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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>REPROVAL</b>		
Counsel For The State Bar  <b>Esther J. Rogers</b> Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2258  Bar # 148246	Case Number(s): 12-O-17928  <div style="text-align: center; font-size: 24px; font-weight: bold;">PUBLIC MATTER</div>	For Court use only         <div style="text-align: center; font-size: 24px; font-weight: bold;">FILED</div>  AUG 07 2015   STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent  <b>Michael L. Rains</b> Rains Lucia Stern PC 2300 Contra Costa Blvd Ste 500 Pleasant Hill, CA 94523 (925) 609-1699  Bar # 91013	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>PUBLIC REPROVAL</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>DANIEL HARTMAN CARR</b>  Bar # 131066  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 **December 11, 1987**.
- (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 **12** 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):
- Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
  - Case ineligible for costs (private reproof).
  - 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.
- (9) The parties understand that:
- (a)  A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b)  A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c)  A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
- (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 intentional, 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. **See Attachment at page 9.**
- (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. **See Attachment at page 9.**
- (8)  **Restitution:** Respondent failed to make restitution.
- (9)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the

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product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (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 extraordinarily 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. **See Attachment at page 9.**
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**No Prior Record, See Attachment at page 9.**

**Prefiling Stipulation, See Attachment at page 9.**

**Pro Bono Activities, See Attachment at page 9.**

**D. Discipline:**

- (1)  **Private reproof (check applicable conditions, if any, below)**
- (a)  Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b)  Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2)  **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1)  Respondent must comply with the conditions attached to the reproof for a period of **one year**.
- (2)  During the condition period attached to the reproof, 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 condition period attached to the reprobation. 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 the reprobation during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (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)  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 of the effective date of the reprobation.

No MPRE recommended. Reason:

- (11)  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:**

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

IN THE MATTER OF: DANIEL HARTMAN CARR

CASE NUMBER: 12-O-17928

**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-O-17928 (State Bar Investigation)

FACTS:

Cabrera Case

1. From 1987, when respondent was admitted to the practice of law until April 2015, respondent worked primarily as a deputy district attorney. From 1998 through 2001, and from April 2006 through April 2015, when respondent retired, respondent was employed by the Santa Clara County District Attorney's Office ("District Attorney's Office"). At all relevant times, respondent was assigned to the District Attorney's Office's Gang Unit.

2. At all relevant times, California Penal Code section 1054.1(b) required the prosecuting attorney to disclose to the defendant statements of all defendants and section 1054.7 required the disclosures to be made at least 30 days prior to trial, unless the prosecuting attorney shows good cause why a disclosure should be "denied, restricted, or deferred."

3. On July 16, 2007, respondent's supervising deputy district attorney, Mark Duffy, assigned respondent to the eight defendant gang murder trial known as *People v. Cabrera, et al.*, Santa Clara County Superior Court, case number CC773033. Co-defendants included Jose Castro ("Castro") and Alfonso Chavoya ("Chavoya"). Trial was set for March 7, 2011, and consequently respondent was obligated to complete discovery by February 5, 2011. Respondent remained as the assigned prosecutor until April 8, 2011.

4. On February 13, 2008, July 27, 2010, August 13, 2010, September 3, 2010, and September 23, 2010, Chavoya provided witness statements to the District Attorney's Office. Respondent was aware of the witness statements soon after they were made.

5. On February 29, 2008, March 17, 2008, and April 23, 2008, defendant Castro provided witness statements to the District Attorney's Office. Respondent was aware of the witness statements soon after they were made.

6. During the February 13, 2008 interview, Chavoya indicated that co-defendant David Ayala used a knife to kill the victim and described the last known location of the knife. As a result of Chavoya's statement, the San Jose Police Department recovered the knife and prepared a police report

that failed to mention that the knife was the alleged murder weapon. The knife was analyzed by the crime lab, and it prepared a report. Respondent was aware of these events shortly after they occurred.

7. On December 6, 2010, jail inmate, Frank Hardin ("Hardin"), provided a statement to law enforcement indicating that Ediberto Cabrera ("Cabrera") had confessed to committing the murder. Respondent failed to timely disclose Hardin's statement, although he was aware of it shortly after it was made.

8. On February 5, 2011, respondent was required to produce all discovery required by section 1054.1 since the case was set for trial to commence on March 7, 2011.

9. Respondent failed to produce by the February 5, 2011 discovery cut-off: Chavoya's statements of February 13, 2008, July 27, 2010, August 13, 2010, September 3, 2010, and September 23, 2010; Castro's statements of February 29, 2008, March 17, 2008, and April 23, 2008; the crime lab report; and Hardin's interview statement.

