


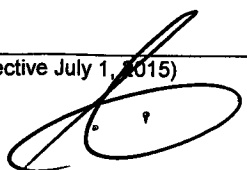
ORIGINAL

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Drew Massey 845 S. Figueroa Street Los Angeles, CA 90017 Tel: (213) 765-1204 Bar # 244350	Case Number(s): 15-C-14645-CV PUBLIC MATTER	For Court use only FILED  JAN 18 2017 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent David C. Carr Klinedinst, P.C. 501 W Broadway Ste 600 San Diego, CA 92101 Tel: (619) 239-8131 Bar # 124510	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: SIDNEY SCHWARZ Bar # 98467 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 **May 29, 1981**.
- (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."



(Do not write above this line.)

- (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 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.

- (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 page 8.**
- (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.
- (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.

- (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 page 9.**
- (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, absence of prior misconduct, extreme emotional difficulties, and pro bono and charity work. See pages 8-9.

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **five (5) years**.
- 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 **five (5) 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 **two (2) years**.
- 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: .

(Do not write above this line.)

- (9) ☒ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason:
- (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: **June 20, 2016.**
- (5) ☐ **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SIDNEY SCHWARZ

CASE NUMBER: 15-C-14645

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offense for which he was convicted involved moral turpitude.

Case No. 15-C-14645 (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 April 18, 2014, the United States Attorney filed a criminal indictment in the United States District Court, Southern District of California, case no. 14-CR-1075. The indictment charged Respondent with a violation of 18 U.S.C. section 347 [Conspiracy], nine counts of violating 18 U.S.C. sections 2320 and 2 [trafficking in counterfeit goods], nine counts of violating 18 U.S.C. sections 545 and 2 [importing goods contrary to law], one count of violating 31 U.S.C. section 5324 [structuring transactions], one count of violating 18 U.S.C. section 1956(h) [conspiracy to launder money], and seven counts of violating 18 U.S.C. section 1956(a)(1)(B) and 2 [money laundering].

3. On April 22, 2015, the court entered respondent's plea of guilty to the count of violation of 18 U.S.C. section 545 and 2 [importing goods contrary to law], a felony, and based thereon, the court found respondent guilty of that count. The importation occurred contrary to 18 U.S.C. section 2320 and 2 [trafficking in counterfeit goods]. Pursuant to a plea agreement, the court dismissed the remaining 27 counts.

4. On September 21, 2015, the court entered judgment finding Respondent guilty of the above count, ordering, among other things, a \$3,000 fine and a two-year period of probation including home confinement for eight months.

5. On September 14, 2016, 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 for which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

6. Between August 18, 2009 and May 31, 2013, Respondent was the treasurer of OHR, Inc. ("OHR"). OHR would wire money to Chinese corporations who would then produce counterfeit goods.

7. Specifically, OHR imported counterfeit housings and batteries for various cell phones (Sony, Blackberry, Motorola, etc.) and other electronics. Once obtained, a sister company of OHR owned by Respondent's son-in-law would then sell the products through retail stores in Mexico.

8. The day to day management of the company was left to Respondent's son-in-law. However, Respondent would handle the finances including the payment of invoices for the products imported from China.

9. Respondent made payments to the Chinese company for cellular products knowing that it would cause those products to be imported into Chula Vista, California.

10. Many of the products were counterfeit in that they bore an unauthorized trade mark registered with the U.S. Patent and Trademark office.

11. Between August 18, 2009 and May 31, 2013, Respondent received nine notices from U.S. Customs advising Respondent that the items imported were counterfeit. Nevertheless, Respondent and OHR continued to acquire counterfeit items from the Chinese supplier.

12. In one instance, Respondent requested the return of some items that were seized by U.S. Customs. Customs had seized both counterfeit goods and non-counterfeit goods that had been commingled. Respondent's request was denied.

13. On August 9, 2011, U.S. Customs seized boxes shipped from China from the same supplier that had previously shipped counterfeit goods to OHR. The boxes contained 206 Blackberry housings, 150 Nokia housings, 420 Motorola batteries, 260 Sony Ericson batteries, 190 Blackberry batteries, and 50 Samsung batteries all of which were counterfeit. The fair market value of the counterfeit goods was between \$120,000 and \$320,000.

CONCLUSIONS OF LAW:

14. The facts and circumstances surrounding the above-described violation involved moral turpitude.

AGGRAVATING CIRCUMSTANCES.

Harm to the Public (Std. 1.5(j)): The importation, and eventual sale, or counterfeit goods harmed the public. Purchasers may have been unaware that the goods were not genuine and the owners of the mark were harmed when the mark was used on other goods for OHR's benefit. Harm to the public is an aggravating circumstance. (*In the Matter of Kreitenberg* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469, 475 (finding a failure to pay taxes as harm to the public).)

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: By entering into this stipulation, Respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar resources and time. (*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]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

Absence of Prior Misconduct. Respondent has been admitted to practice law since May 1981. Respondent has been discipline free over the 32 years of practice from admission to the misconduct herein (2013) and is therefore entitled to significant mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 (ten years given “significant weight”).)

Good Character (Std. 1.6(f)). Respondent has provided evidence of eight individuals willing to attest to his good character. The individuals represent a wide range of references from the general and legal communities, including four attorneys and a clergyman, and each is aware of the misconduct. (*In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 912.)

