JURISDICTION:

1. At all times herein mentioned, Respondent was registered to practice patent law before the Office (Registration Number 45,583) and therefore subject to the USPTO Disciplinary Rules set forth at 37 C.F.R. §10.20 et seq.
2. On or about January 18, 2011, the United States Patent and Trademark Office (USPTO) issued a Final Order that Respondent be disciplined, upon findings that Respondent had committed professional misconduct in that jurisdiction. Thereafter, the decision of the USPTO became final.

FACTS:

3. In or about 1999, Respondent began using Mr. G, a registered patent attorney, to provide patentability search services for Respondent's clients. Respondent and Mr. G developed a good working relationship over the course of several years as a result of their collaborative efforts.
4. In or about February 2005, Mr. G solicited Respondent's interest in obtaining flat fee referrals from a company known as PTO (Patent Trademark Institute of America and International Patent Inventors, Inc, collectively).
5. In or about March, 2005, Respondent was contacted by the president of PTI and subsequently entered into an agreement by which PTI would refer inventors to Respondent to prepare, file and prosecute patent applications in the USPTO on behalf of the referred inventors.
6. Between in or about May 2005 and January 2007, PTI referred hundreds of inventors to Respondent. Respondent represented hundreds of the referred inventors and did not disclose to these clients, in writing or otherwise, how much he was paid by PTI to perform services on their behalf; nor did Respondent obtain the clients written consent to permit him to accept compensation from PTI for the patent legal services that Respondent performed on their behalf. Respondent, moreover, did not advise the client inventors of the

potential conflict of interest in the event that PTI became unable or unwilling to compensate Respondent for his services or forward costs and fees paid to PTI by the client inventors.

7. Specifically (as one example of an inventor client to whom Respondent failed to make necessary disclosures), Respondent entered into a contract with Mr. V to provide services in obtaining full patent protection and trademark protection. Mr. V had paid PTI \$9,995 and \$1,695, respectively, for these services. PTI had paid Respondent to perform a patentability study for Mr. V. Respondent did not disclose his business relationship with PTI, his compensation agreement with PTI, or the potential for a conflict of interest to arise between Mr. V and PTI to Mr. V.

8. On or about January 10, 2007, the United States District Court, Eastern District of Virginia, issued an order placing PTI in court receivership pending the outcome of contempt litigation proceedings that had been brought against PTI by the Federal Trade Commission (FTC). The FTC had sought sanctions for contempt against PTI due to allegations it had violated the terms of an order arising from a 1998 civil settlement that PTI and the FTC had entered into.

9. In or about July 2007, Mr. V became aware of the receivership action and instructed Respondent to return his patent file, which Respondent did. Thereafter, Respondent filed a request to withdraw as counsel for Mr. V before the USPTO; before any action was taken, however, on the request, Respondent was served with a notice of allowance for Mr. V's design patent.

10. In or about September 2007, Respondent forwarded the notice of allowance to Mr. V and advised him that he would have to pay an issue fee and file amended drawings and a substitute declaration within seven weeks. PTI had already informed Respondent that it could not provide the necessary funds to pay the issue fee for Mr. V's design patent.

11. Respondent offered to file the necessary papers if Mr. V would pay an additional \$500, including \$100 for Respondent's further services. Mr. V declined the offer; his patent application was thereafter abandoned when the issue fee was not timely paid.

CONCLUSIONS OF LAW:

12. The disciplinary proceeding in the other jurisdiction provided Respondent with fundamental constitutional protection.

13. Respondent's conduct in the other jurisdiction as set forth above would warrant the imposition of discipline in California as violation(s) of the following:

14. By not informing his clients of his business relationship with PTI, Respondent accepted employment and failed to provide written disclosure to the client that he had a business relationship with an entity the member knew or reasonably should have known would be affected substantially by the resolution of the representation, in willful violation of rule 3-310(B)(3), Rules of Professional Conduct.

15. By accepting payments from PTI for services on behalf of clients, without disclosing to the clients that he was paid by PTI and that a potential conflict existed in the event his fees or costs that the client advanced

to PTI were not forwarded to Respondent by PTI, Respondent failed to obtain the informed, written consent of his clients, to permit him to accept compensation for representing a client from one other than the client, in willful violation of rule 3-310(f), Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was July 18, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 – The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct 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. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of the rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

"Under rule 3-310(F), an attorney may accept payment of his legal fees from a third party only if there is no interference with independence of attorney's professional judgment or the attorney-client relationship, information relating to the representation remain protected as client confidences and secrets, and the attorney obtains the client's informed written consent." [Citation] ["The essential relation of trust and confidence between attorney and client cannot be said to arise where the attorney and client cannot be said to arise where the attorney is employed, not by the client, but by some corporation which has undertaken to furnish its members with legal advice, counsel, and professional services. The attorney in such a case owes his first allegiance to his immediate employer, the corporation, and owes, at most, but a incidental, secondary, and divided loyalty to the clientele of the corporation."] In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 18, 2011, the prosecution costs in this matter are \$2,287. 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:
SUNG IL OH

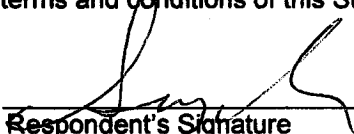
Case number(s):
11-J-10588-LMA

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.

7/27/2011

Date


Respondent's Signature

SUNG OH
Print Name

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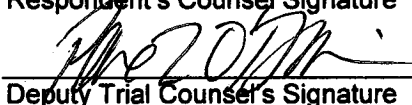
Date

Respondent's Counsel Signature

Print Name

7/29/11

Date


Deputy Trial Counsel's Signature

PAUL T. O'BRIEN
Print Name

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In the Matter of: SUNG IL OH Member No. 201634	Case Number(s): 11-J-10588
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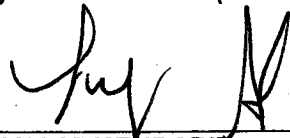
ACTUAL SUSPENSION ORDER

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.

On page 4 of the stipulation, the "X" in the box next to paragraph D.(1)(a)(i) 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.)**

Date <u>August 4, 2011</u>	 _____ LUCY ARMENDARIZ Judge of the State Bar Court
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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 San Francisco, on August 4, 2011, 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:

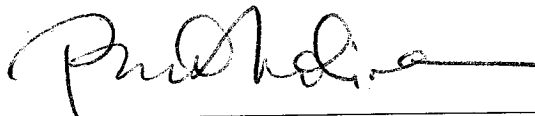
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

SUNG I. OH
710 QUAIL VALLEY LN
WEST COVINA, CA 91791

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

PAUL T. O'BRIEN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 4, 2011.



Bernadette C.O. Molina
Case Administrator
State Bar Court