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| <b>State Bar Court of California</b><br><b>Hearing Department</b><br><b>Los Angeles</b><br><b>PROBATION VIOLATION</b>        |   |   |
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| <b>Counsel For The State Bar</b><br><br>Terrie Goldade<br>1149 S. Hill St.<br>Los Angeles, CA 90015<br><br>Bar # 155348      | <b>Case Number(s):</b><br>12-PM-11647-RAH   | <b>For Court use only</b><br><br><div style="text-align: center; font-size: 1.2em; font-weight: bold;">FILED</div> <div style="text-align: center;">                         JUL 16 2012<br/>                         STATE BAR COURT<br/>                         CLERK'S OFFICE<br/>                         LOS ANGELES                     </div> |
| <b>In Pro Per Respondent</b><br><br>Jon Eric Gelb<br>12455 Sarah St.<br>Studio City, CA 91604<br><br>Bar # 168848            | <b>Submitted to: Assigned Judge</b><br><br>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND<br>DISPOSITION AND ORDER APPROVING<br><br>PROBATION VIOLATION—"PM" PROCEEDING<br><br><input type="checkbox"/> PREVIOUS STIPULATION REJECTED |   |
| <b>In the Matter of:</b><br>Jon Eric Gelb<br><br>Bar # 168848<br><br>A Member of the State Bar of California<br>(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 27, 1993.
- (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 17 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs are added to membership fee for calendar year following effective date of discipline (no actual suspension).
  - 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 (actual suspension).
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2013 and 2014. (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 00-C-13214, 00-C-13898
  - (b)  Date prior discipline effective June 7, 2001
  - (c)  **Rules of Professional Conduct/ State Bar Act violations:** The prior stipulation does not indicate the Rule violation but was based upon Respondent's criminal convictions for violating Health and Safety Code section 11350(a) (possession of a controlled substance), Vehicle Code section 23152(a) (driving under the influence of drugs), and Health and Safety Code section 664/11350(a) (attempted possession of a controlled substance).
  - (d)  Degree of prior discipline Public Reprimand
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline. In prior State Bar Court case # 09-C-16768, effective September 24, 2010, Respondent violated Business and Professions Code section 6068(a) by driving a vehicle under the influence of drugs. Respondent was suspended from the practice for one year, stayed, and placed on probation for two years.
- (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.

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- (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. Respondent violated five different conditions of probation.
- (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.

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- (12)  **No mitigating circumstances** are involved. However, see Stipulation Attachment, page , for circumstances which were considered in the resolution of this matter.

**Additional mitigating circumstances:**

**D. Discipline (choose only one):**

- (1)  **Probation extended:** Respondent's probation in \_\_\_\_\_ is extended for \_\_\_\_\_.
- (2)  **Probation revoked; Probation Reinstated; Actual Suspension:** Respondent's probation is revoked and reinstated for two years on the same terms and conditions as previously imposed in 09-C-16768/S183870. The terms of probation remain the same as in the prior order except as indicated below. In addition, Respondent must be actually suspended from the practice of law for 30 days.
- (3)  **Probation revoked; Probation Reinstated; No Actual Suspension:** Respondent's probation is revoked and reinstated for \_\_\_\_\_ on the same terms and conditions as previously imposed in \_\_\_\_\_. The terms of probation remain the same as in the prior order except as indicated below.
- (4)  **Probation revoked; Probation not Reinstated; Actual Suspension:** Respondent's probation is revoked. Respondent must be suspended from the practice of law for \_\_\_\_\_.

**E. In addition to conditions previously imposed by the Supreme Court in its prior order, the following new conditions are recommended by this stipulation:**

- (1)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  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.
- (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 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 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)  **Probation Conditions Deleted or Modified:** Respondent is currently a resident at Impact's sober living facility. While Respondent resides at Impact, Respondent is required by Impact to be randomly tested onsite, approximately once a week, for Impact's onsite 10-panel of drugs. Instead of doing the previously stipulated and ordered condition of monthly drug testing, Respondent must continue to be randomly tested at Impact's discretion with Impact's onsite 10-panel of drugs in addition to an onsite alcohol test. Respondent must cause Impact to provide all testing reports for the month directly to the Office of Probation no later than the tenth day of the following month. Respondent must also cause Impact to provide directly to the Office of Probation a report, made under penalty of perjury, due no later than the tenth of each month stating that Respondent is in compliance with Impact's requirements for Respondent, including that he tested each time testing was requested. In each of his quarterly reports, Respondent must report that he complied with each of Impact's requirements for him, including testing each time requested. In each of his quarterly reports, Respondent must state where he lived during the quarter as well as where he was living as of the date he signed his quarterly report.

