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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

<p>Counsel For The State Bar</p> <p>ANTHONY GARCIA Senior Trial Counsel Office of the chief Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017-2515 Telephone: (213) 765-1277</p> <p>Bar # 171419</p>	<p>Case Number(s): 13-O-15484, 13-O-15592, 13-O-17078, 14-O-00305</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED</p> <p>DEC 23 2014</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>ROBERT JAMES OHLWEILER 728 Monterey Ave Chula Vista CA 91910 Telephone: (619) 531-7285</p> <p>Bar # 117384</p>	<p>Submitted to:</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: ROBERT JAMES OHLWEILER</p> <p>Bar # 117384</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **February 5, 1985**.
- (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 **16** 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."



MRE

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **three billing cycles following the effective date of the Supreme Court order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

B. Aggravating Circumstances [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 **05-J-03806, Supreme Court Case No. S142143**
 - (b) Date prior discipline effective **June 30, 2006**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **3-110(A), 3-700(A)(2) (Ohio Disciplinary Rules DR 6-101(A)(3), DR 7-101(A)(2)).**
 - (d) Degree of prior discipline **30 Days Actual Suspension.**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (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 page 13.**
- (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. **See Page 13.**
- (8) **Restitution:** Respondent failed to make restitution. **See Page 14.**
- (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. **See page 14.**
- (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.

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- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pre-Trial Stipulation, see Page 14.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **two years**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **one year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

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- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions
 - Law Office Management Conditions
 - Medical Conditions
 - Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

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further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

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In the Matter of: Robert James Ohlweiler	Case Number(s): 13-O-15484, 13-O-15592, 13-O-17078, 14-O-00305
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Alexandra Valencia	\$1,200	June 28, 2013

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **one year from the effective date of the Supreme Court order.**

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- 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.

c. Client Funds Certificate

- 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
 - a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 - 1. the name of such client;
 - 2. the date, amount and source of all funds received on behalf of such client;
 - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 - 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 - 1. the name of such account;
 - 2. the date, amount and client affected by each debit and credit; and,
 - 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

CONCLUSION OF LAW:

9. By failing to appear at court hearings on September 11, 2013 and October 2, 2013, of which he received due notice, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

FACTS:

10. On June 3, 2013, respondent entered his appearance on behalf of his client Ruben Rodriguez Andrade (Andrade) in San Diego Superior Court, *People v. Andrade*, case no. S264426.

11. Respondent failed to appear at hearings in the Andrade matter that were scheduled for August 8, 2013, September 10, 2013, September 12, 2013, and October 2, 2013. The court removed respondent from the matter and appointed the public defender.

12. Respondent had due notice of each of the hearings.

CONCLUSION OF LAW:

13. By failing to appear at court hearings on August 8, 2013, September 10, 2013, September 12, 2013, and October 2, 2013, of which he received due notice, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

FACTS:

14. In August 2013, respondent represented Tauren Bunche (Bunche) in San Diego Superior Court, *People v. Bunche*, case no. S263287.

15. Respondent failed to appear at hearings in the Bunche matter that were scheduled for the August 19, 2013, and August 22, 2013. The court continued the August 22, 2013, matter to August 30, 2013.

16. Respondent had due notice of the hearings.

17. On August 30, 2013, appearance counsel appeared in court on behalf of Bunche and told the court that respondent was ill.

18. On August 30, 2013, the court set a Show Cause hearing regarding sanctions for September 12, 2013. The court ordered respondent to appear on September 12, 2013, and ordered respondent to bring documentation to court verifying his illness. Respondent had notice of the August 30, 2013, court order but failed to comply with the court order by failing to appear on September 12, 2013, and failing to provide documentation verifying his illness.

19. On September 12, 2013, the court removed respondent from the matter and appointed the public defender.

20. On March 5, 2014, and March 27, 2014, a State Bar investigator wrote to respondent asking for his written response to the allegations in this matter. Respondent did not respond to the investigator's letters, and he did not otherwise cooperate and participate in the State Bar investigation of the Bunche matter.

CONCLUSIONS OF LAW:

21. By failing to appear at the court hearings on August 19, 2013, and August 22, 2013, of which he received due notice, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

22. By failing to appear in court on September 12, 2013, and to bring documentation of his illness, respondent disobeyed a court order requiring him to do acts in the course of his profession which he ought to do in good faith, in wilful violation of Business and Professions Code, section 6103.

23. By not responding to the investigator's letters dated March 5, 2014, and March 27, 2014, and by not otherwise cooperating and participating in the State Bar investigation of the Bunche matter, respondent wilfully violated Business and Professions Code, section 6068(i).

Case No. 13-O-17078 (Complainant: Jeffrey Hopper)

FACTS:

24. In July 2013 Jeffrey Hopper (Hopper) hired respondent to represent him in a case entitled *People v. Hopper*, in the San Diego Superior Court, case no. CD249275.

