(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION				
Counsel For The State Bar	Case Number(s): 15-O-11212	For Court use only		
Heather Meyers Contract Deputy Trial Counsel 845 South Figueroa Street	13-0-11212	FILED		
Los Angeles, CA 90017 (213) 765-1075		JAN 13 2016		
Bar # 302264		STATE BAR COURT CLERK'S OFFICE LOS ANGELES		
Counsel For Respondent]			
Anthony Radogna Law Offices of Anthony Radogna 1 Park Plaza, Suite 600 Irvine, CA 92614 (909) 622-5049		UBLIC MATTEL		
	Submitted to: Settlement Ju	ıdge		
26/ 859 Bar #- 96110	STIPULATION RE FACTS, O DISPOSITION AND ORDER	CONCLUSIONS OF LAW AND APPROVING		
In the Matter of: BRIAN WILLIE	ACTUAL SUSPENSION			
	☐ PREVIOUS STIPULATIO	N REJECTED		
Bar # 210336		·		
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 4, 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 11 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Do	not writ	te above this line.)					
(5)	Co La	onclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of w".					
(6)	The "Su	e parties must include supporting authority for the recommended level of discipline under the heading upporting Authority."					
(7)	No per	more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any nding investigation/proceeding not resolved by this stipulation, except for criminal investigations.					
(8)		yment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 40.7. (Check one option only):					
		Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless					
	\boxtimes	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: one billing cycle 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.					
1	Misc	ravating Circumstances [Standards for Attorney Sanctions for Professional conduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are ired.					
(1)	□ (a)	Prior record of discipline 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.					

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(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.							
(9)		Indifference: Respondent demonstrated indifference toward rectification of or atonement for the							
(10)		consequences of his or her misconduct. 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)	\boxtimes	No aggravating circumstances are involved.							
C. N	litig	al aggravating circumstances: ating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating mstances are required.							
(1)	\boxtimes	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. See Attachment at page 8.							
(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							

(Do no	t write	above	this line	e.)	
				any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties es no longer pose a risk that Respondent will commit misconduct.	
(9)		whic	h resu	nancial Stress: At the time of the misconduct, Respondent suffered from severe financial stress lted from circumstances not reasonably foreseeable or which were beyond his/her control and e directly responsible for the misconduct.	
(10)				blems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her is which were other than emotional or physical in nature.	
(11)	\boxtimes	Goo in the	d Cha e legal	racter: Respondent's extraordinarily good character is attested to by a wide range of references and general communities who are aware of the full extent of his/her misconduct.	
(12)				tion: Considerable time has passed since the acts of professional misconduct occurred convincing proof of subsequent rehabilitation.	
(13)		No n	nitigat	ing circumstances are involved.	
Addi	tiona	ıl miti	igating	g circumstances:	
	P	refili	ng Sti	pulation: See Attachment at page 8.	
D. D	isci	pline) :		
(1)	\boxtimes	Stay	yed Suspension:		
	(a)	\boxtimes	Resp	ondent must be suspended from the practice of law for a period of one (1) 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)	\boxtimes	The a	above-referenced suspension is stayed.	
(2)	\boxtimes	Probation:			
				ust be placed on probation for a period of one (1) year , which will commence upon the effective reme Court order in this matter. (See rule 9.18, California Rules of Court)	
(3)	\boxtimes	Actu	al Su	spension:	
	(a)	\boxtimes		ondent must be actually suspended from the practice of law in the State of California for a period irty (30) 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.	

