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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Ashod Mooradian Senior Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1004 Bar # 194283	Case Number(s): 14-C-02707; 14-C-02708; 14-C-02710; (Cons.)	For Court use only <div style="text-align: center;"> FILED NOV 12 2014  STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Christopher C. Barsness Law Office of Chris Barsness 333 City Blvd. West, Suite 2050 Orange, CA 92868 (949) 288-6533 Bar # 222861	<div style="font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	
In the Matter of: FRANK EDWARD GOSECO Bar # 132732 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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



A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 17, 1987**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **20** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- 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: **Two 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
 - (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) **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **See Attachment at page 16.**
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. **See Attachment at page 16.**

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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 Attachment at page 16.**
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

None.

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.

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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:

See Attachment at page 17.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two (2) 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 **Four (4) 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 **six months**.

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:
- | | |
|--|---|
| <input checked="" 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**

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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: FRANK EDWARD GOSECO	Case Number(s): 14-C-02707; 14-C-02708; 14-C-02710 (Cons.)
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Substance Abuse Conditions

- a. Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b. Respondent must attend at least four (4) meetings per month of:
- Alcoholics Anonymous
 - Narcotics Anonymous
 - The Other Bar
 - Other program

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

- c. Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d. Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.
- e. Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

Respondent also agrees as follows:

- 1) Within seven (7) calendar days after his completion, termination or withdrawal from the Salvation Army out-patient treatment program (required as part of his criminal probation in Orange County Superior Court case number 13HM09795,) Respondent shall provide written notice to the Office of Probation of his

completion, termination or withdrawal from the Salvation Army out-patient treatment program. As used in this condition, "written notice" means providing notice either by certified mail, return-receipt requested correctly and timely addressed to the assigned probation deputy or by proper and timely personal service to the supervising attorney of the Office of Probation;

2) Within fifteen (15) calendar days after his completion, termination or withdrawal from the Salvation Army out-patient treatment program, Respondent shall provide to the Office of Probation the name, address and telephone number of an approved ASAM certified medical doctor who agreed to treat Respondent. As used in this condition, "approved" means that the ASAM certification of the medical doctor and the medical doctor's agreement to actually evaluate and treat Respondent are in fact verified by the assigned probation deputy or supervising attorney.

3) Within fifteen (15) calendar days after his completion, termination or withdrawal from the Salvation Army out-patient treatment program, Respondent shall provide a complete copy of this stipulation to an approved ASAM certified medical doctor and all treatment providers;

4) Within fifteen (15) calendar days after his completion, termination or withdrawal from the Salvation Army out-patient treatment program, Respondent shall execute all necessary waivers of confidentiality with an approved ASAM certified medical doctor as well as any treatment providers, including drug testing facilities;

5) Within thirty (30) calendar days after his completion, termination or withdrawal from the Salvation Army out-patient treatment program, Respondent shall provide to the Office of Probation an original, signed declaration from an approved ASAM certified medical doctor and all treatment providers acknowledging receipt of a complete copy of this stipulation;

6) Within thirty (30) calendar days after his completion, termination or withdrawal from the Salvation Army out-patient treatment program, Respondent shall provide to the Office of Probation a copy of the waiver provided to an approved ASAM certified medical doctor as well as all other treatment providers, including drug testing facilities and an original, signed declaration from an approved ASAM certified medical doctor as well as all other treatment providers, including drug testing facilities, acknowledging receipt of the waiver;

7) Within forty-five (45) calendar days after his completion, termination or withdrawal from the Salvation Army out-patient treatment program, Respondent is to undergo an Evaluation with an approved ASAM certified medical doctor. The evaluation will be for the purposes of (a) determining whether Respondent continues to have a substance abuse or addiction problem, (b) setting treatment conditions Respondent is to undertake as a result of the Evaluation, if any, and (c) obtaining a written report from the evaluating physician. Respondent shall bear all costs of the Evaluation, the resulting report, and any treatment conditions recommended by the evaluator. Respondent understands that his treatment conditions may change if his treatment providers deem it necessary, and that he is to bear the cost of such treatment, which in some cases could include in-patient treatment. Respondent understands that (a) the treatment conditions, if any, shall become part of his probation requirements, (b) he must provide the Office of Probation with any proof of treatment compliance or waiver requested by the Office of Probation, and (c) any violation of the treatment conditions is a violation of the probation requirements;

