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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Sherrie B. McLetchie Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2297 Bar # 85447	Case Number(s): 14-O-1283 - PEM 14-O-0611	For Court use only FILED APR 06 2015 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Jerry F. Childs 438 E Shaw Ave # 244 Fresno, CA 93710 (559) 260-8396 Bar # 218457	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: JERRY F. CHILDS Bar # 218457 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 **January 4, 2002**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **12** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective January 1, 2014)

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

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

- (1) ☒ **Prior record of discipline**
- (a) ☒ State Bar Court case # of prior case **12-O-13459 (S211448)**
 - (b) ☒ Date prior discipline effective **9/21/13**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Bus. & Prof. Code §6106 (moral turpitude)**
 - (d) ☒ Degree of prior discipline **1 year suspension stayed, two years probation, 60-day actual suspension, MPRE.**
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- See Stipulation Attachment page 9.
- (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. **See Stipulation Attachment page 9.**
- (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 Stipulation Attachment page 9.**
- (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 Stipulation Attachment page 9.**
- (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.

- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pretrial Stipulation -- See Stipulation Attachment page 9.

D. Discipline:

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of **three 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 years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3) ☒ **Actual Suspension:**

- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **one year**.

- i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☒ and until Respondent does the following: **provides proof satisfactory to the Office of Probation of attendance at Ethics School as required in 12-O-13459 (S211448).**

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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- (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 type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

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

☒ No MPRE recommended. Reason: **Respondent was ordered to take and pass the MPRE in 12-O-13459 (S211448) and is currently suspended for failure to provide proof of passage.**

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- (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: JERRY F. CHILDS

CASE NUMBER: 14-O-1283 [14-O-0611] - PEM

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-1283 (Complainant: Biren obo the Oliveiras)

FACTS:

1. On October 29, 2012, David and Leslie Oliveira signed a fee agreement with respondent to represent them in a medical malpractice/loss of consortium lawsuit against Leslie's medical care providers.
2. The fee agreement stated that the firm at which respondent worked, "Law Office of Jeffrey Bohn", had no malpractice insurance. In fact, respondent knew that the law firm did in fact have malpractice insurance.
3. Respondent did not settle or file any action on behalf of the Oliveiras before the statute of limitations ran.
4. In January, April, and May 2013, respondent communicated with Leslie Oliveiras regarding the Oliveiras' causes of action, but at no time did he advise her that the statute of limitations had run without the filing of a complaint.
5. On October 1, 2013, respondent sent the Oliveiras a copy of a civil complaint which was dated October 29, 2012, as an attachment to an e-mail in which he stating that it had been "seen out" the previous year. Respondent sent the e-mail and copy of the unfiled complaint in an attempt to mislead the Oliveiras into believing that he had filed a timely complaint on their behalf.
6. Thereafter, the Oliveiras learned that no complaint had in fact been filed, and terminated respondent as their attorney.
7. Beginning on November 22, 2013, they requested their client file from him.
8. Respondent never provided the client file to the Oliveiras.

CONCLUSIONS OF LAW:

9. By failing to timely file a complaint on behalf of the Oliveiras before the statute of limitations ran, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

10. By entering into a written fee agreement which stated that respondent's law firm did not have malpractice insurance when respondent knew that the law firm did in fact have malpractice insurance, respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of Business and Professions Code, section 6106.

11. By failing to inform the Oliveiras that he had not filed a complaint on their behalf prior to the expiration of the applicable statute of limitations on their medical malpractice/loss of consortium causes of action, respondent failed to keep clients reasonably informed of a significant development in a matter which respondent had agreed to provide legal services in willful violation of Business and Professions Code, section 6068(m).

12. By failing to return the Oliveiras' file to them upon termination and request, respondent failed to promptly release client papers and property in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

Case No. 14-O-6111 (Probation Violation Case)

FACTS:

13. By Order filed August 22, 2013, effective September 21, 2013, in case number S211448 (12-O-13459) the California Supreme Court ordered respondent suspended for one year stayed, and placed him on probation for two years subject to conditions including 60 days actual suspension.

14. Respondent received the Supreme Court's August 22, 2013 order.

15. Among other conditions of probation, respondent was to submit quarterly probation reports on January 10, April 10, July 10, and October 10, attend Ethics School within one year, and notify the Office of Probation of a home address and telephone number.

16. Respondent failed to comply with conditions attached to respondent's disciplinary probation in State Bar Court case no. 12-O-13459 as follows:

- A. Failing to timely submit three quarterly reports by their due dates of January 10, 2014, July 10, 2014, and October 10, 2014;
- B. Failing to attend Ethics School on or before September 21, 2014, or at any time;
- C. Failing to notify the Office of Probation of a home address or telephone number;
- D. Declaring under penalty of perjury in quarterly reports received April 10, 2014, August 25, 2014, and October 14, 2014, that he had maintained with the Office of Probation a current home address and telephone number when he had not done so.

CONCLUSIONS OF LAW:

17. By failing to timely submit three quarterly reports, failing to attend Ethics School, failing to notify the Office of Probation of a home address or telephone number, and by falsely declaring under

penalty of perjury in three quarterly reports that he had maintained a current home address and telephone number with the Office of Probation, respondent failed to comply with conditions attached to his disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): In case 12-O-13459 (S211448) respondent was found to have engaged in an act of moral turpitude when he faxed a false expert designation form to opposing counsel with actual knowledge that no expert was retained or agreed to testify or was familiar enough with the case to give a meaningful deposition. By Supreme Court order filed August 22, 2013, effective September 21, 2013, respondent was suspended for one year stayed, and placed on probation for two years on conditions including a 60-day actual suspension and Ethics School attendance. He was also ordered to provide proof of passage of the Multi-State Responsibility Examination within one year.

