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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>Susan I. Kagan</b> <b>Senior Trial Counsel</b> <b>180 Howard St.</b> <b>San Francisco, CA 94105</b> <b>(415) 538-2037</b>  <b>Bar # 214209</b>	<b>Case Number(s):</b> <b>14-O-03053</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>  <b>DEC - 3 2014</b>  <b>STATE BAR COURT CLERK'S OFFICE</b> <b>SAN FRANCISCO</b>
<b>In Pro Per Respondent</b>  <b>Douglas E. Watts</b> <b>1024 Iron Point Rd</b> <b>Folsom, CA 95630</b> <b>(916) 337-5221</b>  <b>Bar # 182274</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>In the Matter of:</b> <b>DOUGLAS EDWARD WATTS</b>  <b>Bar # 182274</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>		

**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 9, 1996**.
- (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 **13** 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
  - (b) ☐ Date prior discipline effective
  - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
  - (d) ☐ Degree of prior discipline
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **See attachment at p. 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 attachment at p. 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. **See attachment at p. 9.**
- (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. **See attachment at p. 9.**
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

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(13) ☐ No mitigating circumstances are involved.

**Additional mitigating circumstances:**

No Prior Discipline. See attachment at p. 9.  
Community Service. See attachment at p. 10.  
Prefiling Stipulation. See attachment at p. 10.

**D. Discipline:**

(1) ☒ Stayed Suspension:

(a) ☒ Respondent must be suspended from the practice of law for a period of **two (2) years**.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

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

(2) ☒ Probation:

Respondent must be placed on probation for a period of **two (2) 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 **60 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.

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- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

#### F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

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further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

☐ No MPRE recommended. Reason:

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      DOUGLAS EDWARD WATTS

CASE NUMBER:                          14-O-03053

**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. 13-O-03053 (State Bar Investigation)**

**FACTS:**

1. On August 2, 2011, Sean Alves ("Alves") was injured in a motor vehicle accident. Alves sought medical treatment for the injuries from chiropractor, Jeffrey G. Beavers ("Dr. Beavers").
2. In August 2011, respondent was hired by Alves to represent him in a personal injury matter related to the motor vehicle accident on a contingency basis. At all times relevant herein, respondent knew that Dr. Beavers had asserted a lien of \$3,107 for medical treatment against any settlement proceeds received in the personal injury matter.
3. Prior to September 7, 2012, the insurance company offered Alves \$15,000 for full settlement of the personal injury matter. Under the retainer agreement with Alves, respondent was entitled to 40 percent (or \$6,000) as fees from the \$15,000. However, Alves threatened to fire respondent instead of accepting the offer. Respondent agreed to lower his fees so that Alves would receive \$10,000 from the \$15,000 and respondent would receive \$5,000. Respondent agreed to use the \$5,000 to pay the lien and retain the remaining money as fees. Based on the agreement, Alves agreed to settle the personal injury matter for \$15,000.
4. On September 7, 2012, respondent received a check in the amount of \$15,000 in settlement funds from the insurance company on behalf of Alves. Respondent deposited the settlement check into his client trust account. Thereafter, respondent issued payment of \$10,000 to Alves.
5. During this time period, respondent attempted to negotiate the lien with Dr. Beavers, but Dr. Beavers refused to accept less than the full value of the lien. Respondent never paid Dr. Beavers' lien. Respondent maintained the full \$5,000 as fees.
6. On July 29, 2013, Dr. Beavers filed a complaint against Alves and respondent in *Beavers v. Alves*, Sacramento County Superior Court, Small Claims Division, Case No. 13SC02773 ("small claims action"). Respondent was served with the complaint and had notice of the trial date. Dr. Beavers could not effectuate service on Alves. Thereafter, Alves was dismissed from the complaint without prejudice.

7. On September 26, 2013, trial was held in the small claims action. Respondent did not appear at the trial. On the same date, the court issued a judgment against respondent in favor of Dr. Beavers in the amount of \$3,247. Respondent received notice of entry of judgment.

8. On October 24, 2013, respondent filed a notice of appeal of the judgment.

9. On April 4, 2014, the court held a trial de novo. At the trial, respondent falsely testified under oath, as follows:

- respondent was unable to finalize the settlement with [the insurance company] for \$15,000; and
- respondent did not receive any settlement proceeds.

10. Immediately after trial on April 4, 2014, Dr. Beavers called the claims representative for the insurance company and was advised that the case had settled in September 2012, and that respondent was paid by check. On the same date, Dr. Beavers sent a letter to the court, with a copy to respondent, advising of the information obtained from the insurance company. Respondent received the letter.