If Respondent ceases to reside at Impact, he must notify the Office of Probation, in writing and under penalty of perjury, within five business days of his leaving Impact and the reason for his leaving. In no later than thirty days from his ceasing to reside at Impact, Respondent must begin his monthly testing as previously stipulated and ordered in 09-C-16768/S183870 (except as modified below). At the discretion of the Office of Probation, Respondent may be required to do a test pursuant to the criteria as previously stipulated and ordered in 09-C-16768/S183870 within thirty days of his ceasing to reside at Impact.

At page 7 of the stipulation filed January 11, 2011, resolving 09-C-1668, it stated:

Respondent may use the IMPACT Drug & Alcohol Treatment Center's facilities for the processing of the blood and/or urine samples if it offers an 8-panel drug test, an Ethyl Glucuronide test, and performs its tests pursuant to Department of Transportation Guidelines.

This language is modified to read as follows:

Respondent may use the IMPACT Drug & Alcohol Treatment Center's facilities ("Impact") for the processing of the blood and/or urine samples if it offers Impact's offsite 13-panel drug test (which includes 10 substance groups and 3 validity factors), an Ethyl Glucuronide ("EtG") test, and performs its tests pursuant to Department of Transportation Guidelines, e.g. direct, observed testing. Respondent understands and agrees that if Impact does not provide him these tests at no charge, he is still required to provide to the Office of Probation reports for his required drug and EtG tests, at his expense.

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- (2)  **Rule 9.20, California Rules of Court:** Respondent must comply with the provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- (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 provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- (4)  **Other:**

Attachment language (if any):

ATTACHMENT TO  
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:                      Jon Eric Gelb  
CASE NUMBER:                              12-PM-11647

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of the specified violations.

1. On May 13, 2010, the State Bar Court filed and served upon Respondent a Stipulation re Facts, Conclusions of Law and Disposition and Order Approving in State Bar Court Case No. 09-C-16768 ("Stipulation").
2. On August 25, 2010, the California Supreme Court filed an Order No. S183879 (State Bar Court Case No. 09-C-16768) that Respondent be suspended from the practice of law for a period of one year, that execution of suspension be stayed and that Respondent be placed on probation for a period of two years, and that he be subject to the conditions of probation as recommended by the Hearing Department of the State Bar Court in its Stipulation filed on May 13, 2010.
  - a. As a condition of probation, Respondent was ordered to comply with the State Bar Act and Rules of Professional Conduct and to report such compliance to the Office of Probation under penalty of perjury on or before January 10, April 10, July 10, and October 10 of every year during the period of probation ("quarterly reports"). Respondent did not comply in that his quarterly report originally due January 10, 2011 was filed on September 26, 2011 ; he failed to file a compliant quarterly report due April 10, 2011; he filed his quarterly report due July 10, 2011 late on July 11, 2011; and he failed to file a compliant quarterly report due by April 10, 2012.
  - b. As a condition of probation, Respondent was ordered to comply with all conditions of probation imposed in the underlying criminal matter and to declare such under penalty of perjury in his quarterly reports ("UCM reports"). Respondent has not complied in that Respondent filed his UCM reports due January 10, 2011 and April 10, 2011 late on September 26, 2011; and his UCM report due July 10, 2011 was filed late on July 11, 2011.
  - c. As a condition of probation, Respondent was ordered to attend at least four meetings per month of Alcoholics Anonymous or Narcotics Anonymous and to provide to the Office of Probation satisfactory proof of attendance on or before the tenth of the following month ("AA reports"). Respondent has not complied in that Respondent failed to provide AA reports due July 10, 2011; February 10, 2012; and March 10, 2012 (showing proof of his attendance in June 2011; January 2012; and February 2012, respectively).