8) Within sixty (60) calendar days after his completion, termination or withdrawal from the Salvation Army out-patient treatment program, Respondent is to provide a copy of an approved ASAM certified medical doctor's written report to the Office of Probation. If an approved ASAM certified medical doctor requires additional information in order to propose treatment conditions, including, but not limited to, interviewing third parties, Respondent will make good faith efforts to provide timely the additional information. Respondent will provide proof of such good faith efforts to the Office of Probation within 10 days of any request;

9) Within ten (10) calendar days of any change in treatment condition, Respondent is to provide the original written notice to the Office of Probation specifically setting forth the changes. With that written notice, Respondent is to provide an original, signed declaration from an approved ASAM certified medical doctor acknowledging receipt of a copy of the written notice and agreement with its accuracy;

10) Respondent shall report compliance with the treatment conditions by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to the discipline in this matter;

11) Respondent shall have his approved ASAM certified medical doctor submit to the Office of Probation an original, signed declaration that Respondent is in compliance with the treatment conditions by each January 10, April 10, July 10, and October 10 covered by this discipline. Respondent understands that the declarations and reports may be shared with the Office of the Chief Trial Counsel and the State Bar Court;

12) Respondent understands that treatment conditions associated with other issues or entities, such as a criminal probation, may not satisfy treatment conditions required by this section;

13) If treatment providers are added or changed, Respondent must notify the Office of Probation of the name, address, and telephone number of all such treatment providers within ten days of the retaining of each one. Within thirty (30) calendar days of retaining each such treatment provider, Respondent must provide to the Office of Probation an original signed declaration from the treatment provider stating that it received a complete copy of this stipulation. Also within thirty (30) calendar days of retaining each such treatment provider, Respondent must provide to the Office of Probation an executed waiver of confidentiality as well as an original, signed declaration from the treatment providers acknowledging receipt of the waiver;

14) Respondent has been informed of the existence and nature of the State Bar's Lawyer Assistance Program and of the State Bar Court's Alternative Discipline Program, and Respondent has specifically declined to seek entry into either;

15) Satisfactory proof of attendance of AA meetings shall include the name of Respondent's sponsor (if Respondent has a sponsor), address, telephone number, and any other contact information (e.g. fax, e-mail, etc.). Respondent is to provide this information to the Office of Probation within ten calendar days of the effective date of the discipline and within ten calendar days of any change in sponsor and/or the sponsor's address and/or telephone number and/or any other contact information;

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16) Satisfactory proof of attendance of AA meetings shall also include the name of the meeting; the location of the meeting; and the name, address, telephone number, and other contact information (e.g. fax, e-mail, etc.) of the meeting secretary or other representative willing to assist the Office of Probation in confirming Respondent's attendance;

17) Respondent shall exert all efforts in gaining the assistance of Respondent's sponsor, meeting secretary, or other representative to assist the Office of Probation in confirming Respondent's attendance. Respondent shall provide proof of such efforts to the Office of Probation within ten days of any request for such proof. It is not satisfactory proof of attendance for Respondent to sign as the verifier of Respondent's proof of attendance.

FACTS AND CIRCUMSTANCES SURROUNDING RESPONDENT'S CONVICTION:

5. On September 30, 2008, Respondent's vehicle was involved in an automobile collision with another vehicle in the vicinity of Irvine, California. The driver of Respondent's vehicle did not stop, did not provide any of the required information to the other driver, did not check on the welfare of the other driver, but rather drove away and fled the scene.

6. The victim of the "hit and run" reported the incident to the California Highway Patrol ("CHP") stating that the other vehicle was a tan color Lexus and provided the license plate number of the vehicle, which was later determined to be registered to Respondent's address. CHP then put the information they received regarding the "hit and run" into a bulletin and sent it to the Irvine police department requesting their assistance in conducting a field interview of the driver of the tan color Lexus.