25. Respondent failed to appear at hearings in the Hopper matter that were scheduled for September 12, 2013, and September 19, 2013. The court removed respondent from the matter and appointed the public defender.

26. Respondent had due notice of the hearings.

27. On September 19, 2013, the court set a Show Cause hearing for October 1, 2013, and ordered respondent to appear.

28. Respondent received due notice of the October 1, 2013 hearing.

29. Respondent did not appear at the October 1, 2013, hearing.

30. On March 5, 2014, and March 27, 2014, a State Bar investigator wrote to respondent asking for his written response to the allegations in this matter. Respondent did not respond to the investigator's letters, and he did not otherwise cooperate and participate in the State Bar investigation of the Hopper matter.

CONCLUSION OF LAW:

31. By failing to appear at the court hearings on September 12, 2013, and September 19, 2013, of which he received due notice, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

32. By failing to appear at the October 1, 2013, hearing respondent disobeyed a court order requiring him to do acts in the course of his profession which he ought to do in good faith, in wilful violation of Business and Professions Code, section 6103.

33. By not responding to the investigator's letters dated March 5, 2014, and March 27, 2014, and by not otherwise cooperating and participating in the State Bar investigation in the Hopper matter, respondent wilfully violated Business and Professions Code, section 6068(i).

Case No. 14-O-00305 (Complainant: Alexandra Valencia)

FACTS:

34. On May 20, 2013, Alexandra Valencia (Valencia) hired respondent to represent her in two matters in San Diego Superior Court.

35. Valencia's mother paid \$1,200 to respondent as an advance fee on Valencia's behalf.

36. One of the matters was entitled *People v. Valencia*, case no. C329649, in San Diego Superior Court.

37. In case no. C329649, Respondent failed to appear at court hearings on June 28, 2013, and on July 23, 2103. Respondent had due notice of the hearings.

38. On August 12, 2013, Valencia hired new counsel in case no. C329649 and demanded an accounting of the fees she paid.

39. Valencia's other legal matter was entitled *People v. Valencia*, case no. P667896, in San Diego Superior Court.

40. In case no. P667896, Respondent failed to appear at the court hearings on August 9, 2013, and on September 3, 2013. Respondent had due notice of the hearing dates.

41. On September 3, 2013, the court set a Show Cause hearing on September 17, 2013, in case no. P667896 and ordered respondent to appear.

42. Respondent had due notice of the September 17, 2013, hearing but failed to appear.

43. On September 17, 2013, the court set another Show Cause hearing on October 17, 2013, in case no. P667896 and ordered respondent to appear.

44. Respondent had due notice of the October 17, 2013, hearing but failed to appear.

45. On October 17, 2013, the court set a final show cause hearing on October 25, 2013, in case no. P667896 and ordered respondent to appear.

46. Respondent had due notice of the October 25, hearing but failed to appear. In November 2013, Valencia hired new counsel to represent her in case no. P667896.

47. Valencia has demanded a full refund of the advance fees. To date respondent had not

provided an accounting or a refund to Valencia.

48. On March 5, 2014, and March 27, 2014, a State Bar investigator wrote to respondent asking for his written response to the allegations in this matter. Respondent did not respond to the investigator's letters, and he did not otherwise cooperate and participate in the State Bar investigation in the Valencia matter.

CONCLUSIONS OF LAW:

49. By failing to appear in court on Valencia's behalf on June 28, 2013 and July 23 2013, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

50. By failing to appear in court on Valencia's behalf on August 9, 2013, and September 3, 2013, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

51. By failing to appear in court on September 17, 2013, October 17, 2013, and October 25, 2013, respondent disobeyed a court order requiring him to do acts in the course of his profession which he ought to do in good faith, in wilful violation of Business and Professions Code, section 6103.

52. By not responding to the investigator's letters dated March 5, 2014, and March 27, 2014, and by not otherwise cooperating and participating in the State Bar investigation in the Valencia matter, respondent wilfully violated Business and Professions Code, section 6068(i).

53. By failing to provide an accounting to Valencia, respondent failed to render appropriate accountings to a client regarding all funds coming into respondent's possession in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).

54. By failing to refund the \$1,200 advance fee that Valencia paid to respondent, respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline: Standard 1.5(a) State Bar case no. 05-J-03806, effective June 30, 2006. Respondent was suspended for two years, stayed, placed on two years of probation with a 30-day actual suspension, and ordered to take the MPRE within one year and prove his rehabilitation. Respondent was disciplined in Ohio for neglecting legal matters entrusted to him by six clients. The misconduct in Ohio occurred between 1995 and 1997. Respondent's misconduct in Ohio would have resulted in discipline in California, if committed here. Respondent completed a two-year monitoring program that included random alcohol testing by a California treatment provider and he made restitution. In mitigation, respondent cooperated with the bar's investigation.