d. As a condition of probation, Respondent was ordered to abstain from the use of any alcoholic beverage, and was not to use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription. Respondent was ordered to furnish to the laboratory, approved by the Office of Probation, blood and/or urine samples as may be required to show that Respondent abstained from alcohol and/or drugs. The samples were to be furnished to the laboratory in such a manner as to ensure specimen integrity. Respondent was to cause the laboratory to provide to the Office of Probation, at his expense, a screening report on or before the tenth day of each month containing an analysis of his blood and/or urine obtained not more than ten days previously. Respondent could use the IMPACT Drug & Alcohol Treatment Center's facilities for the processing of the blood and/or urine samples if it offered an 8-panel drug test, an Ethyl Glucuronide test, and performed its tests pursuant to Department of Transportation Guidelines. Respondent has not complied in that he was not tested for propoxyphene and Ethyl Glucuronide in the tests due August 10, 2011; September 10, 2011; October 10, 2011; November 10, 2011; and December 10, 2011. Additionally, Respondent has not caused a laboratory to provide a screening report to the Office of Probation for the tests due June 10, 2011; July 10, 2011; January 10, 2012; February 10, 2012; and March 10, 2012. Respondent's report due by April 10, 2012 was filed late on April 17, 2012, and Respondent was not tested for propoxyphene or Ethyl Glucuronide. In his reports due by May 10, 2012 and June 10, 2012, Respondent was not tested for propoxyphene or Ethyl Glucuronide.

e. Respondent was ordered to maintain with the Office of Probation a current address and a current telephone number at which he could be reached. He was ordered to return any call from the Office of Probation concerning testing of Respondent blood or urine within twelve hours. For good cause, the Office of Probation could require Respondent to deliver his urine and/or blood sample(s) for additional reports to the laboratory no later than six hours after actual notice to Respondent that the Office of Probation required an additional screening report ("random test"). Respondent has not complied in that on August 17, 2011, the Office of Probation telephoned Respondent at his membership records telephone number and left a voice mail for Respondent asking that the call be returned. Respondent did not respond to the message in any manner. On September 9, 2011, the Office of Probation again telephoned Respondent at his membership records telephone number and left a voice mail message asking that he return the call and reminding him that he was required to call back within twelve hours. The message for Respondent also advised that he was in violation of his probation because he did not return the call in which a message was left for him on August 17, 2011. Also on September 9, 2011, the Office of Probation called a telephone number previously provided by Respondent. The woman who answered the phone stated that Respondent no longer resided there and that she did not have a new phone number or address for Respondent. Also on September 9, 2011, the Office of Probation called Respondent's cell phone and left a voice mail message asking that he call back regarding his conditions of probation. Respondent did not respond to the calls in any manner and did not obtain a random test.

3. On September 14, 2010, the Office of Probation mailed a reminder letter to Respondent at his membership records address outlining the terms and condition of his probation. Among other enclosures, a Lab Test Information Sheet was enclosed. Paragraph 2 on that sheet stated that the Office of Probation would generally approve a lab if it offered a ten-panel drug test, offered an Ethyl Glucuronide test, and performed tests pursuant to Department of Transportation guidelines, e.g. observed testing. Footnote 1 on that sheet explained that a ten-panel test generally tests for (1) Amphetamines; (2) Methamphetamines; (3)



Barbiturates; (4) Benzodizepines; (5) Cocaine Metabolite; (6) Opiates; (7) Oxycodone; (8) Marijuana; (9) Methadone; and (10) Propoxyphene. Respondent received the letter.