11. On April 8, 2014, the court contacted the claims representative for the insurance company by telephone to request information about the settlement and copies of pertinent documents. The court followed-up the conversation with an email request. On the same date, the claims representative advised that the case settled on September 7, 2012, and provided copies of the settlement letter, release, payment summary and the front and back of the settlement check.

12. On April 9, 2014, the court forwarded Dr. Beavers' letter to respondent and advised that it would take the information into consideration when rendering a decision. Respondent received the letter.

13. On April 18, 2014, the court issued an order and judgment against respondent in favor of Dr. Beavers in the amount of \$3,247. Respondent received the order.

14. On April 29, 2014, respondent filed a declaration under penalty of perjury in the small claims action which included the following false statements:

- ***"I did not receive payment for my fees on this matter."*** (emphasis in original);
- ***"As I stated in Court, I did not receive any of the money [insurance company] told Dr. Beavers that it paid to Mr. Alves. I am informed and believe that after Mr. Alves took the original file from my office, he obtained a settlement check and kept the proceeds for himself, to the detriment of my office and Dr. Beavers."*** (emphasis in original)
- ***"I have never failed to pay a lien claimant such as Dr. Beavers, and I did not do so in the case of Mr. Alves."***

15. On May 19, 2014, the court in the small claims action made a referral to the State Bar against respondent based on allegations of misconduct. Soon thereafter, the State Bar opened an investigation and sent a letter to respondent requesting a response to the allegations. Respondent received the letter.

16. On July 7, 2014, Respondent paid the full amount of the judgment to Dr. Beavers.



17. On July 14, 2014, respondent sent a letter to the State Bar wherein he admitted to lying about the settlement proceeds. Respondent explained that he attempted to negotiate Dr. Beavers' lien, but "Dr. Beavers (or someone from his company) had called me and talked quite derogatorily and angrily toward me for having asked that Dr. Beavers reduce his lien. This is no excuse for my subsequent behavior, and again, I fully agree that I committed a bad lapse in judgment in how I handled the settlement funds regarding Mr. Alves. I should never have allowed my personal conflict with the lienholder (Dr. Beavers) to influence my decision-making." Respondent further stated: "The truth was that, in the very informal setting of the Small Claims Appeal courtroom, I attempted to save myself from getting stuck with the full bill for Mr. Alves's treatment [by Dr. Beavers]...after Mr. Alves took his settlement money and left the Sacramento area. That was a terrible error on my part, and I have paid Dr. Beavers what he is owed, and I accept fully responsibility for my actions."

#### CONCLUSIONS OF LAW:

18. By making misrepresentations orally under oath on April 4, 2014, and in writing under penalty of perjury on April 29, 2014, which respondent knew to be false, respondent sought to mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code section 6068(d).

#### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent's five misrepresentations to the court demonstrate multiple acts of wrongdoing.

**Harm (std. 1.5(f)):** Respondent caused significant harm to Dr. Beavers. Dr. Beavers was deprived of his funds for more than two years and was forced to file a small claims action to recoup the funds.

#### MITIGATING CIRCUMSTANCES.

**Emotional Difficulties (std. 1.6(d)):** At the time of the misconduct, respondent was suffering from extreme emotional difficulties stemming from his mother's declining health. During the small claims matter, respondent was acting as his mother's sole caretaker during coronary bypass surgery and subsequent post-operative complications. Respondent was not focusing on his law practice and was suffering from stress over losing control of his practice and his finances. Respondent has since put in place support system to assist with caring for his mother and no longer suffers from stress.

**Good Character (std. 1.6(f)):** Respondent submitted 10 character letters from people aware of the full extent of respondent's misconduct and attest to his integrity, honesty and professionalism. The reference letters are from attorneys, friends and clients.

#### Additional Mitigating Circumstances:

**No Prior Record of Discipline:** Although respondent's misconduct is serious, he is entitled to mitigation for having practice law for approximately 17 years without discipline. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

**Community Service:** Since 2008, respondent has acted as a *pro bono* settlement referee for the El Dorado County Superior Court's Alternative Dispute Resolution program. In that role, respondent mediated many cases for litigants at no cost to them or the court system. Respondent is also a member of the Folsom Lake Rotary and Folsom Chamber of Commerce and has performed fundraising activities on behalf of those organizations. (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359 [civic service and charitable work considered as evidence of good character].)

**Prefiling Stipulation:** Respondent is entitled to mitigation for entering into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving 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 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 making misrepresentations to a court in violation of Business and Professions Code section 6068(d). Standard 2.8(a) applies violations of section 6068(d) and provides: "Disbarment or actual suspension is appropriate for disobedience or violation of a court order related to the member's practice of law, the attorney's oath, or the duties required of an attorney under Business and Professions Code section 6068(a)-(h)."

