

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Jamie Kim Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90015 (213) 765-1182 Bar # 281574	Case Number(s): 14-O-01560	For Court use only FILED DEC 16 2014 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent Paul Virgo 9909 Topanga Blvd., #282 Chatsworth, CA 91311 (310) 666-9701 Bar # 67900	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: THEODORE CHARLES BEALL Bar # 170820 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 **June 7, 1994**.
- (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)

Stayed Suspension



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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):
- ☐ Costs are added to membership fee for calendar year following effective date of discipline.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **two billing cycles following the effective date of the Supreme Court order 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
 - (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 or a separate attachment entitled "Prior Discipline."
- (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.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

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(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 subsequent rehabilitation.

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

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Additional mitigating circumstances

No prior discipline, good character, corrective plan and pre-filing stipulation. See Attachment at page 8.

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:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is 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.)

E. Additional Conditions of Probation:

(1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) ☒ 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.

(3) ☒ 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.

(4) ☒ 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.

(5) ☐ 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.

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- (6) ☒ 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.
- (7) ☒ 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 State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☐ 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.
- (9) ☐ 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 within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☐ **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: THEODORE CHARLES BEALL

CASE NUMBER: 14-O-01560

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-01560 (State Bar Investigation)

FACTS:

1. In order to remain as an active member of the State Bar, respondent was required to complete 25 hours of minimum continuing legal education ("MCLE") during the period commencing February 1, 2010 and ending January 31, 2013 (the "compliance period").
2. On February 1, 2013, respondent reported to the State Bar under penalty of perjury that he was in compliance with the MCLE requirements, and, in particular, that he had completed the required MCLE hours during the compliance period.
3. In fact, respondent had not completed any of the required MCLE hours during the compliance period.
4. When respondent reported to the State Bar that he was in compliance with the MCLE requirements, respondent was grossly negligent in not knowing that he was not in compliance with the MCLE requirements.
5. After receiving notice of an MCLE audit, respondent completed the MCLE hours necessary to bring himself into compliance by November 1, 2013.

CONCLUSIONS OF LAW:

6. By reporting under penalty of perjury to the State Bar that he was in compliance with the MCLE requirements when he was grossly negligent in not knowing that he was not in compliance with the MCLE requirements, respondent committed an act of moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code section 6106.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Discipline: Respondent was admitted to practice on June 7, 1994. Respondent had practiced law for more than 18 years without a record of discipline at the time the misconduct occurred. While respondent's conduct is serious, he is entitled to significant mitigation for practicing for a significant period of time without a record of discipline. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr 41 [attorney's practice of law for more than 17 years considered to be mitigating even when misconduct at issue is serious].)

Good Character: Five attorneys have attested to respondent's good moral character. All five character references are aware of respondent's misconduct and have known respondent for over 15 years. While these references do not come from both the legal and general communities, respondent is entitled to mitigation. (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319 [character testimony from attorneys should be given serious consideration because they have a strong interest in maintaining the honest administration of justice].)

Corrective Plan: Respondent has implemented a corrective plan to ensure that he complies with his MCLE requirements. He has a dual filing system to monitor the MCLE courses he takes, which consists of both a physical paper file and a digital file on his computer. Respondent is now in the practice of scanning his MCLE certificates and MCLE handouts. He also calendars his MCLE courses. (*In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. ___, 2014 WL 3748590.)

Pre-filing Stipulation: Respondent is entitled to mitigation for entering into a stipulation prior to the filing of the disciplinary charges, thereby saving State Bar 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].) By entering into this stipulation, respondent acknowledged his 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 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 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 2.7 is applicable to respondent's misconduct. It states:

"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, suspension is appropriate because respondent's misrepresentation to the State Bar, made under penalty of perjury, was a dishonest act directly related to the practice of law. Misrepresentations are compounded when made in writing under penalty of perjury, which includes an imprimatur of veracity which should place a reasonable person on notice to take care that their statement is accurate, complete, and true. (*In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 786.) Respondent's misconduct pertaining to MCLE requirements circumvented the continuing legal educational requirements established for the purpose of enhancing attorney competence and protecting the public. However, after receiving notice from Member Records and Compliance of an MCLE audit, respondent brought himself into compliance by taking 26 hours of MCLE and implemented a corrective plan.