7. On Thursday, October 2, 2008, at approximately 11:50 am, an Irvine police officer was driving in the vicinity of Respondent's residence and spotted a tan color Lexus. The officer was able to confirm, as the officer passed in front of the vehicle, that the Lexus' license plate matched the license plate of the vehicle involved in the "hit and run." As the officer turned to pursue the tan color Lexus, the Lexus made an aggressive U-turn and headed in the opposite direction. The officer then also made a U-turn attempting to catch the tan color Lexus. The tan color Lexus was driving at a high-rate of speed and made many turns. Based on the rate of speed and the quick movements, it appeared to the officer that the driver of the tan color Lexus was trying to get away.

8. When the officer caught up with the Lexus it was already parked in the driveway of Respondent's residence. The officer saw the driver of the Lexus, who was later identified as Respondent, quickly exit the vehicle.

9. The officer engaged in a conversation with Respondent and asked him if he was involved in a "hit and run" accident. Respondent provided several evasive answers about ownership of the vehicle, but ultimately admitted to the officer that he was in fact the owner of the vehicle. As the conversation continued, the officer saw that Respondent displayed objective symptoms of intoxication. Respondent indicated that he had "a couple of beers" but stopped drinking at 1:00 a.m. However, the officer found a receipt in Respondent's pocket which showed that Respondent had purchased a liter of Tequila at 8:52 a.m. that same morning. The Tequila bottle (which was partially consumed) and two other liquor bottles were also found inside Respondent's vehicle at the time of Respondent's arrest.

10. The officer had Respondent perform two field sobriety tests, which Respondent failed. The officer then obtained Respondent's consent to conduct breath tests for blood alcohol concentration ("BAC"). The tests showed that Respondent had a BAC of 0.223 percent. Thereafter, Respondent was arrested for DUI and having a BAC greater than 0.08 percent.

Case No. 14-C-02707 (Conviction Proceeding)

FACTS RE: PROCEDURAL BACKGROUND:

11. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

12. On October 7, 2008, in OCSC case number 08WF2129, Respondent was charged with a felony violation of *Penal Code* section 459-460(a) [First Degree Residential Burglary].

13. On March 18, 2009, Respondent pled guilty to a misdemeanor violation of *Penal Code* section 602.5(b) [Aggravated Trespass] and was sentenced to three years informal probation, \$220 in fines, \$1,500 in restitution, and completion of a Doctor Sober program. Respondent was also ordered to pay \$2,300.93 for the preparation of a "Pre-Plea" report.

14. On December 16, 2010, Respondent was found in violation of his probation conditions imposed as part of the sentence for this conviction.

15. On June 26, 2014, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event the Hearing Department finds that the facts and circumstances surrounding the offenses for which Respondent was convicted (in these consolidated matters) involved moral turpitude or other conduct warranting discipline.

FACTS AND CIRCUMSTANCES SURROUNDING RESPONDENT'S CONVICTION:

16. On Sunday, October 5, 2008, at approximately 1:30 a.m., Respondent entered the apartment of Joseph Pratt ("Pratt") using a key. Pratt, who was 53 years old at the time, lived alone in his apartment. Pratt, awoken by noise emanating from his kitchen, left his bedroom, walked down the hallway next to the kitchen and then observed Respondent (a complete stranger to Pratt) in his kitchen, eating salami, which Respondent had taken out of Pratt's refrigerator. Pratt called out to Respondent, "Who's there?" Respondent did not respond, but immediately left Pratt's residence. Pratt did not attempt to detain Respondent but instead called the police.

17. The police arrived at Pratt's apartment complex and observed Respondent, who matched the description given by Pratt, standing in the shadows of some trees near the apartment complex. The officer shined his vehicle's spotlight on Respondent and exited the patrol car. Respondent then turned away from the officer and began to quickly walk back towards the apartment complex. The officer ordered Respondent to stop or else a Taser would be used on Respondent. Respondent stopped and turned around.