4. On October 7, 2010, the Office of Probation conducted with Respondent via telephone his required meeting to discuss the terms and conditions of Respondent's probation.
5. Respondent's lab report due October 10, 2010, was filed late on October 12, 2010. Respondent was tested for a five panel test at IMPACT. The five drugs tested were not listed. (Respondent's stipulation provided that IMPACT could be used if it offered an 8-panel drug test, an Ethyl Glucuronide test, and performed its tests pursuant to Department of Transportation guidelines.) Respondent provided the report instead of the lab.
6. Respondent's AA report due November 10, 2010, was filed on November 4, 2010.
7. Respondent's lab report due November 10, 2010, was filed on November 5, 2011. Respondent was not tested for Ethyl Glucuronide or propoxyphene.
8. On November 5, 2010, Respondent telephoned Probation Deputy Cindy Jollotta asking whether she had received his fax from the lab and his AA report. He was told they had been received.
9. Respondent's AA report due December 10, 2010, was filed on December 1, 2010.
10. Respondent's lab report due December 10, 2010, was filed on December 8, 2010. Respondent was not tested for Ethyl Glucuronide or propoxyphene.
11. Respondent's quarterly report due January 10, 2011, was received on January 5, 2011, but not filed because it was incomplete in that it did not include a signature page. Respondent's AA report due January 10, 2011, was filed on January 5, 2011.
12. On February 3, 2011, Respondent left Probation Deputy Cindy Jollotta a telephonic voice mail message stating that he had broken his back skiing in early January. He stated that he had just been transferred from intensive care and left a telephone number and asked for a call back.
13. On February 3, 2011, Probation Deputy Cindy Jollotta telephoned Respondent and told him that he needed to get tested and have a doctor send in a letter regarding his treatment and medications. Respondent said he would send in a declaration about events. Respondent was told that the Probation Deputy could not grant him an extension, but that if he started complying again right away, she could hold off on referring him.
14. Respondent's declaration regarding his skiing accident dated January 5, 2011 along with a letter from Respondent's doctor (stating Respondent was given opiod (sic) and benzodiazepine medications) was received by the Office of Probation on February 15, 2011.
15. Lab report due March 10, 2011, was filed March 8, 2011. Respondent was not tested for Ethyl Glucuronide or propoxyphene. [No lab reports were submitted for January and February 2011.]

16. Letter was mailed to Respondent's membership records address on March 9, 2011 noting his noncompliance with quarterly reporting and drug testing. A copy of the September 24, 2010 letter to Respondent with its attachments was enclosed.
17. Letter to Respondent's membership records address mailed March 9, 2011, with copy of envelope showing that it was returned to the Office of Probation as undeliverable on March 21, 2011 with a notation "unable to forward".
18. On March 24, 2011, Probation Deputy Cindy Jollotta telephoned Respondent and told him that her letter to him had been returned to the Office of Probation by the United States Postal Service. Respondent confirmed that the address was correct and that it was his mother's house. The Probation Deputy said that she would re-send the letter to the same address adding "c/o Gail Glaser". Respondent stated that he was going to the neurosurgeon "tomorrow" and asking if he could send proof to the Office of Probation. Respondent was informed that the Office of Probation did not have the authority to give him an extension, but that Respondent could file a motion with the Court. Respondent said that he would do a motion asking for a stay of his conditions until he recovered from his broken back.
19. The March 9, 2011 letter to Respondent's membership records address was re-mailed on March 24, 2011 to the same address "in c/o Gail Glaser".
20. The March 9, 2011 letter to Respondent's membership records address was re-mailed on March 24, 2011 to the same address "in c/o Gail Glaser" was returned to the Office of Probation as undeliverable on April 8, 2011 with a notation "unable to forward".
21. On April 12, 2011, Probation Deputy Cindy Jollotta left a telephonic voice mail message for Respondent stating that the second letter she had mailed had been returned and that she was referring Respondent because of his missing lab reports, AA reports, and quarterly reports. She also stated on the message that Respondent had said that he would file a motion in March, but no motion had been filed. Also, it appeared that Respondent's membership records address should be changed. She asked for a return call.
22. On May 5, 2011, Respondent telephoned Probation Deputy Cindy Jollotta saying that he had received her voice mail message stating that her letter to him had been returned again. Probation Deputy Cindy Jollotta verified the address the letter had been sent to, and Respondent stated it was correct and that he did not know why the letters were being returned. Probation Deputy Cindy Jollotta agreed to send the letter to an e-mail address Respondent provided during the call, which she then sent.
23. Quarterly Report due July 10, 2011, was filed late on July 11, 2011.
24. A warning letter was mailed to Respondent on July 22, 2011 by the Office of the Chief Trial Counsel resolving without discipline the referral for probation violations. Respondent was given two months to file his two outstanding quarterly reports.
25. Respondent's AA report due August 10, 2011, was filed August 9, 2011.

