



(Do not write above this line.)

<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>ACTUAL SUSPENSION</b>		
Counsel For The State Bar  <b>Catherine Taylor</b> Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2537  Bar # 210540	Case Number(s): <b>14-C-00865-PEM</b>	For Court use only  <div style="text-align: center; font-size: 1.2em; font-weight: bold;">PUBLIC MATTER</div>  <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold;">OCT 13 2015</div> <div style="text-align: center; margin-top: 20px;">                       STATE BAR COURT CLERK'S OFFICE                      SAN FRANCISCO                 </div>
In Pro Per Respondent  <b>James P. Kleier</b> 61 Pixley Street San Francisco, CA 94123 (415) 741-6057  Bar # 88554	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>JAMES PATRICK KLEIER</b>  Bar # 88554  A Member of the State Bar of California (Respondent)	(This area is shared with the previous row and contains the same text.)	

**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 **November 29, 1979**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".



(Do not write above this line.)

---

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

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

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- (2)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith. **See Attachment at p. 8.**
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5)  **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6)  **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7)  **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.

(Do not write above this line.)

---

- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10)  **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Attachment at p. 8.
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings. **See Attachment at p. 9.**
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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.

(Do not write above this line.)

---

- (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 convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**No prior discipline: See Attachment at p. 8.**  
**Pre-trial stipulation: See Attachment at p. 8.**  
**Pro Bono/Community Service: See Attachment at p. 8.**

**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 fitness to practice and present learning and ability in the general 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 **90 days**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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.

(Do not write above this line.)

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 present 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.
- (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.

(Do not write above this line.)

---

- (10)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

**F. Other Conditions Negotiated by the Parties:**

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- 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:**



## FACTS:

7. Respondent had been practicing as an attorney licensed in California since 1979. Respondent's practice focused on litigating federal and state tax controversies. Respondent handled state and federal tax cases while employed at Preston, Gates & Ellis, LLP from 1999-2005 and while a partner at Reed Smith, LLP from 2005-2010.

8. While a partner at Reed Smith, respondent was paid monthly checks about \$10,000. Respondent received the balance of his share as partner twice a year (or more) from Reed Smith, which was reported to the IRS: \$624,923 in 2008; \$476,088 in 2009; and \$200,734 in 2010.

9. Respondent knew he was required to report the income.

10. Respondent had stopped filing tax returns in 2000.

11. Respondent willfully failed to file income tax returns for years 1999-2010.

12. On July 19, 2012, respondent agreed to meet with a case agent during the investigation, admitted to having failed to file tax returns since approximately 1999, and cooperated with authorities.

## CONCLUSIONS OF LAW:

13. The facts and circumstances surrounding the above-described violation(s) involved moral turpitude.

## AGGRAVATING CIRCUMSTANCES.

**Multiple acts of wrongdoing Std. 1.5(b):** Respondent failed to file tax returns for 11 tax years: 1999-2010.

**Intentional misconduct Std. 1.5(d):** Respondent's failure to file tax returns for 11 years demonstrates his misconduct was intentional and not a result of negligence or oversight. Furthermore, respondent's law practice was dedicated to taxation throughout the misconduct.

## MITIGATING CIRCUMSTANCES.

**No prior discipline:** Respondent has been licensed since November 29, 1979, and practiced for 21-discipline-free-years before the misconduct began in 2000. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41).

**Pre-trial stipulation:** Respondent is willing to enter into a stipulation to avoid a trial, thereby saving the State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071 [mitigation afforded for entering into a stipulation as to facts and culpability in order to simplify the disciplinary proceedings]).

**Pro bono/community service:** Throughout his career, respondent exceeded 50 hours per year in pro bono services to 501(c)(3) charitable organizations and other clients, including between 2005-2009, respondent performed pro bono work to equalize tax treatment of same-sex couples, arguing their entitlement to joint filing status. Respondent's career includes service as Taxation Section Chair of the ABA; chair of the San Francisco Bar Association's Barrister's Club Tax Section; respondent taught

taxation at Golden Gate University and was a lecturer on criminal tax at Hastings. Respondent regularly wrote and lectured on state and local taxation and federal tax controversies. Mitigation credit is tempered by the fact respondent's misconduct was contemporaneous with some of his pro bono work. In recent years, respondent has been active in the Men's Club of St. Vincent de Paul parish, the primary purpose of which is charitable fundraising. (*In the Matter of Aguiluz* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32) [an attorney's leadership in minority bar associations, service as a delegate to the State Bar Conference of Delegates, and post-misconduct service as a municipal court judge pro tempore constituted mitigating circumstances]).

**Candor and cooperation to victim:** Respondent cooperated with authorities during the criminal investigation into his failure to file income tax returns and gave a statement to the case agent admitting his culpability. (*In the Matter of Lybbert* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 297 [after authorities discovered the attorney's welfare fraud, the attorney was cooperative and remorseful, took full responsibility and stipulated to most of the facts] ).

#### **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 Silvertan* (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).)

While alone the wilful failure to file income tax returns does not involve moral turpitude per se (See *In the Matter of Frascinella* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 543, fn 2), and the conviction of a wilful failure to file a federal tax return does not establish moral turpitude on its face, either (See *In re Fahey* (1973) 8 Cal.3d 842), we must examine the facts and circumstances of the case.

