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State Bar Court of California
Hearing Department
San Francisco
ACTUAL SUSPENSION

Counsel For The State Bar	Case Number(s):	For Court use only
Robin Brune **Senior Trial Counsel** **180 Howard Street** **San Francisco, California 94105** **(415) 538 2218** Bar # **149481**	**15-C-11007-LMA**	**PUBLIC MATTER** **FILED** **FEB 02 2016** **STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO**
In Pro Per Respondent **Tony Kevin Smith** **1299 Antelope Creek Drive Apt. 258** **Roseville, California 95678** **(916) 496-2639** Bar # **210512**	Submitted to: **Settlement Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of: **TONY KEVIN SMITH** Bar # **210512** 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 **December 6, 2000**.

(2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.

(3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **12** pages, not including the order.

(4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(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: **three billing cycles following the effective date of the discipline** . (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(h) & 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) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.

(3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.

(4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.

(5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.

(6) ☒ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct. **See Attachment, p. 9.**

(7) ☐ **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.

(8) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See Attachment, p. 9.**

(9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.

(11) ☐ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.

(12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.

(13) ☐ **Restitution:** Respondent failed to make restitution.

(14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.

(15) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.

(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 or `to the State Bar during disciplinary investigations and proceedings. **See Attachment, p. 9.**

(4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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, 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. **See Attachment, p. 9.**

(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, p. 9.**

(12) ☒ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation. **See Attachment, p. 9.**

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

Additional mitigating circumstances:

No Prior Discipline, See Attachment, p. 10.
Pre-trial Stipulation, See Attachment, p. 10.

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 fitness to practice and present learning and ability in the general 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 **ninety days**.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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 present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

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

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of 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:

☐ 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 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: **November 2, 2015**.

(5) ☐ **Other Conditions:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: TONY KEVIN SMITH

CASE NUMBER: 15-C-11007-LMA

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. 15-C-11007-LMA (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

2. On January 7, 2013, the Placer County District Attorney filed a criminal complaint in the Placer County Superior Court, case no. 62-118891, charging respondent with one count each of violation of Vehicle Code section 23153(a) [Driving Under the Influence of Alcohol Causing Injury], a felony, and Vehicle Code section 23253(b) [Driving With a Blood Alcohol Level of .08% or Higher Causing Injury], a felony. The complaint further alleged an enhancement that respondent was driving with a blood alcohol of .15% or higher pursuant to Vehicle Code section 23578.

3. On April 4, 2013, the court entered respondent's plea of nolo contendere to violations of Vehicle Code section 23153(a) [Driving Under the Influence of Alcohol Causing Injury], a felony, and Vehicle Code section 23253(b) [Driving With a Blood Alcohol Level of .08% or Higher Causing Injury], a felony, and also entered respondent's admission to driving with a blood alcohol of .15% or higher pursuant to Vehicle Code section 23578.

4. On May 14, 2013, the court suspended the imposition of sentence and placed respondent on formal probation for a period of five years on conditions which included that respondent, among other things, complete 20 days in Placer County Jail and complete another 90 days under an alternative sentence. (Respondent was on a home electronic monitoring device). The court further ordered respondent to totally abstain from the use and possession of intoxicants and not be in any place where alcohol is the primary item of sale, complete a 3 month First Offender Program, complete an 18 month alcohol program, complete 3 self helps per week, and pay restitution, fines and fees totaling approximately $3,000. In addition, the court ordered respondent to enter into and complete a mental health treatment program and comply with the mental health medication regimen as prescribed by the treating physician.

5. On September 15, 2015, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offense(s) for which respondent was convicted involved moral turpitude or other

misconduct warranting discipline. On September 15, 2015, the Review Department placed respondent on interim suspension effective October 13, 2015. On September 22, 2015, the Review Department vacated the September 15, 2015 order for interim suspension. On October 22, 2015, the Review Department placed respondent on interim suspension effective November 2, 2015 and ordered respondent to comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the court's suspension.

FACTS:

6. On December 22, 2012, just before three p.m., a police officer responded to an accident scene at the intersection of Washington Blvd. and Blue Oaks in Roseville, California. Respondent had been driving northbound on Washington Blvd. in a blue Dodge van when he crossed over the raised center median and collided into an oncoming Toyota in the number one southbound lane. After the respondent struck the Toyota, respondent then crossed into the number two southbound lane where he collided into a third motor vehicle, a Ford.

7. When the officer approached the respondent, the respondent was standing on the passenger side of the blue Dodge van. Due to the collision, the blue Dodge van was missing most of the rear of the vehicle and a wheel, but respondent asked the attending Fire Captain from the Roseville Fire Department if he could just drive home. Respondent smelled of alcohol and slurred his words. Respondent had to lean against his vehicle to steady himself. Respondent failed the field sobriety tests administered by the officer and recorded a .171 and .165 on the preliminary alcohol screening device, more than double the legal limit. The officer later brought the respondent to the Santa Rosa Medical Center where a phlebotomist drew respondent's blood at 4:19 p.m. Respondent's blood sample contained .16% blood alcohol.

8. Both the driver and the passenger of the Ford were injured. The driver reported injuries of a sore chest, back, neck, right knee, and hands. She later reported that she suffered pain for a year, including numbness in her feet, legs, and hands, and some vision problems, and that she was out of work for three months as a result of the accident. The passenger reported pain in her chest, neck, upper back and head. Both the driver and passenger received settlements from respondent's insurance company. The driver of the Toyota, who did not report any injuries to the officer, received a nominal settlement as well.