Respondent had practiced law for more than 18 years without a record of discipline at the time the misconduct occurred, which warrants significant mitigation. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 [attorney's practice of law for more than 17 years considered to be mitigating even when misconduct at issue is serious].) Respondent's many years in practice with no prior discipline, the fact that respondent has cooperated with the State Bar in entering into this stipulation fully resolving the matter prior to the filing of disciplinary charges, thereby saving State Bar time and resources and demonstrating respondent's acknowledgement and acceptance of responsibility for his misconduct, the evidence of respondent's good character and the fact that respondent has implemented a corrective plan all suggest that the current misconduct is aberrational and that he is willing to conform to ethical responsibilities in the future. Accordingly, in light of the mitigating circumstances, a deviation from the Standard is appropriate.

Thus, a one-year suspension, stayed, and a one-year probation with conditions will serve to protect the public, the courts and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession. The stipulated level of discipline is also consistent with case law. In *In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. ___, 2014 WL 3748590, the attorney falsely affirmed under penalty of perjury that she had fulfilled her MCLE requirements. She believed she had complied based on her recollection of taking a 25-hour bundle of online MCLE courses, which she mistakenly thought she had taken during the compliance period at issue. The Review

Department held that the attorney's failure to verify her MCLE compliance before affirming it constituted gross negligence amounting to moral turpitude. However, the Review Department held that it was appropriate to deviate from the range of discipline suggested by Standard 2.7 and instead impose a public reproof in light of the compelling mitigation found including the absence of prior discipline over many years of practice; spontaneous candor and cooperation with the State Bar; extraordinary good character attested to by a wide range of references in the legal and general community who were aware of the misconduct; prompt, objective steps taken demonstrating remorse and recognition of wrongdoing; and extensive pro bono work and community service.

Unlike the attorney in *Yee*, respondent has not provided evidence of a reasonable basis for his belief that he had complied with MCLE requirements at the time he affirmed his compliance. Like *Yee*, respondent's mitigation is significant, and warrants a deviation from the Standard. However, the mitigation does not rise to the level of the compelling mitigation that was present in *Yee* and that formed the basis for the public reproof imposed in that case. Accordingly, a higher level of discipline is appropriate in this case.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 21, 2014, the prosecution costs in this matter are \$2,992.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, respondent may not receive MCLE credit for completion of MCLE ordered as a condition of discipline. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: Theodore Charles Beall	Case number(s): 14-O-01560
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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>11-24-14</u> Date	<u>T. Knall</u> Respondent's Signature	<u>Theodore C. Beall</u> Print Name
<u>11/26/2014</u> Date	<u>Paul G. Virgo</u> Respondent's Counsel Signature	<u>Paul Virgo</u> Print Name
<u>12/2/14</u> Date	<u>Jamie Kim</u> Deputy Trial Counsel's Signature	<u>Jamie Kim</u> Print Name

(Do not write above this line.)

In the Matter of: Theodore Charles Beall	Case Number(s): 14-O-01560
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STAYED SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)

12-15-14
Date


GEORGE E. SCOTT, JUDGE PRO TEM
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 16, 2014, I deposited a true copy of the following document(s):

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

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

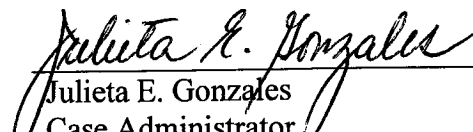
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

PAUL JEAN VIRGO
9909 TOPANGA BLVD # 282
CHATSWORTH, CA 91311

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

Jamie J. Kim, Enforcement, Los Angeles
Terrie Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 16, 2014.



Julieta E. Gonzales
Case Administrator
State Bar Court