//  
//  
//

Here, the facts and circumstances surrounding respondent's misconduct demonstrate respondent's intentional misconduct-- 11 times over. Respondent was a tax attorney, and then a partner in tax practice, during the time of his misconduct and arguably should have known better than anyone the duty to file a tax return. Respondent's repeated, intentional misconduct for failures to file tax returns amounts to moral turpitude.

"Where there exists a pattern of repetitious non-filing of federal income tax returns for multiple years, and for which there were taxes due, such conduct is dishonest and involves moral turpitude warranting disciplinary action against attorney engaging in such conduct; willful or intentional failure to file federal income tax returns as required by law, where wrongdoer stands to gain personal monetary benefit from his conduct, involves moral turpitude." *In the Matter of Nicholson* (1979, Georgia) 257 SE2d 195.

Based on the totality of the facts and circumstances underlying respondent's conviction, std. 2.15(c) is the appropriate standard here: "Disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor involving moral turpitude."

Respondent presents four factors in mitigation: respondent practiced for over 20 years without incident before he stopped filing his tax returns. Throughout his career, respondent regularly taught tax law, and was active in both the American Bar Association and his local bar. The personal repercussions from his conviction and prison sentence make it highly unlikely respondent's misconduct will recur. Respondent demonstrated candor and cooperation with the Franchise Tax Board and the Internal Revenue Service by giving a statement to authorities in which he admitted his failures to file tax returns for over 10 years. Similarly, respondent has entered into a stipulation as to culpability with the State Bar.

In aggravation, respondent committed multiple acts of misconduct and respondent's misconduct was intentional.

Nonetheless, potential sanctions range from disbarment to actual suspension. Case law provides some guidance.

*In re Rohan* (1978) 21 Cal.3d 195 provides guidance for the appropriate level of discipline. Rohan failed to file federal income tax returns for years 1964 through 1970. In 1974, Rohan was charged in federal court with wilful failure to file income tax returns for the years 1967 through 1970. Rohan pled guilty to one count of the information and was sentenced to one year prison, which was stayed, and three years probation. The remaining counts were dismissed.

The court in *Rohan* made quite clear that an attorney, as an officer of the court "occupies a unique position in society. His refusal to obey the law, and the bar's failure to discipline him for such refusal, will not only demean the integrity of the profession but will encourage disrespect for and further violations of the law. This is particularly true in the case of revenue law violations by an attorney." *Rohan*, at p. 203.

However, the Court in *Rohan* declined to find that the attorney's misconduct amounted to moral turpitude. The Court noted that it requested a finding on the moral turpitude issue and both the local committee and board found no moral turpitude was involved and the petitioner "at no time misrepresented the facts or falsified any of the records either before the IRS, the committee, or otherwise. There is no evidence that (petitioner) sought to achieve any personal financial gain by not filing his tax returns." *Id.*, p. 201. Rohan was disciplined and received 60 days actual suspension, two years stayed and two years probation to include the MPRE.

Respondent's misconduct likewise was intentional and resulted in personal gain—illustrated by the fact that respondent's income totaling over \$1,000,000 during the tax years 2008-2010 was essentially tax-free income from the date each return was due until any later collection efforts by the government tax authority. Respondent's practice consisted almost exclusively of litigating state and federal tax matters for over 20 years. Respondent knew the seriousness of the offenses he was committing.

The fundamental goal is public protection and maintenance of high professional standards. Therefore, under the standards and case law, a period of 90 days actual suspension, two years stayed suspension, and two years of probation to include rule 9.20, MPRE and Ethics School, will best serve the purposes of attorney discipline.

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of October 2, 2015, the prosecution costs in this matter are \$2,447. 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**

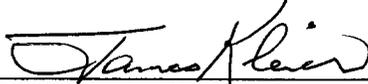
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of **State Bar Ethics School, the MPRE and/or any other educational course(s) to be ordered as a condition of reproof or suspension.** (Rules Proc. of State Bar, rule 3201.)

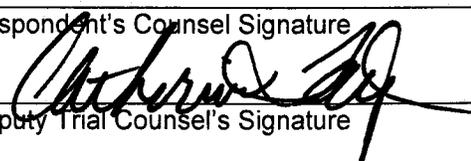
(Do not write above this line.)

In the Matter of: <b>JAMES PATRICK KLEIER</b>	Case number(s): <b>14-C-00865-PEM</b>
--	--

### 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.

10/8/15                                            JAMES P. KLEIER  
Date                                      Respondent's Signature                                      Print Name

10-8-15                                            CATHERINE TAYLOR  
Date                                      Deputy Trial Counsel's Signature                                      Print Name

(Do not write above this line.)

In the Matter of: JAMES PATRICK KLEIER	Case Number(s): 14-C-00865-PEM
---	-----------------------------------

### 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.)**

Date

Oct. 13, 2015

  
LUCY ARMENDARIZ  
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 October 13, 2015, I deposited a true copy of the following document(s):

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

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

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

JAMES PATRICK KLEIER  
61 PIXLEY ST  
SAN FRANCISCO, CA 94123

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- by overnight mail at , California, addressed as follows:

- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Catherine E. Taylor, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 13, 2015.

  
George Hue  
Case Administrator  
State Bar Court