9. After pleading no contest in April 2013, in May 2013 respondent was sentenced. The Court ordered him to enroll in a 3-month First Offender Program, and gave him five years' felony probation and 120 days in custody; 30 of which were actual custody and 90 days under alternative sentencing or release programs (Respondent was on an ankle monitor). In addition, he was ordered to complete an 18-month alcohol program, not drive with any measurable level of alcohol, complete "3 self helps" per week, enter into a mental health treatment program, and pay approximately $3,000 in fines. In January 2015, respondent's probation conditions were reduced to "1 self-help" per week.

10. On October 14, 2015, after receiving the Review Department's September 15, 2015 order for interim suspension, respondent filed his 9.20 affidavit.

11. Respondent did not report his conviction to the State Bar.

CONCLUSIONS OF LAW:

12. The facts and circumstances surrounding respondent's felony conviction for violation of Vehicle Code sections 23153(a) and 23253(b) with the enhancement of a blood alcohol of .15% or higher pursuant to Vehicle Code section 23578 did not involve moral turpitude but did involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): Due to the collision caused by the respondent, two people were injured and three motor vehicles were damaged.

Uncharged Misconduct (Std. 1.5(h)): Respondent failed to report his felony conviction to the State Bar, and thereby wilfully violated Business and Professions Code, section 6068(o)(5).

MITIGATING CIRCUMSTANCES.

Candor/Cooperation (Std. 1.6(e)): Respondent has been candid and cooperative with the State Bar in this matter.

Emotional/Physical Difficulties (Std. 1.6(d)): Respondent's treating physician reports that respondent was suffering from severe depression at the time of the misconduct due to a combination of losses of marriage, home, employment, and pets. The physician reports that since then, respondent has stabilized under treatment, has been sober for three years, and the doctor is fully confident that the respondent's misconduct is not likely to reoccur.

Family Problems: Respondent was going through a divorce at the time of the misconduct, and had recently lost his employment, family pets, and his home. Respondent's family problems exacerbated his depression and respondent began to drink more to self-medicate.

Good Character (Std. 1.6(f)): Respondent provided 12 character reference letters attesting to his good character from a wide range of references in the legal and general communities who are aware of the full extent of respondent's misconduct, including respondent's Bishop, respondent's AA sponsor, respondent's current employer, two former co-workers, three attorneys, and several family members. Several declarants specifically affirmed that the respondent's misconduct was out-of-character.

Remoteness of time and subsequent rehabilitation (Std. 1.6(h)). Respondent's offense occurred over three years ago and respondent has demonstrated three years sobriety since then. Both respondent's treating physician and his AA sponsor report respondent's three years' of sobriety. Respondent's probation officer also reports that respondent has tested clean for alcohol for the duration of his probation, and that, in January 1, 2015, respondent's probation monitoring was reduced, from one-to-two in-person meetings per month and periodic alcohol testing to the lesser conditions of a monthly phone check-in, and infrequent alcohol testing, in recognition of respondent's sustained compliance with his probation conditions.

No Prior Discipline: Respondent was admitted to practice in 2000, and has no prior record of discipline. Respondent is entitled to mitigation credit for no prior discipline, even where the underlying conduct is found to be serious or significant. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn.13; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49).

Pretrial Stipulation: Respondent has entered into a full stipulation. Respondent is entitled to mitigation for cooperating with the Office of the Chief Trial Counsel prior to trial, thereby saving the State Bar Court time and resources. In addition, by entering into this stipulation, respondent has acknowledged his misconduct and accepted responsibility for his actions. (*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 Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

The sanction applicable to Respondent's misconduct is found in Standard 2.16 (a), which specifies actual suspension for a final conviction of a felony in which the facts and circumstances surrounding the offense do not involve moral turpitude but involve other misconduct warranting discipline. Here, respondent was driving with a blood alcohol level over twice the legal limit, crossed over a raised center divider, and precipitated a three car accident. In aggravation, respondent caused significant harm by injuring two people and failed to report his conviction to the State Bar. In mitigation, respondent practiced law for 12 years with no prior discipline, presented an expert medical opinion that the misconduct occurred during a period of extraordinary stress and respondent is now likely to remain stable and sober, has been cooperative with the State Bar, presented 12 character references, demonstrated rehabilitation since the misconduct which occurred over three years ago, and has entered

into a pre-trial stipulation. Under the totality of the circumstances, respondent has presented significant mitigation, but the aggravation of causing injury to two people indicates that a significant period of suspension is appropriate. A one-year suspension, stayed, with two years' probation, and ninety days of actual suspension is warranted to protect the public. Pursuant to the Review Department's order issued on September 22, 2015, respondent has been on interim suspension, and has not practiced law, since November 2, 2015. Respondent will receive credit for this period of interim suspension against his ninety day suspension period. California Rules of Court, rule 9.20 conditions are not warranted under these circumstances because respondent will have served his period of suspension prior to the completion of the processing of this stipulation.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of January 22, 2016, the prosecution costs in this matter are $6,328. 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: **TONY KEVIN SMITH**	Case number(s): **15-C-11007-LMA**

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.

1/26/16		Tony Kevin Smith
Date	Respondent's Signature	Print Name
Date	Respondent's Counsel Signature	Print Name
1/27/2016		Robin Brune
Date	Deputy Trial Counsel's Signature	Name

(Do not write above this line.)

In the Matter of: TONY KEVIN SMITH	Case Number(s): 15-C-11007-LMA

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:

- [x] 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.)**

Feb 2, 2016
Date

Pat E. McElroy
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 February 2, 2016, 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:

TONY K. SMITH
1299 ANTELOPE CREEK DR APT 258
ROSEVILLE, CA 95678

☒ 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 February 2, 2016.

Bernadette Molina
Case Administrator
State Bar Court