10. On February 7, 2011, Chavoya entered into a plea deal with the District Attorney's Office.

11. On February 9, 2011, respondent produced all of Chavoya's interview statements to the defense.

12. On February 10, 2011, respondent informed the trial judge, Hon. Griffin Bonini, and the defense attorneys that respondent had additional discovery to produce, but it needed to be redacted.

13. On February 25, 2011, Judge Bonini vacated the original March 7, 2011 trial date and set a hearing regarding the discovery issues for March 28, 2011.

14. On February 28, 2011, respondent produced Hardin's statements to the defense. On March 2, 2011, respondent turned over six CD/DVD's with voluminous discovery.

15. Between February 9, 2011, and February 23, 2011, respondent produced Castro's statements and the crime lab report to the defense.

16. On April 8, 2011, Duffy reassigned the *Cabrera* case to deputy district attorney, David Pandori.

17. On March 12, 2012, after a three-day discovery hearing, Judge Bonini found that respondent violated section 1054.1 by failing to timely produce the Chavoya interview statements.

18. On October 8, 2013, Pandori obtained convictions against seven of the co-defendants, after a six-month trial. Chavoya had previously entered into a plea agreement on February 7, 2011.

19. Respondent's misconduct caused the *Cabrera* trial to be delayed approximately one year, resulted in additional expenses to the county, and required the efforts of two senior paralegals over three months to determine what had and had not been produced in discovery while respondent handled the case.

20. Respondent presented uncontroverted evidence at a subsequent personnel hearing that his actions “evolved within a climate of common accepted practices by some members of the Gang Unit” and with “at least the tacit approval by superiors.”<sup>1</sup>

21. Respondent also presented evidence at the subsequent personnel hearing that he had an unmanageable caseload and was under great work stress, including the completion of a three-month double gang murder case that concluded five days prior to the Cabrera discovery cut-off.

#### Personnel Disciplinary Action

22. On April 27, 2012, assistant district attorney, Karen Sinunu-Towery, issued the District Attorney’s Office Recommended Disciplinary Action, recommending that respondent be demoted from an attorney level four to an attorney level three.

23. On June 20, 2012, Assistant District Attorney Terry Harman conducted a pre-disciplinary “Skelly” hearing.

24. On October 19, 2012, Harman issued the District Attorney’s Office Notice of Final Disciplinary Action, recommending that respondent be suspended without pay for four weeks.

25. Thereafter, respondent timely appealed the October 19, 2012 Notice of Final Disciplinary Action.

26. On November 5, 6, 7, and December 8, 2014, retired Judge Kevin Murphy conducted an Appeals Hearing to determine whether the four weeks suspension was appropriate. On December 12, 2014, Judge Murphy issued his Decision and Recommendations, finding that respondent “committed serious violations of the [County] Merit System [Rules] and the District Attorney Rules,” and determined after balancing the relevant facts that a two-week suspension was appropriate.<sup>2</sup>

27. As a result of his actions, respondent has suffered humiliation, received administrative discipline, and retired from his job after a 23-year career as a prosecutor. In addition, respondent’s conduct and his disciplinary hearing received extensive media coverage.

#### CONCLUSIONS OF LAW:

28. By failing to timely produce the interviews of defendants Chavoya and Castro, the crime lab report, and Hardin’s interview, respondent violated California Penal Code section 1054.1, and thereby failed to comply with California law, in wilful violation of Business and Profession Code section 6068(a).

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<sup>1</sup> Decision and Recommendations, p. 10, issued on December 12, 2014 by Judge Kevin J. Murphy (Retired) and attached hereto and incorporated by reference as Exhibit 1.

<sup>2</sup> Decision and Recommendations, p. 10.

## AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent withheld multiple discoverable items and therefore engaged in multiple acts of misconduct.

**Harm (Std. 1.5(j)):** Respondent's misconduct caused significant harm to the administration of justice when Santa Clara County spent additional funds as a result of the trial's delay, the defendants endured a year delay of the trial, and the Courts and the District Attorney's Office were forced to allocate their limited resources to the delayed trial, rather than utilizing them for other serious criminal matters.

## MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent was admitted in 1987 and has no prior record of discipline. A lack of a prior record of discipline is mitigating even though respondent's misconduct is serious. (*Friedman v. State Bar* (1990) 50 Cal.3d 235, 245 [Even when the present misconduct is serious, an attorney is entitled to mitigation credit].)

**Good Character (Std. 1.6(f)):** Respondent has offered evidence of good character through ten character witnesses that include five former colleagues from the Santa Clara County District Attorney's Office, one deputy public defender, counsel to defendant Alfonso Chavoya, an attorney in private practice, Santa Clara County Superior Court Judge Jerome Brock (retired), and most significantly, Judge Bonini. These witnesses understand the facts of respondent's misconduct, yet they continue to maintain their high regard for respondent's character and competence.