Here, respondent sought to mislead a court on two separate occasions about his receipt of settlement funds in an effort to avoid paying his client's lien and retaining those additional funds for himself. When he had a chance to clear the record upon learning that Dr. Beavers and the court received

information from the insurance company about the settlement, respondent instead chose to continue making misrepresentations to the court. Respondent ultimately recognized his wrongdoing, paid the judgment to Dr. Beavers and fully admitted to committing the misconduct. Respondent's misconduct is serious and directly related to the practice of law.

To determine the appropriate level of discipline, consideration must also be given to the aggravating and mitigating circumstances. In aggravation, respondent committed multiple acts of misconduct and caused harm to Dr. Beavers. In mitigation, respondent has practiced law for approximately 17 years without discipline. He is also entitled to mitigation credit for good character, community service, emotional difficulties related to caring for his ill mother and for entering into a prefiling disposition.

Balancing the serious nature of respondent's misconduct with the factors in mitigation and aggravation, discipline at the lower-end of the range recommended by the Standards is appropriate.

The proper discipline for seeking to mislead a court in violation of section 6068(d) is a period of actual suspension. (See *Drociak v. State Bar* (1991) 52 Cal.3d 1085 [30 days' actual suspension for attaching pre-signed verifications to discovery responses without confirming with the client the truth of the statements contained in the responses; no prior record of discipline]; *Bach v. State Bar* (1987) 43 Cal.3d 848 [60 days' actual suspension for making misrepresentations to a court about being ordered to arrange for a client to participate in mediation; prior public reproof for violating former rule 7-103 (direct or indirect communication with adverse party represented by counsel)]; *In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166 [six months' actual suspension for falsely representing to two judges that the attorney had personally served the opposing party in a family law matter; prior 15-day actual suspension for failing to pay sanctions in violation of Business and Professions Code section 6103 and failing to disclose prior medical treatment in a discovery response in his own personal injury action in violation of Business and Professions Code section 6068(d)]; *In the Matter of Farrell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490 [six months' actual suspension for falsely stating to the court that the attorney had a witness under subpoena and failing to cooperate with the State Bar's investigation; prior 30-day actual suspension for misconduct in two client matters].)

This matter is most analogous to *In the Matter of Chesnut, supra*, 4 Cal. State Bar Ct. Rptr. 166. In *Chesnut*, the attorney made misrepresentations to a court on two separate occasions regarding personally serving the opposing party in a dissolution proceeding. The attorney continued to assert that he personally served the opposing party in the State Bar proceedings. The court found the attorney's testimony not to be credible. In aggravation, the attorney had a prior record of discipline for failing to pay sanctions in violation of Business and Professions Code section 6103 and failing to disclose prior medical treatment in a discovery response in his own personal injury action in violation of Business and Professions Code section 6068(d). The court also found aggravating factors of bad faith, dishonesty and concealment, harm to the administration of justice and indifference. The attorney received mitigation credit for good character, pro bono work and community service. The court recommended a six-month actual suspension.

Respondent's misconduct is similar to that in *Chesnut*, but warrants a lesser degree of discipline since respondent has more mitigation and significantly less aggravation. In addition, respondent has fully admitted to committing misconduct, unlike the attorney in *Chesnut*.

In light of the foregoing, a 60-day actual suspension with two years of probation and a requirement to comply with rule 9.20 of the Rules of Court is necessary to protect the public and will serve the purposes of attorney discipline.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 13, 2014, the prosecution costs in this matter are \$2,992. 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 State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of:  
DOUGLAS EDWARD WATTS

Case number(s):  
14-O-03053

### 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.

11/14/2014  
Date

  
Respondent's Signature

Douglas E. Watts  
Print Name

                      
Date

  
Respondent's Counsel Signature

N/A

Print Name

11/25/14  
Date

  
Deputy Trial Counsel's Signature

Susan I. Kagan  
Print Name

(Do not write above this line.)

In the Matter of: DOUGLAS EDWARD WATTS	Case Number(s): 14-O-03053
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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.

1. On page 6 of the stipulation, the "X" in the box next to paragraph F.(2) is deleted; and
2. On page 12 of the stipulation, in the first paragraph, "and a requirement to comply with rule 9.20 of the Rules of Court" is deleted.

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

Dec. 3, 2014

  
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 December 3, 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:

DOUGLAS E. WATTS  
WATTS LAW OFFICES  
1024 IRON POINT RD  
FOLSOM, CA 95630

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

SUSAN I. KAGAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 3, 2014.



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Mazie Yip  
Case Administrator  
State Bar Court