Extreme Emotional Difficulties. Since the death of his father in 2006, Respondent has been the sole caretaker for his mother. His mother suffers from dementia among other medical ailments and Respondent is responsible for taking her to numerous doctor’s appointments and spending significant time with doctors. The emotional difficulties associated with caring for his ailing mother are a mitigating factor. (*In the Matter of Mitchell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 332 (giving mitigation credit for family difficulties even without expert testimony).)

Pro Bono and Charity Work. Respondent has been active at Temple Beth Shalom and has provided pro bono services to some members there. Respondent has also served on the Board of Temple Beth Shalom for five years and served as its Treasurer. Respondent also served for five years on the Board of the San Diego Hebrew Day School. Respondent also acted as a mentor to other attorneys. Pro bono work and community service have been found as mitigating factors. (*In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330.)

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).)

Standard 2.15(b) presumes disbarment for a final conviction of a felony in which moral turpitude is found in the facts and circumstances unless there is compelling mitigation that clearly predominates. Respondent's conviction did involve moral turpitude because he willfully and knowingly imported counterfeit goods. However, Respondent's mitigation is compelling given the nature of the offense. Even so, Standard 2.15(b) states that with compelling mitigation, an actual suspension of at least two years is appropriate.

It is worth noting that the crime did not involve Respondent's practice of law. Further, although Respondent acted as the treasurer of OHR, he received only nominal compensation. Therefore, there was no substantial motive for pecuniary gain.

Respondent's mitigation is substantial. He has thirty-two years of prior discipline-free practice. This lengthy time tends to indicate that the misconduct here is unusual for Respondent. Combined with the evidence of good character, the misconduct appears more aberrational and unlikely to be repeated. In addition, Respondent has mitigation in the form of pro bono work, community service, and emotional difficulties. Although there is some aggravation in harm to the public, it is greatly outweighed by the mitigation present. In fact, the mitigation compels a deviation from disbarment.

Given the compelling mitigation, Respondent should receive a five-year period of stayed suspension and a five-year period of probation with conditions including an actual suspension of two years and until a Standard 1.2(c)(1) showing is made. Doing so is sufficient to protect the public, the courts, and the legal profession; maintain the highest professional standards; and ensure public confidence in the profession.

Case law is in accord. In *Chadwick v. State Bar* (1989) 49 Cal.3d 103, the attorney was convicted of a misdemeanor of violating securities trading laws by trading on insider information. Thereafter, he conspired to lie to the Securities and Exchange Commission ("SEC"). Nevertheless, after his deceit he requested a meeting with the SEC and confessed his wrongdoing. The Supreme Court found that the crime involved moral turpitude and that other acts of moral turpitude occurred. But found compelling mitigation in that the attorney: (1) admitted his conduct to the SEC; (2) demonstrated remorse; (3) time had passed; (4) had no misconduct over an approximately 10 year period prior to the misconduct; and (5) demonstrated good character. The Court imposed discipline including a one-year actual suspension.

Respondent's conduct is more serious because it involves the conviction of a felony. However, like the *Chadwick* attorney, the misconduct here involves deceit and moral turpitude. But also like the *Chadwick* attorney, there are several factors in mitigation which tend to compel a result other than disbarment. Nevertheless, because Respondent's conduct is more serious, a stronger sanction is warranted and should include two-years of actual suspension.

Also instructive is *In re Young* (1989) 49 Cal.3d 257. In *Young*, the attorney had a client who was evading arrest. The attorney gave his client money while he was in another state, helped the client post bail under a false name to evade arrest, and drove the client to church services. The attorney was convicted of a felony, specifically of being an accessory to a felony. The Court found moral turpitude, but also compelling mitigation. The Court found compelling that the attorney's intent was to convince his client to surrender rather than simply helping him evade arrest. He also had a 20 year discipline-free practice, demonstrated good character, and had overextended himself due to other responsibilities. On

this record, the Court held that a five-year period of stayed suspension and a four-year period of actual suspension.

While the *Young* attorney was also convicted of a felony, Respondent's misconduct is somewhat less serious. Respondent's misconduct did not involve the practice of law or affirmative misrepresentations. Therefore, a lower level of discipline is sufficient to protect the public.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of December 15, 2016, the discipline costs in this matter are \$2567. 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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

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:
SIDNEY SCHWARZ

Case number(s):
15-C-14645

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.

Date

12/20/16

Respondent's Signature

Sidney Schwarz

Print Name

Date

12/20/16

Respondent's Counsel Signature

David Carr

Print Name

Date

12/21/16

Deputy Trial Counsel's Signature

Drew Massey

Print Name

(Do not write above this line.)

In the Matter of:
SIDNEY SCHWARZ

Case Number(s):
15-C-14645

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.

Page 9 - Absence of Prior Miscandues line 2, delete 32 years and insert in its place, 28 years. At line 3 (2013) is deleted and in its place, 2009 is inserted.

Page 10 - Third full paragraph, line 1, 32 years is deleted and 28 years is inserted in its place.

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.)**

January 13, 2017
Date

Yvette D. Roland
YVETTE D. ROLAND
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 January 18, 2017, 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:

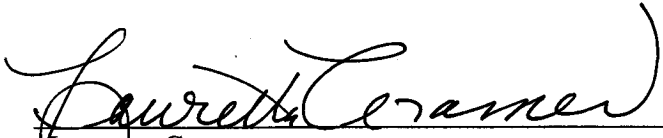
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DAVID C. CARR
KLINEDINST PC
501 W BROADWAY
STE 600
SAN DIEGO, CA 92101

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

Drew D. Massey, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 18, 2017.


Laurretta Cramer
Case Administrator
State Bar Court