Multiple Acts of Misconduct: Standard 1.5(b) Respondent failed to perform in six matters, violated court orders, failed to provide an accounting and failed to refund unearned fees in the Valencia case.

Significant Harm to the Administration of Justice: Standard 1.5(f) Respondent's repeated failures to appear caused unnecessary delay and expenditure of additional Superior Court resources.

Failure to Pay Restitution: Standard 1.5(i) Respondent has not refunded the \$1,200 advance fee that Alexandra Valencia paid.

MITIGATING CIRCUMSTANCES.

Physical Disabilities: Standard 1.6(d) Beginning in May 2013, Respondent suffered from debilitating ulcerative colitis which affected his ability to perform and appear in court on behalf of his clients. Respondent was treated for this condition by Jerry D. Ayers, M.D. through September 2013. Dr. Ayers has stated that respondent suffered from this condition for many months, and that respondent's condition has responded positively to treatment and is currently in remission. The period of time that respondent was debilitated by his condition coincides with the misconduct in the client related matters, specifically the failures to perform and failures to obey court orders.

Additional Mitigating Circumstances:

Pretrial Stipulation: Respondent has acknowledged his misconduct and stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings as efficiently as possible, thereby avoiding the necessity of a trial and saving 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].)

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 15 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 2.14 which applies to Respondent's violations of Business and Professions Code, section 6103. Standard 2.14 provides that disbarment or actual suspension is appropriate for any violation of a provision of Article 6 of the Business and Professions Code not otherwise specified in the Standards.

In the present matter, respondent failed to perform in six client matters and respondent failed to obey three court orders. The aggravating circumstances are serious, including his prior discipline for similar misconduct. However, in mitigation, respondent suffered physical difficulties that occurred during the same period as his misconduct in the client related matters.

One year of actual suspension is within the range of discipline contemplated by the Standards. In addition, *In the Matter of Wolff* provides guidance regarding the appropriate level of discipline. (*In the Matter of Wolff* (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1.) Wolff failed to obey a court order and failed to appear in 39 client matters. The court also sanctioned Wolff in the amount of \$ 1,500. The Review Department suspended Wolff for 18 months and imposed a 1.4(c)(ii) requirement. The Review Department stated that it would have contemplated a lesser discipline but Wolff failed to demonstrate that she understood the nature and extent of her wrongdoing, which suggested that there was a likelihood her misconduct may recur.

Respondent's misconduct warrants a lower level of discipline than Wolff because respondent has fewer acts of misconduct and by entering into this pre-trial stipulation, has acknowledged the nature and extent of his wrongdoing and accepted responsibility for his actions. Thus, one year of actual suspension is in accord with Standard 1.8 which mandates that the present discipline is greater than respondent's prior 30 day suspension. On balance, one year of actual suspension is appropriate to address respondent's misconduct and will serve to protect the public, the courts and the legal profession, maintain high professional standards, and preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 3, 2014, the prosecution costs in this matter are \$10,252. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

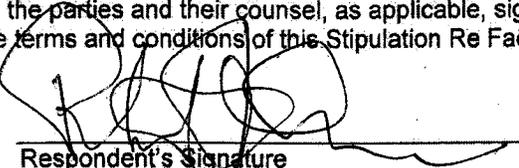
Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

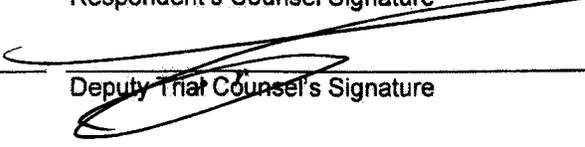
In the Matter of: ROBERT JAMES OHLWEILER	Case number(s): 13-O-15484, 13-O-15591, 14-O-00305 13-0-15484, 13-0-15592, 13-0-17078 14-0-00305
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SIGNATURE OF THE PARTIES

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.

12-3-14  Robert James Ohlweiler
Date Respondent's Signature Print Name

Date PRO PER _____
Respondent's Counsel Signature Print Name

12/4/14  Anthony J. Garcia
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: ROBERT JAMES OHLWEILER	Case Number(s): 13-O-15484, 13-O-15592, 13-O-17078, 14-O-00305
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ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

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.)**

12-22-14
Date


GEORGE E. SCOTT, JUDGE PRO TEM
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 December 23, 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:

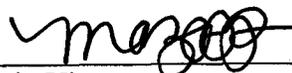
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

ROBERT JAMES OHLWEILER
ROBERT OHLWEILER
728 MONTEREY AVE
CHULA VISTA, CA 91910

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

ANTHONY J. GARCIA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 23, 2014.



Mazie Yip
Case Administrator
State Bar Court