26. Lab report due August 10, 2011, was filed on August 12, 2011. Respondent was not tested for Ethyl Glucuronide or propoxyphene.
27. On August 17, 2011, Probation Deputy Eddie Esqueda telephoned Respondent at his membership records telephone number and left a voice mail message for Respondent asking that he return the call. Respondent did not respond to the call in any manner.
28. Respondent's quarterly reports due January and April 10, 2011, received September 8, 2011 were not filed because Respondent had back-dated the reports. Respondent's AA report due September 10, 2011, was filed September 8, 2011.
29. On September 9, 2011, Probation Deputy Eddie Esqueda telephoned Respondent at his membership records telephone number and left a voice mail message for Respondent asking that he return the call. The message also reminded Respondent that he was required to return the call within twelve hours and advised Respondent that he was in violation of probation because he did not return the call made to him on August 17, 2011.
30. On September 9, 2011, Probation Deputy Ivy Cheung telephoned Respondent at his cell phone number and left a voice mail message asking that he call me back regarding his conditions of probation.
31. On September 9, 2011, Probation Deputy Ivy Cheung telephoned Respondent at a telephone number previously provided by Respondent. The woman who answered said that Respondent did not reside there anymore and that she did not have a new phone number or address for Respondent. Respondent did not respond to the calls in any manner.
32. Respondent's laboratory report due September 10, 2011, was submitted late on September 15, 2011. Respondent was not tested for propoxyphene and Ethyl Glucuronide.
33. On September 16, 2011, Probation Deputy Ivy Cheung telephoned Respondent's lab and asked the contact person which drugs were tested in relation to Respondent. The contact person for the lab confirmed that although the drugs methamphetamine, propoxyphene, and Ethyl Glucuronide were not being tested, Respondent was observed during his tests.
34. On September 16, 2011, Respondent telephoned Probation Deputy Ivy Cheung stating that he was living in a sober living home, and that he did not have his cell phone for the last sixty days. Probation Deputy Ivy Cheung told Respondent that his January and April quarterly reports were defective because he did not sign the quarterly reports on the date he actually signed them. Probation Deputy Ivy Cheung also told him that his lab tests were defective because he was not being tested for Ethyl Glucuronide, methamphetamine, and propoxyphene. Probation Deputy Ivy Cheung also reminded him that his MPRE and Ethics School due dates were coming up. Respondent asked Probation Deputy Ivy Cheung for some sympathy because he had broken his back.
35. On September 22, 2011, Respondent called me and asked who he should serve with his motion for an extension of time to pass the MPRE. Probation Deputy Ivy Cheung told him the Supervising Attorney for the Office of Probation should be served. He asked if he could state in his declaration that Probation Deputy Ivy Cheung did not oppose his motion; Probation Deputy Ivy Cheung said no.