18. While speaking to Respondent, the officer could smell a strong odor of an alcoholic beverage coming from his breath and person. Respondent provided several evasive answers for why he was in the area.

19. Then, Pratt was brought outside by another officer to look at Respondent. Pratt then identified Respondent as the person he found in his residence earlier that morning.

20. The officer continued to question Respondent and asked why he was in the Pratt residence. Respondent denied being in the Pratt residence and would not say why he was in the area or where he was coming from.

21. During this questioning, the officer searched Respondent's pockets and found multiple sets of keys and several receipts for alcohol from Los Alamitos Liquor which is located across the alley from Pratt's apartment complex. The receipts indicated that Respondent had made purchases from Los Alamitos Liquor as recently as two hours prior to being detained by the police.

22. The officer then attempted to determine how Respondent gained access to Pratt's apartment by interviewing the victim. Pratt stated that he always locks his door and knows his door was locked when he went to bed that night. The officer inspected the door and door jamb, but there was no evidence of forced entry. Then, the officer tried the one key found in Respondent's pocket and it unlocked the deadbolt of Pratt's front door with ease. The key had no evidence of filing or grinding and worked as if that key was made for that particular lock. The officer tried several other keys that were found in Respondent's pockets to determine if there was a malfunction in Pratt's door lock, but none of the other keys fit or worked in the lock. Pratt indicated all of his keys were accounted for, that he does not have a spare, and none of his keys were missing.

23. Then, the officer returned to Respondent and showed him the key that was earlier found in Respondent's pockets that seemed to be the actual key for Pratt's door lock.³ The officer asked Respondent why he had that key and Respondent said, "It's the key to my office in Seal Beach." Later that same evening, the officer drove to Respondent's office to determine if the key found in Respondent's pockets that opened Pratt's door lock in fact also was the key to Respondent's office. The key did not fit any of the doors at Respondent's office. Further, the key that did open Respondent's office was a completely different looking key.

24. Based on the evidence and statements collected at the scene, Respondent was placed under arrest for a violation of *Penal Code* section 459, Burglary.

25. Subsequent to Respondent being arrested and charged, and prior to Respondent pleading guilty and being convicted, the Orange County Probation Department prepared a "Pre-Plea" report. The "Pre-Plea" report included a statement from the victim, who stated that he was bothered for approximately two weeks following the incident and has not slept well since, adding, "It can be scary when someone enters your house at night with a key that fits my locks."

Case No. 14-C-02708 (Conviction Proceeding)

FACTS RE: PROCEDURAL BACKGROUND:

26. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

27. On November 21, 2013, in OCSC case number 13HM09795, Respondent was charged with misdemeanor violations of *Vehicle Code* sections 23152(a) [Driving under the influence of alcohol or drugs] and 23152(b) [Driving while BAC is .08% or more] with a prior DUI conviction. Then, on November 19, 2014, the criminal complaint was amended to add Count 3, a misdemeanor violation of *Vehicle Code* section 20002(a) [Hit and Run with Property Damage].

28. On March 21, 2014, Respondent pled guilty to misdemeanor violations of *Vehicle Code* sections 23152(a), 23152(b) and 20002(a). Respondent was sentenced to five years informal probation,

³ On October 6, 2008, a police officer returned to Pratt's apartment complex with the key found in Respondent's pocket that worked in Pratt's door. The officer attempted to ascertain if the key was a master key for the apartment complex by trying the key in the door locks of other apartments located in Pratt's apartment complex. The key fit each door, however the key did not unlock any of them. The officer concluded that the key found in Respondent's pocket was specifically keyed for Pratt's door lock.

30 days of jail, \$390 in fines and restitution, 18 months in a multiple offender Alcohol program, and MADD victim's impact panel.

29. On June 12, 2014, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event the Hearing Department finds that the facts and circumstances surrounding the offenses for which Respondent was convicted (in these consolidated matters) involved moral turpitude or other conduct warranting discipline.