Dishonesty (Std. 1.5(d)): Standard 1.5(d) provides that concealment as an uncharged violation is an aggravating circumstance. Respondent concealed his failure to file a complaint prior to the expiration of a statute of limitations by not telling the Oliveiras that he had not done so and sending the Oliveiras an unfiled copy of a complaint 11 months after it should have been filed.

Harm (Std. 1.5(f)): Respondent's failure to file a medical malpractice/loss of consortium complaint on behalf of the Oliveiras deprived them of a viable cause of action, and, thus, caused them significant harm.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's five violations represent multiple acts of multiple, including respondent's multiple violations of his probation conditions.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a stipulation with the Office of the Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving the State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (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

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 1.7(a) requires that where an attorney “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

In this consolidated matter, respondent admits to committing five acts of professional misconduct: violation of rules 3-110(A) [failing to act competently], and 3-700 (D)(1) [failing to release client file], and Business and Professions Code sections 6106 [misrepresentation to client about lack of malpractice insurance], 6068(m) [failure to inform client of a significant development], and 6068(k) [violation of probation conditions].

The most severe sanction applicable to respondent’s misconduct is standard 2.7 which provides that “Disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member’s practice of law.” Here, the misconduct was directly related to the practice of law, the clients were misled, and the harm to the clients was significant in that they lost their medical malpractice/loss of consortium causes of action.

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’s prior was not remote in time and his prior misconduct was serious. On January 11, 2012, respondent sent opposing counsel an expert witness list and declaration which respondent knew were false and misleading in violation of Business and Professions Code section 6106. Therefore, the potential range of appropriate discipline in this matter is a 90-day actual suspension to disbarment.

Because of the wide range of potentially appropriate discipline (90-day actual suspension to disbarment) under standards 2.7 and 1.8(a), we look to case law. In *Stevens v. State Bar* (1990) 51 Cal.3d 283, a two-client matter, the attorney allowed a statute of limitations to run on a personal injury action. He actively misrepresented the status of the case to the client and gave her \$2,000 from his own funds as an “advance” against the settlement. However, eventually Stevens confessed to the client and recommended that she hire counsel to sue him for malpractice. The client did so and obtained a

stipulated judgment against Stevens which was still unpaid at the time of the disciplinary proceedings. In the other client matter, Stevens deposited a combined fees-and-costs \$592.20 check into his general, rather than trust account, and bounced a check on behalf of the client to the Secretary of State which resulted in the cancellation of the client's incorporation. Stevens, who had no prior discipline, was suspended for one year.

Here, respondent was on State Bar probation when he failed to provide the clients' file to them upon his termination and their demand therefore. Also, respondent failed to comply with his conditions of probation, including multiple violations of quarterly probation report condition. And, "When an attorney commits multiple violations of the same probation condition, the gravity of each successive violation increases." (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 531). The next step beyond probation toward reforming a member of the State Bar is requiring him or her to prove rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.2 (c)(i). (*In the Matter of Marsh* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291, 298 [protection of the public and rehabilitation of the attorney are the primary goals of disciplinary probation].) Standard 1.2 (c)(1) provides in pertinent part that "Actual suspension for two years or more requires proof, satisfactory to the State Bar Court, of rehabilitation, fitness to practice, and present learning and ability in the general law before a member may be relieved of the actual suspension. [Footnote omitted.] *The State Bar Court can require this showing in other appropriate cases as well.*" (Emphasis supplied.) Here, because respondent's prior discipline was also based on misleading conduct and because of respondent's ongoing failure to comply with probation conditions, and-until conditions are appropriate.

As stated above, the primary purposes of discipline are "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." After considering the primary purposes of discipline, and after balancing the mitigation of entering into this pretrial stipulation against the aggravating circumstances of respondent's prior discipline, multiple acts of wrongdoing, significant harm to the clients, and concealment, the type of misconduct at issue, the member's willingness and ability to conform to ethical responsibilities in the future, and the guidance of *Stevens*, a three-year suspension stayed, four years probation on standard conditions of probation, and actual suspension for one year and until proof of rehabilitation *and* Ethics School attendance (as ordered in respondent's prior discipline), along with compliance with rule 9.20, California Rules of Court, is an appropriate level of discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 9, 2015, the prosecution costs in this matter are \$8,207. 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

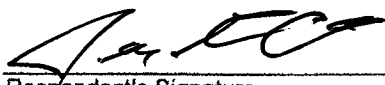
Respondent may not receive Minimum Continuing Legal Education credit for completion of State Bar Ethics School or passage of the Multi-State Professional Responsibility Examination. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: JERRY F. CHILDS	Case number(s): 14-O-1283 [14-O-0611]-PEM
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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>12 March 2015</u> Date	 Respondent's Signature	<u>JERRY F. CHILDS</u> Print Name
<u>3/13/15</u> Date	<u>Sherrie B. McLetchie</u> Deputy Trial Counsel's Signature Sr.	<u>Sherrie B. McLetchie</u> Print Name

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In the Matter of: JERRY F. CHILDS	Case Number(s): 14-O-1283 [14-O-0611]-PEM
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ACTUAL SUSPENSION ORDER

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

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

Case number "14-O-0611" on pp. 1, 7, 12, and 13 is hereby corrected to read "14-O-06111."

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

April 6, 2015


LUCY ARMENDARIZ
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, On April 6, 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:

JERRY F. CHILDS
438 E SHAW AVE # 244
FRESNO, CA 93710

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

Sherrie B. McLetchie, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 6, 2015.


Lauretta Cramer
Case Administrator
State Bar Court