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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		kwiktag [®] 183 823 700 
Counsel For The State Bar Shane C. Morrison 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1000 Bar # 284115	Case Number(s): 14-H-05972-LMA	For Court use only <div style="text-align: center;"> PUBLIC MATTER FILED  JUN - 4 2015 </div> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Richard D. Huffman II 2658 Del Mar Heights Rd Ste 220 Del Mar, CA 92014 (858) 812-5880 Bar # 157740	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: RICHARD D. HUFFMAN II Bar # 157740 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **March 6, 1992**.
- (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 **15** 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".

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- (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 in this matter.** (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 **12-O-17048 (See Attachment to Stipulation at p. 11.)**
 - (b) ☒ Date prior discipline effective **November 14, 2013**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code section 6068(m); Rules of Professional Conduct, rule 3-700(D)(1)**
 - (d) ☒ Degree of prior discipline **Public Reprimand**
 - (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.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

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- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment to Stipulation at p. 11.**
- (8) ☐ **Restitution:** Respondent failed to make restitution.
- (9) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pretrial Stipulation (See Attachment to Stipulation at p. 11.)

Good Character (See Attachment to Stipulation at p. 11.)

Pro Bono Work and Community Service (See Attachment to Stipulation at p. 11.)

Medical Difficulties (See Attachment to Stipulation at p. 12.)

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law 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:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **one year**, 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 **30 days**.

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.

(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

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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: **Respondent completed State Bar Ethics School on May 1, 2014 in connection with State Bar case number 12-O-17048.**

- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:
- | | |
|--|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" 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.**

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☐ 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:
RICHARD D. HUFFMAN II

Case Number(s):
14-H-05972-LMA

Medical Conditions

- a. ☐ Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. ☐ Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of _____ times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for _____ days or _____ months or _____ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. ☒ 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 must obtain psychiatric or psychological treatment from a duly licensed psychiatrist or psychologist ("mental health practitioner") at respondent's own expense. The mental health practitioner will determine the course of treatment including how many times per month respondent is to obtain treatment. Respondent must comply with the treatment recommended by the mental health practitioner and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence and/or continue immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue as required by the mental health practitioner for the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

Within 45 days of signing this stipulation, respondent shall provide a complete copy of this stipulation to the mental health practitioner. Within 30 days of the effective date of the discipline in this matter, respondent shall provide to the Office of Probation an original, signed declaration from the mental health practitioner acknowledging receipt of a complete copy of this stipulation.

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Within 45 days of signing this stipulation, respondent shall execute all necessary waivers of confidentiality with the mental health practitioner, as well as any other treatment providers.

Within 30 days of the effective date of the discipline in this matter, respondent shall provide to the Office of Probation a copy of the waiver provided to the mental health practitioner, as well as all other treatment providers. Also within 30 days of the effective date of the discipline in this matter, respondent shall provide to the Office of Probation an original, signed declaration from the mental health practitioner, as well as all other treatment providers, acknowledging receipt of the waiver.

Within 30 days of the effective date of the discipline in this matter, respondent is to undergo an Evaluation with the mental health practitioner. The Evaluation will be for the purposes of (a) determining whether respondent has a current psychological diagnosis, (b) setting treatment conditions respondent is to undertake as a result of the Evaluation, if any, and (c) obtaining a written report from the mental health practitioner. Respondent shall bear all costs of the Evaluation, the resulting report, and any treatment conditions recommended by the psychiatrist. Respondent understands that his treatment conditions may change if the mental health practitioner deems 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.

Within 60 days of the effective date of the discipline in this matter, respondent is to provide a copy of the mental health practitioner's written report to the Office of Probation. If the mental health practitioner requires additional information in order to propose treatment conditions, including, but not limited to, interviewing third parties, respondent will make good faith efforts to timely provide the additional information. Respondent will provide proof of such good faith efforts to the Office of Probation within 10 days of any request.

Within 10 days of any change in treatment condition, respondent is to provide 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 the mental health practitioner acknowledging receipt of the written notice and agreement with its accuracy.

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.

Respondent shall have his mental health practitioner submit to the Office of Probation an original, signed declaration that respondent is in compliance with the treatment of 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.

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.

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 30 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 30 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.