FACTS AND CIRCUMSTANCES SURROUNDING RESPONDENT'S CONVICTION:

30. On Tuesday, November 19, 2013, at approximately 5:20 p.m., Respondent was driving, accelerated through a red light, attempted to make a left turn into oncoming traffic, and struck a vehicle driven by 52 year-old woman who was passing through the intersection under a solid green light.

31. The impact of the collision was strong enough to cause airbags to deploy in both Respondent's vehicle and in the victim's vehicle. The victim was pulled from her wrecked vehicle through the passenger door and brought to safety. She complained of back pain and chest-wall tenderness and was treated at the scene by paramedics.

32. Immediately after the collision, Respondent exited his vehicle and said something unintelligible to the victim. After unsuccessfully trying to restart his vehicle, Respondent began to walk toward the corner of the intersection. The victim and witnesses noticed Respondent was barefoot and walking northwest, but they assumed he was getting clear of the intersection. Then, according to one of the witnesses, Respondent began to quicken his pace almost to a jog, continuing away from the intersection until he moved entirely out of sight.

33. When the Irvine police officer arrived at the scene of the collision a short time later, Respondent was no longer present. The officer spoke with the victim and witnesses who all said that Respondent fled the scene and gave a description of Respondent. The officer conducted a search of Respondent's vehicle before impounding it. During the search, the officer also noted that the front seats were wet and smelled of alcohol as if someone had spilled an alcoholic beverage on them. The officer also found a maintenance receipt with Respondent's name and address.

34. Two other officers then went to the address discovered by the officer at the scene. Upon arrival, the officers were greeted by a male who identified himself as Respondent's roommate. After the officers explained that Respondent had been involved in a serious traffic collision, the roommate stated that Respondent was at home but that the officers still could not come inside because Respondent did not want to be "arrested for his third DUI." The officers eventually entered the residence to perform a "welfare check" on Respondent. The officers found Respondent and he appeared to be swaying and having a difficult time keeping his balance. Respondent had multiple apparent injuries and fresh blood marks on his clothing. Further, Respondent's appearance and clothing matched the description of the driver who fled from the scene of the traffic collision. The officers also noted that Respondent displayed objective symptoms of intoxication. Shortly thereafter, a paramedic arrived and began treating Respondent. The officers heard Respondent telling the treating paramedic that he had been driving and was involved in a traffic accident.

35. Respondent was transported to a hospital for further evaluation and treatment. At the emergency room, the officer heard Respondent tell the treating doctor that he had been driving and was involved in a traffic collision.

36. After Respondent had been treated by the ER doctor, the officer explained to Respondent that a DUI investigation was underway due to the fact that Respondent was seen fleeing the scene of a traffic collision coupled with the presence of objective symptoms of his intoxication. The officer asked Respondent if he was driving the vehicle involved in the traffic collision and Respondent at first said, "Yes," but then changed to say, "No" and that his roommate was driving. The officer also asked Respondent what he had been drinking and Respondent said, "Nothing, diet coke."

37. The officer subsequently placed Respondent under arrest for DUI and asked him to submit to a test of his blood or his breath. Respondent agreed to a blood test and it was later confirmed that his BAC was 0.32 percent.

B. CONCLUSION OF LAW:

38. The facts and circumstances surrounding the offenses for which Respondent was convicted in consolidated case numbers 14-C-02707, 14-C-02708, and 14-C-02710 involved moral turpitude.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): In this matter, Respondent was convicted in three consolidated matters. Also in two of the convictions, Respondent pled guilty to multiple criminal violations.

Harm (Std. 1.5(f)): In the current matter, Respondent's misconduct caused significant harm to the public and the administration of justice. Specifically, Respondent repeated dishonesty to the arresting officers in each conviction case was inconsistent with his duties as an officer of the court. Further, Respondent's legal knowledge, training and experience should have alerted him to the importance of being truthful and non-evasive to the police.