(Do n	ot write	above	this line.)				
(10)	(10) The following conditions are attached hereto and incorporated:						
			Substance Abuse Conditions		Law Office Management Conditions		
			Medical Conditions		Financial Conditions		
F. C	Othe	r Cor	nditions Negotiated by the Partie	s:			
(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)		Cal	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)		•	er Conditions:				

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

BRIAN WILLIE

CASE NUMBER:

15-O-11212

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-O-11212 (State Bar Investigation)

FACTS:

- 1. As a member of the State Bar, respondent was required to complete 25 hours of Minimum Continuing Legal Education ("MCLE") during the period commencing on February 1, 2011, and ending on January 31, 2014 (the "compliance period").
- 2. On June 30, 2014, respondent reported under penalty of perjury to the State Bar that he was in compliance with the MCLE requirements, and, in particular, that he had completed his MCLE during the compliance period.
- 3. In fact, respondent did not complete any hours of eligible MCLE courses within the compliance period.
- 4. When respondent reported to the State Bar under penalty of perjury that he was in compliance with the MCLE requirements, respondent knew that he had not completed the necessary MCLE hours during the compliance period as required.
- 5. By October 31, 2014, respondent completed the required 25 hours of MCLE courses after being contacted on July 7, 2014, by the State Bar's Office of Member Records and Compliance regarding an audit of MCLE compliance. Respondent timely complied with the audit.

CONCLUSIONS OF LAW:

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

MITIGATING CIRCUMSTANCES.

No Prior Discipline (Std. 1.6(a)): Respondent was admitted to practice on December 4, 2000. At the time of the misconduct, respondent had practiced law for approximately 13 and one half years without a

record of discipline. Respondent's approximately 13 and one half years of discipline free practice prior to the misconduct indicates that the instant misconduct is an aberration and unlikely to recur. While respondent's conduct is serious, he is entitled to substantial mitigation for a discipline-free record after a significant number of years of practicing law. (Hawes v. State Bar, (1990) 51 Cal.3d 587, 596 [gave significant weight in mitigation to attorney practicing 10 years without discipline]; In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 [mitigation credit for many years of discipline free practice given even when conduct is serious].

Good Character (Std. 1.6(f)): Respondent provided character evidence from seven character witnesses, including one lawyer. All of the witnesses claim to know of respondent's misconduct and all speak highly of respondent's good character. The other letters include a former co-worker, a current paralegal at his office, a realtor, the owner of an executive search firm and a social friend.

Prefiling Stipulation: Respondent is entitled to mitigation for entering into this stipulation prior to the filing of disciplinary charges, thereby preserving State Bar Court time and resources. (Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].) Respondent has also acknowledged his misconduct by entering into this stipulation.

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistence 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 purpose 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" (In re Silverton (2005) 36 Cal 4th 81, 92, quoting In re Brown (1995) 12 Cal.4th 205, 220) as they "promote the consistent and uniform application of disciplinary measures" (In re Silverton at 91). As a result, the Standards should be followed "whenever possible" (Id. at 92, quoting In re Young (1989) 49 Cal.3d 257, 267) and deviations from the discipline stated in the Standards "should be elaborated with care." (Id. at 92).

In determining whether to impose a sanction greater or less than the specified in a given Standard, attention should be paid to the factors set forth in the specific Standard, as well as the primary purposes of discipline; the balancing of all mitigating and aggravating circumstances; the type of misconduct at issue; whether and to what extent 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 2.11 applies to respondent's acts of moral turpitude. Standard 2.11 states that the presumed discipline for an act of moral turpitude is disbarment or actual suspension. Standard 2.11 further states, "[t]he degree of sanction depends on the magnitude of misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member's practice of law."

Here, respondent made an intentional misrepresentation, under penalty of perjury, that he completed the required 25 hour MCLE requirement during the compliance period. In fact, upon audit, it was determined that he had completed no MCLE hours during the compliance period. Respondent in fact admitted to knowingly making the false affirmation. Misrepresentations are compounded when made in writing under penalty of perjury, which includes an imprimatur of veracity which should place a reasonable person on notice that their state is accurate, complete and true. (*In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 786). Respondent's misconduct circumvented the continuing legal education requirements established for the purpose of enhancing attorney competence and protecting the public. For these reasons, respondent's misconduct is serious, relates directly to the practice of law, and undermines public confidence in the profession.

However, respondent's misconduct is mitigated by the fact that he has, with this stipulation, acknowledged the wrongfulness of the misconduct. Further, respondent's 13 and one half years in practice provides substantial mitigation. Additionally, he submitted proof of good character through seven letters of reference, all of whom knew of respondent's misrepresentation and still vouched for his good character. There are no aggravating factors present.