If the treating mental health practitioner determines that there has been a substantial change in respondent's condition, respondent or the Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the mental health practitioner by affidavit or penalty of perjury, in support of the proposed modification.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: RICHARD D. HUFFMAN II

CASE NUMBER: 14-H-05972-LMA

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 14-H-05972 (State Bar Investigation)

FACTS:

1. On October 23, 2013, respondent entered into a stipulation for a public reproof with conditions in State Bar Case Number 12-O-17048.
2. On October 24, 2013, the State Bar Court filed a Reproval Order approving the stipulation and imposing the public reproof with conditions. The Reproval Order was properly served on respondent at his membership records address and he received it.
3. On October 29, 2013, the Office of Probation mailed a letter to respondent outlining all of the conditions attached to the public reproof, as well as reminding respondent of the various deadlines associated with those conditions. The letter was mailed to respondent's membership records address and respondent received the letter.
4. The reproof and conditions became effective November 14, 2013.
5. The reproof conditions included, among other things, the following:
 - a. Contacting the Office of Probation within 30 days of the effective date of the reproof to schedule an initial meeting with respondent's assigned probation deputy;
 - b. Submitting written quarterly reports on each January 10, April 10, July 10, and October 10 of the condition period attesting to respondent's compliance with the State Bar Act, the Rules of Professional Conduct, and all conditions attached to the reproof;
 - c. Submitting a written final report containing the same information as the quarterly reports no earlier than 20 days before the last day of the condition period and no later than the last day of the condition period;
 - d. Providing proof of attendance at a session of State Bar Ethics School, and passage of the test given at the end of that session, within one year of the effective date of the reproof; and
 - e. Providing proof of passage of the Multistate Professional Responsibility Examination within one year of the effective date of the reproof.

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6. Respondent failed to timely contact the Office of Probation within 30 days of the effective date of the reprobation (by December 14, 2013) to schedule an initial meeting with respondent's assigned probation deputy.

7. On December 19, 2013, respondent contacted the Office of Probation and scheduled an initial meeting with his assigned probation deputy.

8. Respondent failed to timely submit to the Office of Probation the quarterly report that was due on January 10, 2014.

9. On January 31, 2014, respondent filed with the Office of Probation the quarterly report that was due on January 10, 2014.

10. Respondent failed to timely submit to the Office of Probation the quarterly report that was due on April 10, 2014.

11. On April 28, 2014, respondent filed with the Office of Probation the quarterly report that was due on April 10, 2014.

12. On May 1, 2014, respondent attended a session of State Bar Ethics School and passed the test given at the end of that session.

13. Respondent failed to timely submit to the Office of Probation the quarterly reports that were due on July 10, 2014 and October 10, 2014.

14. Respondent failed to timely submit to the Office of Probation the final report that was due no later than the last day of the condition period (by November 14, 2014).

15. Respondent failed to timely provide to the Office of Probation proof of attendance at a session of State Bar Ethics School, and passage of the test given at the end of that session, within one year of the effective date of the reprobation (by November 14, 2014).

16. Respondent failed to provide to the Office of Probation proof of passage of the Multistate Professional Responsibility Examination within one year of the effective date of the reprobation (by November 14, 2014).

17. On May 6, 2015, respondent registered for the next available administration of the Multistate Professional Responsibility Examination (August 15, 2015).

18. On May 12, 2015, respondent filed with the Office of Probation: the quarterly report that was due on July 10, 2014; the quarterly report that was due on October 10, 2014; the final report that was due by November 14, 2014; and proof of attendance at the May 1, 2014 session of State Bar Ethics School and passage of the test given at the end of that session.

CONCLUSIONS OF LAW:

1. By failing to timely contact the Office of Probation within 30 days from the effective date of discipline; failing to timely submit to the Office of Probation the quarterly reports that were due on January 10, 2014, April 10, 2014, July 10, 2014, and October 10, 2014; failing to timely submit to the Office of Probation the final report that was due by November 14, 2014; failing to timely provide to the Office of Probation proof of attendance at a session of State Bar Ethics School, and completion of the

