State Bar Court of California **Hearing Department** San Francisco **ACTUAL SUSPENSION** Counsel For The State Bar Case Number(s): For Court use only BLIC MATTER Esther J. Rogers Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2258 FILE Bar # 148246 JUL 15 2014 In Pro Per Respondent **Christopher Alexander Leuterio** STATE BAR COURT CLERK'S OFFICE 1895 Pacific Avenue, Apt 101 SAN FRANCISCO San Francisco, CA 94109 (415) 203-1208 Submitted to: Settlement Judge Bar # 241993 STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING In the Matter of: **CHRISTOPHER ALEXANDER LEUTERIO ACTUAL SUSPENSION** Bar # 241993 ☐ PREVIOUS STIPULATION REJECTED 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.

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A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted April 7, 2006.
- (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 11 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective January 1, 2014)
Actual Suspension

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(6)		parties must include supporting authority for the recommended level of discipline under the heading porting Authority."			
(7)	No	more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any noting 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):			
		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: 2015, 2016 and 2017. (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".			
N	/lisc	avating Circumstances [Standards for Attorney Sanctions for Professional onduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are ired.			
(1)	(a)	Prior record of discipline 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.			
(5)		Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. See Attachment to Stipulation at page 8.			
(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)	\boxtimes	Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment to Stipulation at page 8.				
(8)		Restitution: Respondent failed to make restitution.				
(9)		No aggravating circumstances are involved.				
Add	ition	al aggravating circumstances:				
		ating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating imstances 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:

	See Attachment to Stipulation at page 8.				
D. Discipline:					
(1)	\boxtimes	⊠ Stayed Suspension:			
	(a)	\boxtimes	Res	pondent must be suspended from the practice of law for a period of two years.	
		i.		and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.	
		II.		and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.	
		iii.		and until Respondent does the following:	
	(b)	\boxtimes	The	above-referenced suspension is stayed.	
(2)	\boxtimes	Prot	ation	:	
Respondent must be placed on probation for a period of two years , which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)					
(3)	\boxtimes	Actu	ıal Su	spension:	
	(a)	\boxtimes	Resp of six	condent must be actually suspended from the practice of law in the State of California for a period conths .	
		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. A	ddit	iona	l Coi	nditions 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)	Ø	During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.			
(3)		Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.			

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(4)	Ø	and cond	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					
(5)		Resp July whet cond are a curre	promptly meet with the probation deputy as directed and upon request. 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.					
					ining the same information, is due no earlier than robation and no later than the last day of probation.			
(6)		cond Durir in ad	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	n:	•			
(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:			rporated:			
			Substance Abuse Conditions		Law Office Management Conditions			
			Medical Conditions		Financial Conditions			
F. C	the	r Cor	nditions Negotiated by the Parties	3 :				
(1) 🔯		the Cor one furt	Multistate Professional Responsibility Examination: Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.					
			☐ No MPRE recommended. Reason:					

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(Do n	ot write	above this line.)
(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:

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

CHRISTOPHER ALEXANDER LEUTERIO

CASE NUMBER:

14-0-00190

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 14-O-00190 (Complainant: C. Edward Schrader)

FACTS:

- 1. Respondent represented Narinder Sangha in litigation against Edward Schrader ("Schrader.") One case was pending in superior court (Schrader v. Sangha, San Francisco Superior Court, Case No. CGC-09-493364 ("superior court case")) and the other case was pending on appeal (Sangha v. Schrader (California Court of Appeal, First Appellate District, Case No. A126275 ("appellate court case."))
- 2. On November 17, 2009, respondent prepared and filed a General Denial in the superior court case and attached a fabricated proof of service indicating that Gail Goldman, his mother-in-law, served the General Denial. In truth, respondent prepared and signed the proof of service, falsely indicating that Goldman had served the document.
- 3. On January 15, 2010, respondent filed a Substitution of Counsel ("Substitution") and an Application for Extension of Time to File Brief ("Application") in the appellate court case. Respondent attached fabricated proofs of service indicating that Goldman served the documents. In truth, respondent prepared and signed the proofs of service, falsely indicating that Goldman had served the documents.
- 4. On January 22, 2010, Schrader filed a Motion to Strike the January 15, 2010 Application on the basis that although respondent provided the court with a proof of service, respondent never served Schrader with the Application.
- 5. On February, 27, 2010, respondent filed a Response to Schrader's Motion to Strike ("Response".) In support of his Response, respondent falsely declared under penalty of perjury that he was "informed and believed that" Goldman filed and served the Application and Substitution. In truth, respondent knew that he had filed and served the Application and Substitution.
- 6. In support of his February 27, 2010 Response, respondent also submitted a fabricated declaration, purportedly executed by Goldman, in which Goldman swore that she completed the proofs of service on respondent's behalf and signed, served and mailed the General Denial, Substitution and Application. In truth, it was respondent who fabricated and executed Goldman's declaration without Goldman's knowledge or permission.

- 7. On February 27, 2010, respondent attached a proof of service to his Response, indicating that Goldman served the Response. In truth, respondent prepared and signed the proof of service, falsely indicating that Goldman had served the document.
- 8. Respondent also failed to respond to State Bar investigator letters of October 17, 2013, October 28, 2013, February 14, 2014 and March 4, 2014, requesting that respondent respond in writing to the allegations Schrader raised in his complaint.