36. Quarterly Report due January 10, 2011, was filed late on September 26, 2011. Respondent's Quarterly Report due April 10, 2011, was received on September 26, 2011 and not filed because Respondent did not report whether he complied with the State Bar Act and the Rules of Professional Conduct; Respondent did his UCM report correctly, and that was filed as of September 26, 2011.
37. On September 26, 2011, Probation Deputy Ivy Cheung telephoned Respondent and told him that his April 10, 2011 quarterly report was defective. He stated that he had not complied with the State Bar Act and Rules of Professional Conduct. Respondent was defiant. Before Probation Deputy Ivy Cheung ended the conversation, Probation Deputy Ivy Cheung asked again that he provide a declaration so that his April 10, 2011 quarterly report could be filed.
38. Respondent's motion for modification of probation (MPRE and Ethics School) received by the Office of Probation on September 26, 2011.
39. On September 28, 2011, Supervising Attorney Terrie Goldade telephoned Respondent stating that she would probably oppose his motion for extensions of time for the MPRE and Ethics School because he had not signed up for Ethics School and because he had not addressed the factors in Rules of Procedure of the State Bar of California, rule 5.162. He stated that he may not do a supplemental declaration because the Office of the Chief Trial Counsel had closed the Office of Probation's referral and he thought that the State Bar Court would grant the extension. The Supervising Attorney stated that she would oppose his motion in the next couple of days unless she heard from him that he would be filing a supplemental declaration; she also stated that depending upon what he included in such a declaration, she might not oppose his motion.
40. On September 28, 2011, Respondent left a telephonic voice mail message for the Supervising Attorney stating that he had signed up for Ethics School and that he had done a supplemental declaration and would serve it "tomorrow". The Office of Probation never received such supplemental declaration.
41. Respondent's Quarterly Report due April 10, 2011, was received October 3, 2011, and not filed because Respondent did not provide information about how he did not comply with the Stat Bar Act and the Rules of Professional Conduct, i.e. that his only violations were his failure to attend AA meetings and the MPRE. In paragraph 8 of the declaration he attached, he stated that as of July 1, 2011, he anticipated being able to resume his obligation of attending AA meetings.
42. The Office of Probation's response to Respondent's motion for modification of probation was filed with State Bar Court on October 5, 2011.
43. Respondent's Quarterly Report due October 10, 2011, was filed October 7, 2011, with AA report due October 10, 2011, also filed on October 7, 2011.
44. The State Bar Court's Order to Extend Time to Take and Pass the MPRE and Provide Proof of Completion of Ethics School was filed October 11, 2011.
45. Respondent's lab report due October 10, 2011, submitted late on October 11, 2011. Respondent was not tested for propoxyphene and Ethyl Glucuronide.

46. On October 18, 2011, Probation Deputy Ivy Cheung telephoned Respondent and asked him to resubmit his April 10, 2011 quarterly report because his declaration was not adequate in stating why he was not compliant with the State Bar Act and Rules of Professional Conduct. Respondent refused to do so. He stated that he had submitted the April 10, 2011 report three times already. Probation Deputy Ivy Cheung told Respondent that his lab results did not include Ethyl Glucuronide and whether it was observed. Respondent stated that the Ethyl Glucuronide test results were on the way and stated that the "collector" is the person who observed his test. Respondent suggested that Probation Deputy Ivy Cheung call the collector to find out. He offered no other information and got off the phone.
47. On October 18, 2011, Probation Deputy Ivy Cheung telephoned the lab's collector, Edward Demasio. Probation Deputy Ivy Cheung left a message asking whether Respondent's test had been observed and whether the Ethyl Glucuronide test results were on their way.
48. On October 18, 2011, Edward Demasio returned Probation Deputy Ivy Cheung's call. He stated that Respondent's test was observed, that methamphetamine is tested under the amphetamine family, that in the future Respondent would be tested for propoxyphene and Ethyl Glucuronide, and that in the future there would be a note on the results page that Respondent's test was observed.
49. Respondent's AA report due November 10, 2011, was filed November 4, 2011.
50. Respondent's lab report due November 10, 2011, was submitted November 10, 2011. Respondent was not tested for propoxyphene and Ethyl Glucuronide.
51. Office of Probation's reminder letter was mailed to Respondent on November 15, 2011 and set forth Respondent's non-compliance with various probation conditions. A copy of the September 24, 2010 letter to Respondent with its attachments was enclosed.
52. On December 6, 2011, Respondent left Probation Deputy Ivy Cheung a voice mail message stating that he had mailed his AA report, that the lab had mailed his lab report, and that he had received Probation Deputy Ivy Cheung's letter mailed November 15, 2011. He stated he wanted a due date for his motion and that he was swamped with family issues. He left a cell phone number for Probation Deputy Ivy Cheung to call.
53. Respondent's lab report due December 10, 2011, was submitted on December 7, 2011. Respondent was not tested for propoxyphene and Ethyl Glucuronide.
54. Respondent's report for his MPRE was filed December 8, 2011.
55. On December 8, 2011, Probation Deputy Ivy Cheung telephoned Respondent. He stated that he was going to make a motion by the end of January to modify the terms and conditions of his probation regarding lab testing and AA.
56. Respondent's AA report due December 10, 2011, filed December 9, 2011.
57. On December 9, 2011, Respondent left Probation Deputy Ivy Cheung a voice mail message stating that he had spoken with someone at IMPACT and that he would get me a letter from them stating that the testing

is observed and that amphetamines and methamphetamines will show on the 10-panel. He said that at the first of the New Year, he would prepare a motion addressing the other two drugs he was not tested for. He stated that there was no need to call back.