test given at the end of that session, by November 14, 2014; and failing to provide to the Office of Probation proof of passage of the Multistate Professional Responsibility Examination by November 14, 2014, respondent failed to comply with the conditions attached to the public reproof administered to respondent by the State Bar in case number 12-O-17048, in willful violation of rule 1-110 of the Rules of Professional Conduct.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has one prior imposition of discipline. In connection with State Bar Court Case Number 12-O-17048, respondent was publicly reproofed with conditions for a period of one year, effective November 14, 2013, pursuant to a stipulation in which respondent acknowledged that in one client matter he: failed to inform the client of significant developments in the matter [Business and Professions Code section 6068(m)]; and failed to release promptly to the client, upon termination of the employment, all the client papers and property [Rules of Professional Conduct, rule 3-700(D)(1)]. The misconduct occurred between December 2011 and July 2013. The prior misconduct was mitigated by respondent's lack of prior discipline, the absence of harm to respondent's client, respondent's personal/familial problems, and respondent's candor and cooperation in entering into a stipulation prior to trial. The prior misconduct did not involve aggravating circumstances.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent violated eight conditions attached to the public reproof administered to respondent by the State Bar in case number 12-O-17048.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: While the facts of this matter are easily provable, respondent has cooperated with the State Bar by entering into this pretrial stipulation as to facts, conclusions of law, and disposition, thereby obviating the need for a trial and saving State Bar resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [mitigative credit given for entering into a stipulation as to facts and culpability].)

Good Character: Six individuals provided affidavits attesting to various aspects of respondent's good character. The affiants include, but are not limited to, one former opposing counsel, two former clients, a retired judge, and a medical professional. All of the affiants are aware of respondent's misconduct, and they endorse respondent's good character nonetheless. The quality and quantity of respondent's character evidence warrants mitigation. (See *In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330, 335-337.)

Pro Bono Work and Community Service: Pro bono work and community service may mitigate an attorney's misconduct. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785.) In addition to attesting to respondent's good character, the above-discussed affidavits also detail respondent's pro bono work and community service. Respondent has provided pro bono legal services to several of the respective affiants in criminal and personal matters. Respondent has performed extensive charitable legal work for underserved communities, including veterans, the blind, and individuals with substance abuse problems. Respondent's pro bono work and community service constitute compelling mitigation. (*Rose v. State Bar* (1989) 49 Cal.3d 646, 667 [mitigation for demonstrated legal abilities and zeal in undertaking pro bono work].)

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Medical Difficulties: Expert testimony would establish that, in or around April 2014, respondent started developing symptoms of various medical conditions, including depression, and as a result experienced issues of inability to concentrate and focus, which affected his attentiveness to appointments, office responsibilities, and personal affairs. Expert testimony would further establish that respondent has sought treatment for his medical difficulties, which have recently begun to stabilize, and that continued treatment would be of benefit to respondent in continuing to control his conditions. (*In re Naney* (1990) 51 Cal.3d 186, 197 [the California Supreme Court held that a psychological disorder which has caused or contributed to misconduct is mitigating if the attorney shows that he has so overcome or controlled the disorder that it is unlikely to cause further misconduct].)

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).)

Standard 1.8(a) provides that if a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust. Here, respondent has a single prior imposition of discipline consisting of a public reproof, which resulted from misconduct that occurred during the time period of December 2011 to July 2013. As respondent’s previous misconduct was not remote in time, imposing greater discipline in the present matter would not be manifestly unjust.

Standard 2.10 provides that actual suspension is appropriate for a failure to comply with a condition of discipline. (Rules of Professional Conduct, rule 1-110.) The degree of sanction depends on the nature of the condition violated and the member’s unwillingness or inability to comply with disciplinary orders. While respondent did violate numerous conditions attached to his reproof, his conduct does not reflect

an unwillingness or inability to conform to his ethical responsibilities. Respondent belatedly submitted all outstanding reports, provided proof of completion of Ethics School, and registered for the next available Multistate Professional Responsibility Examination. Belated compliance with a condition attached to discipline may be considered as a mitigating factor in determining discipline. (See *In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, 652.) Respondent's belated compliance with his reproof conditions, and his cooperation in these proceedings, demonstrate that he is not unwilling or unable to conform to his ethical obligations. As such, discipline at the low end of the range provided for under Standard 2.10 is appropriate.

The only recently-reported Review Department opinion applying Standard 2.10 in the context of an attorney's failure to comply with conditions attached to a reproof is *In the Matter of Carver* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. _____, 2014 WL 5796766. In *Carver*, the attorney failed to comply with various conditions attached to a public reproof. The Review Department recommended the attorney in *Carver* be actually suspended for a period of 90 days.

However, *Carver* is clearly distinguishable from the present matter for multiple reasons. First, there were no mitigating circumstances involved in *Carver*, whereas there are numerous mitigating circumstances involved in the present matter. Second, there were a number of significant aggravating factors involved in *Carver* that are not involved in the present matter. Namely, the attorney in *Carver* defaulted at the trial level due to his failure to participate in the disciplinary proceedings, acted with dishonesty in his efforts to set aside his default, and demonstrated an inability to understand his ethical obligations.