CONCLUSIONS OF LAW:

- 9. By attaching false proofs of service to the documents Respondent served on November 17, 2009, January 15, 2010 and February 27, 2010, by fabricating Goldman's declaration and by including misrepresentations in his February 27, 2010 declaration, respondent committed acts of moral turpitude, dishonesty and corruption, in willful violation of Business and Profession Code section 6106.
- 10. By failing to respond to the State Bar investigation letters of October 17, 2013, October 28, 2013, February 14, 2014 and March 4, 2014, respondent failed to cooperate in a State Bar investigation, in willful violation of Business and Profession Code section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Indifference (Std. 1.5(g)): Although respondent had the opportunity to admit that he was the one who actually completed the proofs of service when he responded to Schrader's Motion to Strike, respondent committed additional misconduct by falsifying Goldman's declaration and lying in his declaration

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent engaged in multiple acts of misconduct by falsifying the proof of service on four documents, declaring under penalty of perjury that Goldman executed the proofs of service and fabricating Goldman's declaration. He also failed to cooperate with the State Bar Investigation.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Prefiling Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of the Chief Trial Counsel prior to the filing of disciplinary charges, thereby saving the State Bar Court time and resources. (See In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151; In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the

courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; In re Morse (1995) 11 Cal.4th 184, 205.) Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (In re Silverton (2005) 36 Cal.4th 81, 92, quoting In re Brown (1995) 12 Cal.4th 205, 220 and In re Young (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (In re Naney (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; Blair v. State Bar (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, respondent admits to committing violations of Business and Profession Code section 6106 and section 6068(i). Standard 1.7(a) requires that where a Respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to respondent's misconduct is found in Standard 2.7, which applies to respondent's violations of Business and Profession Code section 6106. Standard 2.7 provides that when an attorney commits acts of moral turpitude, disbarment or actual suspension is appropriate, with the degree of discipline dependent upon the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member's law practice.

Here, actual suspension is appropriate because respondent's falsification of proofs of service, misrepresentations, made under penalty of perjury, and fabrication of Goldman's declaration constitute acts of dishonesty directly related to the practice of law and place respondent's fitness to practice law in question. For these reasons, the misconduct is serious and undermines public confidence in the profession.

Guidance on the level of discipline to be imposed in this matter can be found in *Drociak v. State Bar* (1991) 52 Cal.3d 1085. In *Drociak*, the attorney used his client's presigned verification to respond to discovery without first consulting with his client to ensure the veracity of the assertions of fact in the discovery responses, thereby committing an act of moral turpitude and dishonesty in violation of Business and Profession Code section 6106 and seeking to mislead the court by an artifice of or false statement of fact in violation of Business and Profession Code section section 6068(d) and former rule 7-501(1) of the Rules of Professional Conduct. The attorney, who had no prior record of discipline in 25 years of practice, received a 30 day actual suspension. In imposing the 30 day actual suspension, the Supreme Court noted that while the attorney's history of discipline free practice was commendable, it did not render the recommended 30 day actual suspension inappropriate. (*Id.* at pp. 1090-1091.)

Respondent's misconduct in this matter involves multiple misrepresentations to the court, rather than the single instance in *Drociak*. In *Drociak*, the attorney submitted a presigned verification to the court.

Here, respondent's conduct was far more serious since respondent falsified four proofs of service, fabricated a declaration and knowingly made misrepresentations in his own declaration and included a failure to cooperate with the State Bar investigation. In addition, respondent has less mitigation than was present in *Drociak*.

In light of the totality of the facts and circumstances surrounding respondent's misconduct, including respondent's indifference and commission of multiple acts of misconduct, the mitigation afforded respondent's cooperation in resolving this matter, and in light of Standard 2.7, a suspension of two years, stayed, two years' probation, including an actual suspension of six months is warranted to protect the public, the courts and the legal profession, to maintain high professional standards by attorneys and to preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 5, 2014, the prosecution costs in this matter are approximately \$3,000. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

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

	(Do not write above this line.)					
- 1	In the Matter of: CHRISTOPHER ALEXANDER LEUTERIO	Case number(s): 14-O-00190				

SIGNATURE OF THE PARTIES

	e terms and conditions of this Stipulation Re F	
6 20 14 Date	Respondent's Signature	CHRISTOPHER ALEXANDER LEUTERIO
		Print Name
Date	Respondent's Counsel Signature	Print Name
4/24/14	Esmer Roger	ESTHER J. ROGERS
Date	Deputy Trial Counsel's Signature	Print Name

Print Name

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(Do not write above this line.)			
In the Matter of: CHRISTOPHER ALEXANDER LEUTERIO	Case Number(s): 14-O-00190		
ACTUAL S	USPENSION ORDER		
Finding the stipulation to be fair to the parties and that requested dismissal of counts/charges, if any, is GRA	at it adequately protects the public, IT IS ORDERED that the ANTED without prejudice, and:		
The stipulated facts and disposition are Supreme Court.	APPROVED and the DISCIPLINE RECOMMENDED to the		
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.			
within 15 days after service of this order, is granted; of stipulation. (See rule 5.58(E) & (F), Rules of Procedu	unless: 1) a motion to withdraw or modify the stipulation, filed or 2) this court modifies or further modifies the approved re.) The effective date of this disposition is the effective date ays after file date. (See rule 9.18(a), California Rules of		
July 15, 2014	Dat & McElin		
	PAT E. McELROY Judge of the State Bar Court		

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, On July 15, 2014, I deposited a true copy of the following document(s):

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

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

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

CHRISTOPHER A. LEUTERIO 1895 PACIFIC AVE APT 101 SAN FRANCISCO, CA 94109

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

ESTHER J. ROGERS, Enforcement, San Francisco TERRIE GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 15, 2014.

Lauretta Cramer
Case Administrator
State Bar Court