Indifference (Std. 1.5(g)): Respondent's indifference is demonstrated by his continued insistence that he was not drunk or was not at fault for property damage created in the wake of his alcohol-related criminal conduct. Respondent's indifference thus is evidence that he is unable or unwilling to fulfill his ethical duties, exhibits a disturbing lack of insight into the misconduct as well as posing a serious risk that he will repeat his misdeeds. (*In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380; See also *Weber v. State Bar* (1988) 47 Cal.3d 492, 506 [an attorney's failure to acknowledge the wrongfulness of his or her acts is an aggravating factor]; *In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 [the law does not require false penitence, but it does require that the respondent accept responsibility for his acts and come to grips with his culpability; *Morse v. State Bar* (1995) 11 Cal.4th 184, 209 [although an attorney accused of misconduct has the right to vigorously defend himself, when the attorney's conduct reflects a seeming unwillingness even to consider the appropriateness of his statutory interpretation or to acknowledge at some point that his position was meritless or even wrong to some extent, the attorney has move beyond tenacity to truculence; *Blair v. State Bar* (1989) 49 Cal.3d 762, 781-782 ["His assertion no discipline should be imposed shows that he does not recognize his problems and that he may not correct them].)

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to practice on December 17, 1987. Respondent had practiced law for over 20 years without a prior record of discipline when the earliest misconduct herein occurred. Although the misconduct in this matter is serious, involving criminal conduct, property damage and physical injuries to himself and others, the significant period of time without discipline is entitled to some limited mitigation. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn.13.; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Pretrial Stipulation: Respondent entered into a stipulation of facts, conclusions of law and disposition prior to trial, thereby preserving State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating 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).)

As discussed above, Respondent was convicted of aggravated trespass and two DUI’s, one of which included a conviction for a “hit and run” with property damage. Respondent also has a criminal history that includes two prior DUI convictions that, while not part of the misconduct in the present matters, are instructive on Respondent’s knowledge concerning the inherent danger involved in his decision to drink and drive as well as his decision to not continue in a treatment program that would have substantially reduced the risk that he would re-offend.

In connection with each of the above-discussed convictions, Respondent was sentenced to lengthy periods of criminal probation which included the requirement to attend various programs aimed at curbing his alcohol abuse and educating Respondent on the dangers posed by drunk driving. nevertheless, as noted above, on at least one occasion, Respondent has still willfully violated the terms of his criminal probation. Consequently, Respondent's criminal misconduct, when viewed in its entirety, demonstrates a disregard for the law and the safety of the public that amounts to moral turpitude.

In *In re Alkow* (1966) 64 Cal.2d 838, an attorney was convicted of vehicular manslaughter after running down a pedestrian. Prior to the accident, the attorney had been denied renewal of his driver's license because of his impaired vision, and in the little more than three years from his license expiration was convicted of more than 20 traffic violations. At the time of the accident, the attorney was on probation for three separate incidents, all three finding that he drove without a license and in two cases failed to observe a right of way or a stop sign. The Supreme Court determined that the attorney showed "a complete disregard for the conditions of his probation, the law and the safety of the public..." and concluded, that under its applicable definitions, the attorney's criminal conduct involved moral turpitude. (*In re Alkow, supra*, 64 Cal.2d at p. 841.)

In the present consolidated matters, Respondent has been convicted of alcohol-related criminal offenses twice in 2008 and once in 2013. Despite Respondent's lengthy history of criminal misconduct, and the justice system's repeated efforts to educate Respondent as to the dangers inherent in his criminal behavior, Respondent has continued to reoffend. Respondent's criminal misconduct therefore evinces a disregard for the conditions of his probation and the safety of the public that is akin to the attorney's misconduct in *Alkow*. Under the Supreme Court's applicable definition, the facts and circumstances surrounding Respondent's convictions in these consolidated matters involved moral turpitude.

Further, in the present consolidated matters, Respondent's convictions all included statements to the police at the time of his arrest (or subsequent to his arrest) that were false or later determined to be false. For instance, Respondent denied to the officer that he owned a vehicle or that he was intoxicated or even that he had consumed alcohol when such statements were false. Thus, Respondent's dishonest conduct further supports the above-stated conclusion that the facts and circumstances surrounding Respondent's convictions in these consolidated matters involved moral turpitude.

