

(Do not write above this line.)

State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Robin Brune Senior Trial Counsel 180 Howard Street San Francisco, California 94105 (415) 538-2218 Bar # 149481	Case Number(s): 14-O-03497-LMA	For Court use only PUBLIC MATTER FILED <i>yo</i> APR 24 2015 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Gordon Dean Brown 400 29th Street Suite 206 Oakland, California 94609 (510) 836-0600 Bar # 171745	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: GORDON DEAN BROWN Bar # 171745 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 **October 9, 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 **14** 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".

RA



- (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: **two (2) billing cycles immediately following the effective date of the 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 **13-O-10697**
 - (b) Date prior discipline effective **April 25, 2015.**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-110(A) and 3-310(C); Business and Professions Code, section 6106.**
 - (d) Degree of prior discipline **One year of suspension, stayed, two years of probation, sixty days of actual suspension.**
 - (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, page 11.**
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(Do not write above this line.)

- (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. **See Attachment, page 11.**
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

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

(Do not write above this line.)

- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pretrial Stipulation. See Attachment, page 11.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

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

(Do not write above this line.)

- (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: **Respondent was recently ordered to attend Ethics School in case no. 13-O-10697.**
- (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:
 - Substance Abuse Conditions
 - Law Office Management Conditions
 - Medical Conditions
 - 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**

(Do not write above this line.)

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 recently ordered to take and pass the MPRE in case no. 13-O-10697.

- (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:**

(Do not write above this line.)

In the Matter of: GORDON DEAN BROWN	Case Number(s): 14-O-03497-LMA
---	--

Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- 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.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

- b. Respondent has kept and maintained the following:
- i. A written ledger for each client on whose behalf funds are held that sets forth:
 - 1. the name of such client;
 - 2. the date, amount and source of all funds received on behalf of such client;
 - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 - 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 - 1. the name of such account;
 - 2. the date, amount and client affected by each debit and credit; and,
 - 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GORDON DEAN BROWN

CASE NUMBER: 14-O-03497

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-3497 (State Bar Investigation)

FACTS:

1. On March 26, 2014, the Supreme Court issued order no. S215977, which imposed discipline on the respondent of a one year suspension from the practice of law, stayed, with two years' probation. The order suspended respondent from the practice of law for the first 60 days of probation. The respondent's actual suspension took effect between April 25, 2014, through June 26, 2014.
2. On March 5, 2014, the respondent made an initial general appearance in the Solano County Superior Court to represent a client in a felony criminal matter in *People v. Xavier Hardy*, case no. FCR 304161.
3. On April 25, 2014, the first day of his actual suspension pursuant to Supreme Court order no. S215977, respondent appeared in Solano Superior Court in the *Hardy* matter with his client for the scheduled preliminary hearing. On that date, respondent made an oral request for a continuance, which was granted by the court. The court continued the preliminary hearing until May 9, 2014, and set a readiness conference for May 7, 2014.
4. On May 7, 2014, the respondent phoned the court's chambers, and spoke with the court's judicial assistant. He informed her that he was unable to appear that day, and he requested an additional continuance of the readiness conference and preliminary hearing. The respondent did not advise the court's judicial assistant of his suspension. The judicial assistant directed respondent to have his client appear as previously scheduled on May 7th; that the new readiness conference would be continued to May 14, 2014; and that the new preliminary hearing would be continued to May 16, 2014. The respondent agreed to convey this information to his client.
5. On May 14, 2014, another attorney appeared for respondent and requested an additional continuance of the preliminary hearing. The court continued the preliminary hearing to May 30, 2014.
6. On May 29, 2014, the respondent called and spoke to the deputy district attorney assigned to the *Hardy* matter and requested a continuance of the upcoming May 30th court appearance in the matter. The respondent did not inform the deputy district attorney of his suspension.

7. On May 30, 2014, the respondent phoned the court chambers in the morning and informed the court's judicial assistant that he was unable to appear and that he was unable to arrange for the special appearance of other counsel. The respondent told the judicial assistant that he had an issue with the State Bar that he expected would resolve towards the end of the month, but he did not inform her that he was suspended. The judicial assistant reviewed the State Bar website and discovered that the respondent had been suspended for 60 days, effective April 25, 2014. The judicial assistant printed out a copy of this website information, and provided respondent's client a copy of it when he appeared in court that day. The court continued the case to June 24, 2014 in order to determine the respondent's State Bar status and to set additional readiness conference and preliminary hearing dates.

8. On July 9, 2014, the respondent submitted a quarterly report to the Los Angeles Office of Probation. Within the quarterly report, the respondent stated that he had complied with the Rules of Professional Conduct and the Business and Professions Code during the reporting period. He also attached an addendum in which he admitted to appearing in the *Hardy* matter court on April 25, 2014.

9. On July 31, 2014, and again on September 5, 2014, the State Bar sent respondent an investigatory letter notifying him of the State Bar investigation of his unlicensed practice of law in case no. 14-O-3497 and requesting his response no later than August 11, 2014. The respondent sent several emails requesting an extension, but failed to provide a substantive response.

10. Respondent's probation conditions, as ordered in case no. 13-O-10697 (Supreme Court Order no. S215977) required that the respondent call the Office of Probation by May 25, 2014 to schedule the initial meeting with the probation officer, and to attend such a meeting, either telephonically, or in person, to discuss his terms of probation. Respondent did not call the Office of Probation by May 25, 2014, or at any time thereafter, to schedule a meeting with the probation officer, and respondent did not meet with the officer either in person or telephonically to discuss his probation terms. Respondent's probation conditions, as ordered in case no. 13-O-10697 (Supreme Court Order no. S215977) also required respondent to submit quarterly reports, including a quarterly report on January 10, 2015. Respondent did not submit a quarterly report to the Office of Probation on January 10, 2015.