These facts suggest that respondent's misconduct was aberrational and indicate that he is amenable to rehabilitation and conforming to ethical standards in the future. As a result, discipline at the low end of Standard 2.11 is proper and consistent with the purposes of imposing sanctions for attorney misconduct. A recommendation of one year stayed suspension and one year of probation with 30 days actual suspension, is appropriate in this matter.

Case law also supports this level of discipline. It is important to consider the Review Department decision in *In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330. Attorney Yee submitted her MCLE compliance card and affirmed that she had completed the requisite 25 hours during her compliance period. However, during a subsequent audit and State Bar investigation, Yee was unable to produce any record of compliance. The Review Department found that "Yee's failure to verify her MCLE compliance before affirming it constituted gross negligence amounting to moral turpitude for discipline purposes" (*Yee* at 334), but declined to find she had misrepresented her MCLE compliance intentionally. The Review Department found strong mitigation in Yee's case. In particular, the Review Department noted Yee's: (1) 10 and one half years of discipline-free practice; (2) her candor and cooperation with the State Bar during the investigation; (3) her good character as evidenced by the testimony of eleven witnesses; (4) her immediate recognition of wrongdoing and creation of a plan to avoid such issues in the future; and, (5) her significant amount of pro bono work and service to the community. *Id.* at 335-36. In *Yee*, the Review Department imposed discipline consisting of a public reproval.

Using Yee as a guide, respondent is afforded mitigation for his 13 and one half years of practice without a record of discipline. Respondent also provided seven letters confirming that they knew of respondent's misconduct and still vouch for his good character. Unlike Yee, respondent did not have any evidence of exemplary community service or pro bono work, nor did he provide a plan to avoid such problems in the future. Therefore, the application of the Standards and the findings in Yee support an outcome of public discipline greater than that imposed in Yee.

In light of the totality of the facts and circumstances presently available, including the mitigation of good character, and a discipline-free record, and in light of Standard 2.11, discipline consisting of a one year stayed suspension and a one year period of probation with 30 days actual suspension, is appropriate

to protect the public, courts and the legal profession, to maintain high professional standards by attorneys, and to preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 18, 2015, the prosecution costs in this matter are approximately \$3,066. 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 <u>not</u> receive MCLE credit for completion of the ethics courses ordered as a condition of his probation. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)				
In the Matter of: BRIAN WILLIE	Case number(s): 15-O-11212			

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.

12/15/15	for wo	BRis Willie
Date /	Respondent's Signature	Print Name
12-21-15		Anthony Rudsons
Date	Respondent's Counsel Signature	Print Name
12.30.15	Heather Heyers	Heather Meyers
Date	Deputy Trial Counsel's Signature	Print Name

In the Matter of:			Case Number(s):	
BRIA	N W	ILLIE		15-O-11212
		ACTUA	L SUSPE	ENSION ORDER
		tipulation to be fair to the parties and smissal of counts/charges, if any, is		equately protects the public, IT IS ORDERED that the without prejudice, and:
		The stipulated facts and disposition Supreme Court.	n are APPf	ROVED and the DISCIPLINE RECOMMENDED to the
		The stipulated facts and disposition DISCIPLINE IS RECOMMENDED		ROVED AS MODIFIED as set forth below, and the reme Court.
		All Hearing dates are vacated.		
within 1 stipulat	l5 day ion. (S Supre	s after service of this order, is grant See rule 5.58(E) & (F), Rules of Proc	ed; or 2) th cedure.) Th	s: 1) a motion to withdraw or modify the stipulation, filed is court modifies or further modifies the approved e effective date of this disposition is the effective date file date. (See rule 9.18(a), California Rules of
	1/	13/16	Q	maldf. Mo
Date	,	•	Dona	Id MileS of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 13, 2016, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSION OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

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

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

ANTHONY P. RADOGNA LAW OFFICES OF ANTHONY RADOGNA 1 PARK PLZ STE 600 IRVINE, CA 92614

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

HEATHER MEYEERS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 13, 2016.

Tammy Cleaver Case Administrator State Bar Court