**Prefiling Stipulation:** By entering into a pre-filing, dispositive stipulation, respondent has spared the State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

**Pro bono/Community Service Activities:** Respondent served as a board member for both the Silicon Valley Chapter of the American Red Cross and the San Jose Leadership Council; Vice President and President of the Santa Clara County Government Attorneys' Association; taught trial advocacy at Hastings College of Law; and served as a youth soccer coach for the Police Athletic League. Community service is to be considered as a mitigating factor. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785, citing *Schneider v. State Bar* (1987) 43 Cal.3d 784, 799.)

## AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Here, respondent did not begin to turn over the five Chavoya statements, the three Castro statements, the crime lab report, or the Hardin interview until 28 days before the originally scheduled March 7, 2011 trial date. Respondent’s failure to disclose the materials resulted in a one-year delay of the trial. According to Judge Bonini, who conducted a three-day hearing into the discovery violations, respondent’s actions amounted to an undenied intentional violation of section 1054.1. Similarly, after holding a four-day personnel hearing, retired Judge Kevin Murphy concluded that respondent’s conscious decision over several years to withhold discoverable evidence resulted in serious violations. Respondent admits to violating Penal Code section 1054.1. Standard 2.12(a) applies to violations of Business and Profession Code section 6068(a), and provides that the presumed discipline when an attorney fails to comply with the law is disbarment or actual suspension.

Pursuant to Standards 1.7(b) and (c), however, a lesser sanction may be appropriate when it meets the primary purposes of discipline, the mitigating factors outweigh the aggravating ones, and the member has expressed a willingness to conform to his ethical responsibilities in the future. Here, actual suspension is not necessary to protect the public, courts, and legal profession, although respondent’s conduct warrants public discipline. Respondent’s conduct was extensively covered in the *San Jose Mercury News*, respondent was disciplined by his employer, and respondent has retired from the district attorney’s office.

Furthermore, mitigating circumstances support a deviation from the standards. In *In the Matter of Field* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 5, 171, 185, the Review Department recognized compelling mitigation where a prosecutor had committed serious misconduct, but cooperated with the State Bar, and presented evidence of good character and impressive pro bono work. While Field received significant actual suspension, his misconduct spanned over ten years and involved four separate criminal proceedings, in which he committed multiple acts of moral turpitude. Respondent’s 28 years of discipline free practice as a highly-regarded prosecutor is entitled to significant mitigation.

Also warranting mitigation here is respondent’s willingness to enter into a stipulation in the investigative stage, before the State Bar notified respondent that it intended to file disciplinary charges, which resulted in a saving of time for the Office of the Chief Trial and the State Bar Court, and reflected accountability on respondent’s part, and a willingness to conform to his ethical responsibilities. These factors, along with respondent’s pro bono activities and good character, support public discipline short of actual suspension.

Respondent has been humiliated and disgraced by this incident. Respondent has retired, and has no plans to return to a prosecutor's office. Given the unique facts of respondent's situation, it is highly unlikely that respondent will engage in further misconduct.

Balancing all factors, a downward departure from the actual suspension set forth in the standard is appropriate, and specifically a public reproof with standard conditions including Ethics School and passage of the Multistate Professional Responsibility Examination. (See Std 1.1 "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." See also *Blair v. State Bar, supra*, 49 Cal.3d at 776, fn. 5 (the State Bar should make clear the reasons for its departure where the State Bar recommends discipline different from that called for in the Standards).)

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 30, 2015, the prosecution costs in this matter are approximately \$3,100. 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**

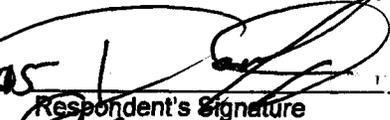
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: DANIEL HARTMAN CARR	Case number(s): 12-O-17928
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**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>July 29, 2015</u> Date	 Respondent's Signature	<u>DANIEL HARTMAN CARR</u> Print Name
<u>July 27, 2015</u> Date	 Respondent's Counsel Signature	<u>MICHAEL L. RAINS</u> Print Name
<u>7/30/15</u> Date	 Deputy Trial Counsel's Signature	<u>ESTHER J. ROGERS</u> Print Name

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In the Matter of: DANIEL HARTMAN CARR	Case Number(s): 12-O-17928
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### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reprovail, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department 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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reprovail may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

August 7, 2015  
Date

Pat McElroy  
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 San Francisco, On August 7, 2015, 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:

MICHAEL LOGAN RAINS  
RAINS LUCIA STERN, PC  
2300 CONTRA COSTA BLVD STE  
500  
PLEASANT HILL, CA 94523

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

Esther J. Rogers, Enforcement, San Francisco  
Terrie Goldade, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 7, 2015.



Laurretta Cramer  
Case Administrator  
State Bar Court