CONCLUSIONS OF LAW:

11. By appearing on behalf of and representing Xavier Hardy in *People v. Xavier Hardy*, Solano County Superior Court, case no. FC304161 at the hearing scheduled for April 25, 2014; and by contacting the court on May 7, 2014 and May 30, 2014, and by contacting opposing counsel on May 29, 2014, regarding continuances and further scheduling in the proceedings, respondent held himself out as entitled to practice law, and actually practiced law, when he was not an active member of the State Bar in violation of Business and Professions Code, sections 6125 and 6126, and thereby willfully violated Business and Professions Code, section 6068(a).

12. By holding himself out as entitled to practice law, and actually practicing law, in *People v. Xavier Hardy*, Solano County Superior Court, case no. FC304161 at the hearing scheduled for April 25, 2014; and by contacting the court on May 7, 2014 and May 30, 2014, and by contacting opposing counsel on May 29, 2014, regarding continuances and further scheduling in the proceedings, without advising either the court or the opposing counsel of his unlicensed status, respondent intentionally committed acts of moral turpitude, in wilful violation of Business and Professions Code, section 6106.

13. By failing to substantively respond to the State Bar investigator's letter of July 31, 2014, regarding the State Bar's investigation of case no. 14-O-3497, respondent failed to cooperate and participate in a disciplinary investigation, in wilful violation of Business and Professions Code, section 6068(i).

14. By failing to file his January 10, 2015 quarterly report; by failing to contact his probation officer to schedule an in-person or telephonic meeting to discuss his probation terms; by failing to have such a meeting; and by engaging in the unlicensed practice of law while on probation in case no. 13-O-10697 (S215977) respondent failed to comply with the conditions attached to his disciplinary probation, in wilful violation of Business and Professions Code, Section 6068(k).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has prior misconduct. In case no. 13-O-10697 (Supreme Court Order no. S215977) respondent received one year of actual suspension, stayed, with two years' probation, and sixty days of actual suspension, for violations of Rules of Professional Conduct, rule 3-110(A) and 3-310(C) and Business and Professions Code, section 6106. Respondent created a false settlement release and provided it to his client in an attempt to mislead his clients regarding the status of their claim; he failed to respond to 13 letters from the insurance carrier involved in the case, and he accepted the representation of joint clients without obtaining the proper waivers.

Harm (Std. 1.5(f)): Respondent's dishonesty to the court and opposing counsel, which caused excessive delay and multiple continuances in the underlying criminal case of *People v. Xavier Hardy*, harmed the administration of justice.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed four separate disciplinary violations and therefore committed multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent is stipulating to discipline prior to trial. (*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 committing four acts of professional misconduct. Standard 1.7(a) requires that where a respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to respondent's misconduct is found in Standard 2.6, which applies to respondent's violation of 6068(a). Standard 2.6 provides that disbarment or actual suspension is appropriate when a member engages in the practice of law or holds him or herself out as entitled to practice when he or she is on actual suspension for disciplinary reasons. The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law. Recent case law demonstrates that six months actual suspension is warranted for the unauthorized practice of law. *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896. In *Wells*, the attorney received two years of suspension, stayed, two years' probation, and six months actual suspension for practicing law without a license, committing trust account violations, collecting illegal fees, and failing to refund unearned fees. The court in *Wells* found aggravation for prior discipline and multiple acts of misconduct, and mitigation for cooperation and character reference letters.

Here, shortly after receiving a disciplinary suspension of sixty days in a prior disciplinary matter, respondent engaged in the unlicensed practice of law by appearing in court on the first day of his suspension, and thereafter speaking to the court's judicial assistant on two occasions and opposing counsel on one occasion to obtain continuances while omitting to advise them that he was suspended. Respondent's unlicensed practice constitutes a violation of his probation conditions. Respondent's actions also involve moral turpitude for his dishonesty to the court and opposing counsel. Respondent violated his probation conditions by failing to file his January, 2015 quarterly report, failing to contact the Office of Probation and schedule a telephonic or in person meeting to discuss his probation terms, and failing to attend such an in-person or telephonic meeting. In aggravation, respondent has prior discipline, which also involved moral turpitude and has committed multiple acts of misconduct. He has mitigation for entering into a stipulation. A one year of suspension, stayed, with two years of probation with probation conditions to include six months of actual suspension is necessary to protect the public. Due to respondent's recent suspension order (S215997) ordering him to take and pass the MPRE and attend Ethics School, it is not necessary to order this again, but Client Trust Accounting school is now added to his probation conditions.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 26, 2015, the prosecution costs in this matter are \$3,497. 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 Client Trust Accounting School**. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: GORDON DEAN BROWN	Case number(s): 14-O-03497
--	-------------------------------

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.

4/9/15 *Gordon Dean Brown* GORDON DEAN BROWN
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name
4/10/2015 *Robin Brune* ROBIN BRUNE
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: GORDON DEAN BROWN	Case Number(s): 14-O-03497
--	-------------------------------

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 p. 1, A. (1), correct the date from "October 9, 1994" to "October 18, 1994," as the date respondent was admitted.
2. On p. 2, B. (1)(b), correct the date from "April 25, 2015" to "April 25, 2014", as the effective date of prior discipline.
3. On p. 12, fourth paragraph, delete "S215997" and correct it to read "S215977."

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 24, 2015 Pat E. McElroy
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on April 24, 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:

GORDON D. BROWN
400 29TH ST STE 206
OAKLAND, CA 94609

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

ROBIN BRUNE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 24, 2015.



Mazie Yip
Case Administrator
State Bar Court