In this matter, Standard 2.11(c) is the most severe applicable standard based on Respondent's various misdemeanor convictions. Standard 2.11(c) provides that "[d]isbarment or actual suspension is appropriate for final conviction of a misdemeanor involving moral turpitude."

Respondent's misconduct in these consolidated matters is aggravated by the fact that he has committed multiple acts of misconduct. (See, e.g., *In re Carr* (1988) 46 Cal.3d 1089 [six months' actual suspension levied on attorney with prior disciplinary record for two convictions of drunk driving].) In addition, as the above recitation of facts demonstrates, in case nos. 14-C-02710 and 14-C-02707 Respondent's criminal conduct in both matters occurred over the span of only a few days (i.e., between October 2, 2008 and October 5, 2008.) Further, as discussed above, Respondent's misconduct herein is further aggravated by the harm caused to the public, including one third party who physically injured in her collision with Respondent as well as by Respondent's indifference.

On the other hand, Respondent's misconduct is mitigated by the fact that he had practiced law for over 20 years without a prior record of discipline when the earliest misconduct herein occurred.

Respondent's misconduct is further mitigated by entering in this stipulation prior to trial, thereby preserving State Bar Court time and resources.

Decisional law is consistent in condemning the multiple acts of misconduct like those perpetrated by Respondent in these consolidated matters. (See, e.g., *In re Carr, supra*, 46 Cal.3d 1089 [six months' actual suspension levied on attorney with prior disciplinary record for two convictions of drunk driving].)

In consideration of the foregoing, the appropriate level of discipline under Standard 2.11(c) that best serves the protection of the public, the courts and the profession, as well as the maintenance of high professional standards for attorneys and the preservation of public confidence in the legal profession is a two year suspension, stayed, four years' probation on standard terms and conditions including compliance with his the terms and conditions of his criminal probation, a six month actual suspension, a substance abuse condition including attendance at Alcoholics Anonymous or a similar program four times per month, an evaluation of Respondent (after completion of the six month out-patient program required pursuant to Respondent's criminal probation) for a report to specify Respondent's treatment schedule for the remainder of Respondent's State Bar probation as well as compliance with rule 9.20, California Rules of Court.

COSTS OF DISCIPLINARY PROCEEDINGS.

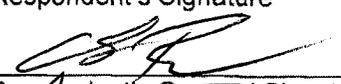
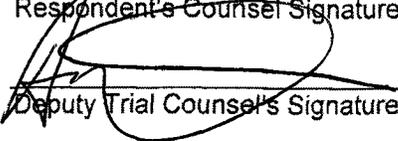
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 15, 2014, the prosecution costs in these consolidated matters are \$7,341.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be 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: FRANK EDWARD GOSECO	Case number(s): 14-C-02707; 14-C-02708; 14-C-02710 (Cons.)
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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>10/16/14</u> Date	 Respondent's Signature	<u>Frank Edward Goseco</u> Print Name
<u>10/16/14</u> Date	 Respondent's Counsel Signature	<u>Chris Charles Barsness</u> Print Name
<u>10/20/14</u> Date	 Deputy Trial Counsel's Signature	<u>Ashod Mooradian</u> Print Name

(Do not write above this line.)

In the Matter of:
FRANK EDWARD GOSECO

Case Number(s):
14-C-02707; 14-C-02708; 14-C-02710 (Cons.)

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.)**

NOVEMBER 6, 2014
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 Los Angeles, on November 12, 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:

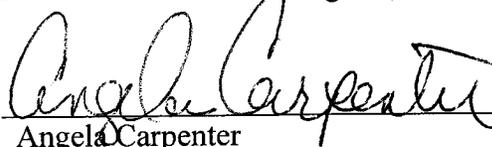
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

CHRISTOPHER C. BARSNESS
BARTH CALDERON, LLP
333 CITY BLVD WEST
STE 2050
ORANGE, CA 92868

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

ASHOD MOORADIAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 12, 2014.



Angela Carpenter
Case Administrator
State Bar Court