58. Respondent provided the Office of Probation with a letter from his lab received on December 15, 2011 stating that Respondent's lab tests are "observed" and that methamphetamine is tested under the amphetamine family.

59. Respondent's Ethics School certificate of completion was filed December 28, 2011; Respondent's AA report due December 10, 2011, was filed December 28, 2011. Respondent's cover letter stated that he intended to file a motion to amend probation in January 2012 with respect to the two substances that he was not being tested for.

60. Respondent's Quarterly Report due January 10, 2012, was filed January 9, 2012. Respondent's cover letter stated that he planned to file a motion to amend probation to address that IMPACT did not test for all of the requisite chemicals.

61. On February 13, 2012, Respondent telephoned Probation Deputy Ivy Cheung and stated that he was going to have back surgery the next day, February 14, 2012, and that he planned on being discharged "early next week". Respondent said he was contacting Probation Deputy Ivy Cheung in good faith regarding his missing lab reports and AA reports and that he would provide them when he was discharged.

62. On March 6, 2012, the Office of Probation filed a motion to revoke Respondent's probation.

63. On April 5, 2012, the state Bar Court held a telephonic status conference on the motion to revoke probation and granted Respondent an extension of time to file his response to the motion to revoke probation to May 15, 2012.

64. On June 11, 2012, the hearing on the motion to revoke probation commenced. The parties waived any objection to the Court's acting as the Settlement Conference Judge, and this settlement was entered into orally.

65. At no time did Respondent file a motion to modify conditions other than Ethics School and the MPRE.

**Legal Conclusion:** By failing to (1) file quarterly reports correctly, as set forth above in paragraph 2 a.; (2) file reports correctly regarding his compliance with the conditions of probation imposed in the underlying criminal matter, as set forth above in paragraph 2 b.; (3) attend at least four meetings per month of Alcoholics Anonymous or Narcotics Anonymous and provide satisfactory proof of attendance, as set forth above in paragraph 2 c.; (4) furnish the required laboratory screening reports by the tenth of each month, as set forth above in paragraph 2 d.; and (5) comply with the requirements of his random testing condition, as set forth above in paragraph 2 e., Respondent willfully violated Business and Professions Code, section 6068(k).

**CIRCUMSTANCES WHICH WERE CONSIDERED IN THE RESOLUTION OF THIS MATTER.**

On January 5, 2011 Respondent broke his back during a skiing accident. He was required to have spinal fusion surgery on January 7, 2011. He was then required to have a second back surgery on January 10, 2011. On January 28, 2011, he was readmitted to the hospital and was required to have a third surgery on January 31, 2011 and was not discharged until February 10, 2011. On February 15, 2011, he was readmitted to the hospital for 16 days at which time he convalesced at his mother's for about 4 months. On April 13, 2011, Respondent was readmitted to the hospital for six days. Because of the severity of the injury, Respondent was required to wear a restrictive back brace from January 2011 through March 2012. In February 2012, Respondent required surgery to remove hardware from his spine. Because fluid was leaking from his spine, he was readmitted in March 2012 and released. He was again readmitted for leaking spinal fluid in April 13, 2012.

In March 2012, Respondent voluntarily entered Impact residential facility to deal with his dependence upon painkillers as a result of his skiing accident. Respondent remained in the residential facility the required thirty days and is now voluntarily living in Impact's sober living facility. At no time, however, did Respondent submit expert testimony establishing that Respondent's physical difficulties were directly responsible for his misconduct or that Respondent no longer suffered from the difficulties. (In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443.) At no time did Respondent submit a financial declaration demonstrating that he was financially unable to pay for lab testing for propoxyphene and Ethyl Glucuronide.

