

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Elizabeth Gonzalez Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1342</p> <p>Bar # 256839</p>	<p>Case Number(s): 12-H-16502-RAP</p>	<p>For Court use only</p> <p style="text-align: center;">FILED</p> <p style="text-align: center;">FEB 22 2013 <i>AC</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Howard Ronald Gottlieb 14120 Victory Blvd. Van Nuys, CA 91401 (818) 679-2393</p> <p>Bar # 71010</p>	PUBLIC MATTER	
<p>In the Matter of: Howard Ronald Gottlieb</p> <p>Bar # 71010</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>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 December 22, 1976.
- (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."

Handwritten mark

(Effective January 1, 2011)



(Do not write above this line.)

- (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: (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 07-O-14785.
 - (b) Date prior discipline effective June 9, 2009.
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct 3-110(A).
 - (d) Degree of prior discipline Private Reprimand.
 - (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.

(Do not write above this line.)

- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment at page 8.
- (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.

(Do not write above this line.)

- (13) No mitigating circumstances are involved.

Additional mitigating circumstances:

See Attachement at page 8.

D. Discipline:

- (1) **Stayed Suspension:**

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

- (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 60 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.
- (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

(Do not write above this line.)

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 successfully completed Ethics School on June 9, 2011. Respondent is not required to complete Ethics School pursuant to Rule 5.135.

- (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 5.162(A) & (E), Rules of Procedure.**

(Do not write above this line.)

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 TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Howard Ronald Gottlieb

CASE NUMBER(S): 12-H-16502-RAP

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. 12-H-16502 (State Bar Investigation)

FACTS:

1. On May 19, 2009, the Hearing Department of the State Bar Court of California filed an order in case number 07-O- 14785 imposing a private reproof on Respondent.
2. On June 9, 2009, the private reproof became effective.
3. As a condition of the private reproof, Respondent was required to submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the condition period attached to the reproof.
4. Respondent failed to timely submit quarterly reports. Respondent submitted the quarterly report due October 10, 2009 on December 8, 2009. Respondent submitted the quarterly report due January 10, 2010 on January 13, 2010. Respondent submitted the quarterly report due April 10, 2010 on May 6, 2010. Respondent submitted the quarterly report due July 10, 2010 on July 27, 2011.
5. As a condition of the private reproof, Respondent was required to provide to the Office of Probation satisfactory proof of attendance at a session of Ethics School, and passage of the test given at the end, by June 9, 2010.
6. Respondent submitted proof he attended Ethics School and passed the test given at the end on October 5, 2011.
7. As a condition of the private reproof, Respondent was required to provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE") to the Office of Probation by June 9, 2010.
8. On August 5, 2011, Respondent took the MPRE and received a score of 81, which is not a passing score.

9. On March 17, 2012, Respondent took the MPRE and received a score of 71, which is not a passing score.

10. To date, Respondent has not submitted proof of passage of the MPRE.

CONCLUSIONS OF LAW:

11. By failing to timely submit quarterly reports to the Office of Probation, failing to timely provide proof he attend Ethics School and passed the test given at the end, and failing to submit proof of passage of the MPRE, Respondent failed to comply with conditions attached to the private reproof in wilful violation of rule 1-110 of the Rules of Professional Conduct.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Discipline. In State Bar case no. 07-O-14785, Respondent received a Private Reproof after stipulating to one violation of Rule 3-110(A) (failure to perform with competence) arising from his repeated failure to properly file and correct defective pleadings. (Standard 1.2(b)(i).)

Multiple Acts. Respondent's present misconduct involves the failure to timely submit quarterly reports; failure to timely submit his final report; failure to timely complete Ethics school; and failure to pass the MPRE. Respondent engaged in multiple acts of misconduct by violating numerous conditions of his reproof. (Standard 1.2(b)(ii).)

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Candor/Cooperation. Pre-trial Stipulation. In *In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156, the court found that Respondent was entitled to mitigation for cooperating with the State Bar by entering into a fairly comprehensive pretrial stipulation of facts.

Although the stipulated facts were not difficult to prove, and Respondent did not admit culpability, the stipulation was relevant and assisted the State Bar's prosecution of the case. The court accorded Respondent limited mitigation under standard 1.2(e)(v). Respondent is entitled to limited mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to trial in case no. 12-H-16502, thereby saving the State Bar Court time and resources. (*Id.*; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993-94.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed 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." (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

The most severe sanction applicable to Respondent’s misconduct is found in standard 2.9, which applies to Respondent’s violation(s) of Rules of Professional Conduct, rule 1-110.

Standard 2.9 provides that culpability of a member of a willful violation of rule 1-110, Rules of Professional Conduct, shall result in suspension.

In *Conroy v. State Bar* (1990) 51 Cal. 3d 799, the Respondent was publicly reprovved and then failed to take and pass the MPRE within one year as required. Respondent defaulted in the matter before the Hearing Department, but participated in the Review Department and Supreme Court proceedings. The court found Respondent’s subsequent passage of the MPRE was mitigating but was outweighed by aggravating factors. In aggravation the court considered Respondent’s prior discipline, Respondent’s default at the Hearing Department level and Respondent’s lack of remorse for the present violation. The discipline imposed in light of the aggravation was one year suspension, stayed, two years of probation and sixty-day actual suspension.

In evaluating Respondent’s misconduct and assessing the level of discipline, the standards require suspension. Based on his prior record of discipline, progressive discipline is warranted. Although untimely, Respondent made efforts to satisfy some of the terms of his reprovval. Respondent belatedly submitted all quarterly reports, final report and proof of attending Ethics School. However, by not taking and passing the MPRE, Respondent has not completed all conditions of his reprovval. The appropriate level of discipline for Respondent in this matter is one year suspension, stayed, two years of probation and 60 days actual suspension.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was February 1, 2013.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 1, 2013, the prosecution costs in this matter are \$3,349. 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.

EXCLUSION FROM MCLE CREDIT


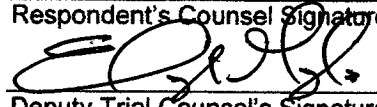
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: Howard Ronald Gottlieb SBN 71010	Case number(s): 12-H-16502-RAP
--	-----------------------------------

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.

<u>2/6/13</u> Date	 Respondent's Signature	<u>Howard Ronald Gottlieb</u> Print Name
<u>2/14/13</u> Date	 Deputy Trial Counsel's Signature	<u>Elizabeth Gonzalez</u> Print Name

(Do not write above this line.)

In the Matter of:
Howard Ronald Gottlieb
SBN 71010

Case Number(s):
12-H-16502-RAP

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.

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.)**

02-21-2013

Date


RICHARD A. PLATEL
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 February 22, 2013, 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:

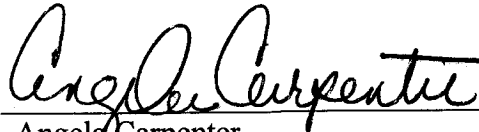
HOWARD RONALD GOTTLIEB
14120 VICTORY BLVD
VAN NUYS, CA 91401

HOWARD RONALD GOTTLIEB
2975 E. CASTANETS COURT
GILBERT, AZ 89298

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

Elizabeth Gonzalez, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 22, 2013.



Angela Carpenter
Case Administrator
State Bar Court