The only reported Supreme Court case applying former standard 2.9 (now Standard 2.10), or otherwise dealing with an attorney's failure to comply with conditions attached to a reproof, is *Conroy v. State Bar* (1990) 51 Cal.3d 799. The attorney in *Conroy* was privately reproofed for committing three unrelated acts of misconduct. A condition attached to his reproof required him to take and pass the Professional Responsibility Examination (PRE) within one year after his reproof. The attorney failed to do so, but he did take and pass the PRE at the next available opportunity.

In *Conroy*, there was one mitigating circumstance and three aggravating circumstances. The sole mitigating circumstance was the attorney's belated passage of the PRE. The first aggravating circumstance was the attorney's prior record of discipline, which was the private reproof from which the requirement to take and pass the PRE arose. The second was the attorney's failure to participate in the underlying State Bar Court proceeding, where he defaulted. The third was attorney's lack of remorse and failure to acknowledge the wrongfulness of his actions. The Supreme Court imposed a one-year stayed suspension on the attorney and placed him on probation for one year subject to conditions, including a 60-day period of actual suspension.

Conroy is similar to the present matter in that both respondent and the attorney in *Conroy* failed to timely comply with one or more conditions attached to a reproof. Additionally, the attorney in *Conroy* belatedly completed all of his reproof conditions and respondent belatedly completed all outstanding reproof conditions, except for the MPRE, which he registered to take at the next available opportunity after his medical condition began to stabilize. Both attorneys also had one prior imposition of discipline. However, the present case is more distinguishable from *Conroy* than it is similar. First, respondent has diligently participated in this proceeding, including entering into this pretrial stipulation, whereas the attorney in *Conroy* failed to participate in any fashion. Second, respondent's misconduct is mitigated by his good character, his pro bono work, and by his medical difficulties, while none of those additional mitigating factors were present in *Conroy*. Although respondent's misconduct involved failure to

comply with multiple conditions attached to his reproof, as opposed to the single condition violated in *Conroy*, on balance respondent's misconduct is significantly more mitigated.

As discussed above, the present misconduct is more mitigated than the misconduct involved in the relevant case law, and therefore warrants a lower level of discipline than was imposed in those cases. Also as discussed above, discipline at the low end of the range provided for under Standard 2.10 is appropriate. As such, a period of actual suspension of 30 days, which is a greater level of discipline than that which was imposed on respondent in his previous record of discipline (std.1.8(a)), should be imposed.

In light of the foregoing, discipline consisting of one year of stayed suspension and one year of probation with conditions including 30 days of actual suspension will best serve the goals of protecting the public, the courts, and the legal profession; maintaining high professional standards for attorneys; and preserving 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 May 15, 2015, the prosecution costs in this matter are \$7,431. 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:
RICHARD D. HUFFMAN II

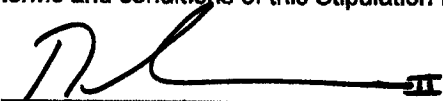
Case number(s):
14-H-05972-LMA

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.

05/18/2015

Date


Respondent's Signature

Richard D. Huffman II
Print Name

Date

Respondent's Counsel Signature

Print Name

5/18/15

Date


Deputy Trial Counsel's Signature

Shane C. Morrison
Print Name

(Do not write above this line.)

In the Matter of:
RICHARD D. HUFFMAN II

Case Number(s):
14-H-05972-LMA

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.

1. In the caption on page 1 of the Stipulation, "Assigned Judge" is deleted, and in its place is inserted "Settlement Judge".
2. On page 4 of the Stipulation, delete the "X" in the box at paragraph E.(1).
3. On page 8 of the Stipulation, 10th paragraph at the bottom of the page, line 2, "Office of the Chief Trial Counsel" is deleted, and in its place is inserted "Office of Probation".

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 June 2, 2015

Rebecca Meyer Rosenberg
REBECCA MEYER ROSENBERG, 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 June 4, 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:

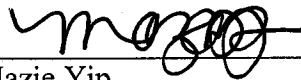
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

RICHARD D. HUFFMAN II
LAW OFFICES OF RICHARD D HUFFMAN, II
2658 DEL MAR HEIGHTS RD, STE 220
DEL MAR, CA 92014

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

SHANE C. MORRISON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 4, 2015.



Mazie Yip
Case Administrator
State Bar Court