Respondent now understands that he needs to comply with each condition on a timely basis; he understands that even if he experiences other problems, e.g. physical or financial, he must file a motion for modification at his earliest opportunity if he will be unable to complete his conditions and continue to comply with his conditions until an order is filed modifying his conditions.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was June 21, 2012.

**AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.6, subsection (a), states that culpability of a member of a violation of Business and Professions Code, section 6068(k), shall result in disbarment or suspension depending upon the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

An attorney who violated his probation by failing to timely complete restitution and by failing to timely attend Ethics School, received two years' probation with a condition that he was to be actually suspended for the first 30 days. In the Matter of Gorman (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567. Neither bad purpose nor intentional evil is required to establish willful violations of disciplinary probation. Id. at 572. An attorney's cooperation in stipulating to facts warrants some mitigative consideration. Id. More

serious sanctions are assigned to probation violations closely related to reasons for imposition of previous discipline or to rehabilitation. Id. at 573-574.

In this matter, Respondent's underlying disciplinary violation was in relation to failing to comply with his probationary conditions. The probation conditions violated were related to his original misconduct, important for his rehabilitation, and were intended to assist the State Bar in monitoring Respondent's rehabilitation. However, in light of Respondent's circumstances (set forth above), it is agreed that the degree of discipline set forth in this stipulation is appropriate in relation to standard 2.6 based upon Respondent's stipulation to his violations, and his agreement to reinstate his probation in order to demonstrate his willingness to prove his rehabilitation.

#### COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Probation has informed Respondent that as of June 21, 2012, the prosecution costs in this matter are \$2,244. 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.

#### WAIVER OF ANY VARIANCES

The parties stipulate to waive any variance in the language, allegations, and conclusions of law between this stipulation and the Notice of Motion and Motion to Revoke Probation filed on March 6, 2012. Respondent acknowledges that this stipulation contains language, allegations, and a conclusion of law which may differ from the language, allegations, and conclusion of law contained in the Notice of Motion and Motion to Revoke Probation filed on March 6, 2012. The parties further stipulate to waive the right to have any amendment to the Notice of Motion and Motion to Revoke Probation.

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|------------------------------------|------------------------------------|
| In the Matter of:<br>Jon Eric Gelb | Case number(s):<br>12-PM-11647-RAH |
|------------------------------------|------------------------------------|

**SIGNATURE OF THE PARTIES**

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

|                           |   |                                     |
|---------------------------|---|-------------------------------------|
| <u>06.22.2012</u><br>Date | <br>Respondent's Signature   | <u>Jon Eric Gelb</u><br>Print Name  |
| <u>6.26.12</u><br>Date    | <br><del>Deputy Trial Counsel's</del> Signature<br>Supervising Attorneys | <u>Terrie Goldade</u><br>Print Name |

(Do not write above this line.)

In the Matter of:  
JON ERIC GELB

Case Number(s):  
12-PM-11647-RAH

### PROBATION VIOLATION 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.

1. On page 9, paragraph 7, change "2011" to "2010" so that it reads "November 5, 2010."
2. On page 11, paragraph 30, change "me" to "her."
3. On page 11, paragraph 35, change "me" to "Probation Deputy Ivy Cheung."
4. On page 13, paragraph 57, change "me" to "her."

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

7/16/12

  
RICHARD A. HONN  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on July 16, 2012, I deposited a true copy of the following document(s):

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

in a sealed envelope for collection and mailing on that date as follows:

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

JON E GELB ESQ  
12455 SARAH ST  
STUDIO CITY, CA 91604

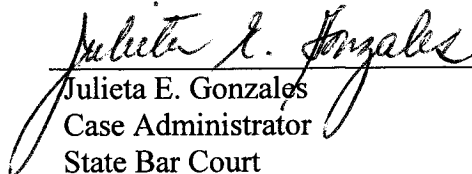
Courtesy copy:

JON ERIC GELB ESQ  
IMPACT  
C/O JOHN LLOYD, CASE WORKER  
1680 N. FAIROAKS AVE, CA 91103

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

Terrie Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in <select city>, California, on July 16, 2012.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court