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**State Bar Court of California
Hearing Department
San Francisco
DISBARMENT**

Counsel For The State Bar Robert A. Henderson Supervising Senior Trial Counsel 180 Howard St. San Francisco, CA 94105 (415) 538-2385 Bar # 173205	Case Number(s): 13-O-14043 <div align="center">PUBLIC MATTER</div>	For Court use only <div align="center">FILED </div> <div align="center">AUG 14 2014</div> <div align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
In Pro Per Respondent Brett Alexander Pedersen 430 Coia Ballena, Apt. D Alameda, CA 94501 (415) 434-3101 Bar # 146341	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: BRETT ALEXANDER PEDERSEN Bar # 146341 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **June 12, 1990**.
- (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 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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

(Effective January 1, 2014)



- (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 to be awarded to the State Bar.
- ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
- ☐ Costs are entirely waived.

(9) ORDER OF INACTIVE ENROLLMENT:

The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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 07-O-10259 [S188837]
- (b) ☒ Date prior discipline effective March 20, 2011.
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code sections 6068(d) and 6106.
- (d) ☒ Degree of prior discipline two-year stayed suspension, three years of probation, with conditions including a nine month actual suspension.
- (e) ☒ If respondent has two or more incidents of prior discipline, use space provided below:

See Attachment to Stipulation at p. 7.

- (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.
- (5) ☐ Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ **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 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.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.

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(13) ☐ No mitigating circumstances are involved.

Additional mitigating circumstances:

Pre-filing Stipulation - See Attachment to Stipulation at p. 7.

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.
- (2) ☐ **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: BRETT ALEXANDER PEDERSEN
CASE NUMBER: 13-O-14043

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. 13-O-14043 (State Bar Investigation)

FACTS:

1. On October 11, 2012, a Petition for Dissolution of Marriage ("Petition") was filed in Alameda County Superior Court, case no. AF12651023.
2. On November 30, 2012, respondent filed a Response to the Petition in case no. AF12651023, on behalf of his client Gregory Sanchez.
3. On December 28, 2012, respondent was suspended from the practice of law as a result of his failure to take and pass the Multi-state Professional Responsibility Exam, a condition of his probation in case no. 07-O-10259 [S188837]. Respondent actually knew of his suspension. Respondent has remained ineligible to practice law continuously since December 28, 2012.
4. On February 1, 2013, respondent filled out the Declaration of Disclosure in case no. AF12651023. Respondent listed himself as the attorney for Respondent John G. Sanchez, identified himself by his State Bar number and signed the declaration, under penalty of perjury, declaring that the foregoing information on the form was true and correct, when respondent knew he was not entitled to practice law. Respondent thereafter served the Declaration of Disclosure on the opposing party.
5. On February 1, 2013, respondent signed as the attorney for John G. Sanchez on the Income and Expense Declaration, which identified respondent as the attorney in case no. AF12651023. Respondent thereafter served the Income and Expense Declaration on the opposing party.
6. On August 15, 2013, respondent substituted out of case no. AF12651023.

CONCLUSIONS OF LAW:

7. By listing himself as the attorney for John G. Sanchez in case no. AF12651023, by serving the Declaration of Disclosure and the Income and Expense Declaration and by confirming his hourly rate in the matter as the attorney for John G. Sanchez, respondent held himself out as entitled to practice law and practiced law, in violation of Business and Professions Code sections 6125-6126 and thereby wilfully violated Business and Professions Code section 6068(a).

8. By holding himself out entitled to practice law and practicing law, when he knew he was not entitled to practice law, respondent committed an act involving moral turpitude, dishonesty or corruption, in wilful violation of Business and Professions Code section 6106.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)):

07-O-10259 [S188837]

Effective March 20, 2011, respondent received a two-year stayed suspension and was placed on three years of probation, with conditions including a nine month actual suspension. This discipline stemmed from respondent's attempt to mislead a judge regarding the settlement terms of a contested matter and respondent's act of moral turpitude in the same matter, when he tried to negotiate for more settlement funds after having deposited the settlement checks. Culpability was found on both Business and Professions Code sections 6068(d) and 6106.

05-O-02315 [S166502]

Effective February 13, 2009, respondent received a six month stayed suspension and was placed on one year of probation, with conditions including a 30 day actual suspension. This discipline stemmed from respondent's filing of a purported stipulated judgment with the court, after he had been notified by the opposing party that they were no longer willing to enter the agreement. Culpability was found on both Business and Professions Code section 6068(d), [misleading a judge] and 6106 [moral turpitude].

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

Prefiling Stipulation: Respondent has taken responsibility for his misconduct by entering into this pre-filing stipulation as to facts and conclusions of law, at the earliest possible time, thereby saving the State Bar and State Bar Court 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].)

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).)

In this matter, respondent admits to committing two acts of professional misconduct. Standard 1.7(a) requires that where a Respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to respondent's misconduct is found in Standard 2.7, which states: "Disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member's practice of law." In the current matter, although the magnitude of the act is not large, the unauthorized practice of law is at the core of respondent's profession and therefore severe discipline would be warranted. In aggravation, this is respondent's third instance of discipline, all of which involved moral turpitude. Standard 1.8(b) states:

(b) If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:

1. Actual suspension was ordered in any one of the prior disciplinary matters;
2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

Respondent has two prior disciplines, both of which involved an actual suspension from the practice of law and both of which demonstrate either an unwillingness or inability to conform to his ethical responsibilities. Moreover, respondent has minimal mitigation in the current matter for the pre-filing stipulation. Disbarment is appropriate under Standard 2.7 and Standard 1.8(b).

Case law also supports disbarment when an attorney has a prior record of discipline and engages in the unauthorized practice of law. (See *In the Matter of Thompson* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966 [attorney disbarred for violating court orders, failing to report sanctions and the unauthorized practice of law, with four prior records of discipline.]) Although respondent has fewer prior disciplinary matters than in *Thompson*, disbarment is still the appropriate discipline as it is the third time respondent

has been disciplined, for distinct acts of moral turpitude, in slightly over five years. Disbarment is the only level of discipline which will adequately protect the public and the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

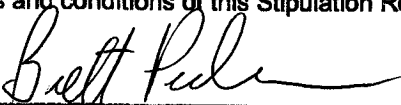
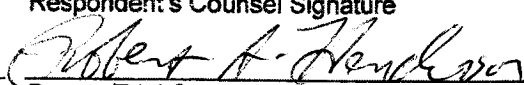
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of August 1, 2014, the prosecution costs in this matter are \$2,925. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: BRETT ALEXANDER PEDERSEN	Case number(s): 13-O-14043
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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>8-2-14</u> Date	<u></u> Respondent's Signature	<u>Brett A. Pedersen</u> Print Name
<u>8/4/14</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Robert A. Henderson</u> Print Name

(Do not write above this line.)

In the Matter of:
BRETT ALEXANDER PEDERSEN

Case Number(s):
13-O-14043

DISBARMENT 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.)**

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

August 14, 2014

PAT E. McELROY
PAT E. 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 14, 2014, 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:

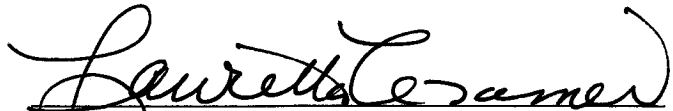
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

BRETT A. PEDERSEN
430 COLA BALLENA APT D
ALAMEDA, CA 94501

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

Robert A. Henderson, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 14, 2014.


Laurretta Cramer
Case Administrator
State Bar Court