



(Do not write above this line.)

ORIGINAL

State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Alex Hackert Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1498 Bar # 267342	Case Number(s): 15-O-14406	For Court use only <div style="text-align: center;"> PUBLIC MATTER FILED JUN 14 2016 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Phillips Ranta Sweet 512 Mystic Way Laguna Beach, CA 92651 (415) 518-8776 Bar # 171811	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: PHILLIPS RANTA SWEET Bar # 171811 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 24, 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 **10** 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".

BS
5.20
P.S.

- (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):
- ☐ Costs are added to membership fee for calendar year following effective date of discipline.
- ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **Three billing cycles immediately following the effective date of the Supreme Court 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(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 or a separate attachment entitled "Prior Discipline."
- (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.

- (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.

P.S.

(Do not write above this line.)

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

Additional mitigating circumstances

No record of prior discipline. See page 7.

Good character. See page 7.

Pro bono work. See page 7.

Pre-filing Stipulation. See page 7.

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:

The above-referenced suspension is stayed.

- (2) ☒ **Probation:**

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

E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ 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.
- (3) ☒ 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

P.S.

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.

- (4) ☒ 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.

- (5) ☐ 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.
- (6) ☒ 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.
- (7) ☒ 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 State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☐ 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.
- (9) ☐ 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 within one year. **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) ☐ **Other Conditions:**

1.5

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: PHILLIPS RANTA SWEET

CASE NUMBER: 15-O-14406

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-14406 (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 January 12, 2014, respondent reported to the State Bar, under penalty of perjury, that he had completed all required MCLE hours for the compliance period.
3. When respondent reported to the State Bar under penalty of perjury that he was in compliance with the MCLE requirements, respondent failed to review his records to determine whether he was in compliance with the MCLE requirements. His failure to confirm his records amounted to gross negligence in not knowing that he was not in compliance, as required.
4. On July 7, 2014 respondent was notified that he had been selected for an audit of his MCLE compliance for this period. Respondent was instructed to submit his proof of compliance by August 21, 2014. Respondent did not check to confirm that he possessed records of MCLE requirements until after receiving the July 7, 2014 letter.
5. On October 1, 2014, respondent called the State Bar and indicated that he had to make up his hours as the laptop on which he kept track of his MCLE credits had been stolen.
6. In response to the audit, respondent was unable to produce any documentation to show that he completed his MCLE requirements during the compliance period. Respondent was unable to locate his laptop computer on which he kept track of his MCLE credits, leading him to believe that it had been stolen by a former roommate.
7. During the investigation of this matter, respondent identified various MCLE providers through which he believed he had completed some of his MCLE hours through during the compliance period. However, only one hour of MCLE credit could be verified.

CONCLUSIONS OF LAW:

8. By reporting to the State Bar, under penalty of perjury, that he had complied with all MCLE requirements, when he was grossly negligent in not knowing that he was not in full compliance, respondent committed an act involving moral turpitude, in willful violation of California Business and Professions Code section 6106.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

No Prior Record of Discipline: Respondent was admitted to practice in 1994. At the time of the misconduct, respondent had no record of prior discipline over nineteen years in practice. The Review Department has found an attorney with twenty-four years of practice without discipline to be entitled to "significant" mitigation. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 167.)

Good Character. Respondent has provided evidence of six individuals willing to attest to his good character, including a realtor, two former colleagues that worked with respondent in a corporate setting, an accountant, the owner of classic car maintenance and restoration company, and a personal friend. Two of the references have known respondent for 4 and 6 years, while the others have known him for 15 to 17 years, and are aware of the charges in this matter. These references have stated their belief in respondent's good character, his ability as an attorney and his remorse concerning the misconduct. Given the limited number of references, respondent is entitled to only minimal mitigation for good character. (*In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 912.)

Pro Bono Work. Four of respondent's references also provided information concerning pro bono services that respondent has provided for them, their friends, business associates and family. These services include setting up two different non-profit corporations, applying for a temporary restraining order, assisting an elderly couple with a property dispute, helping with a divorce case, and assisting a small business owner with filing articles of incorporation, employment law issues and contract negotiations. Pro bono work and community service may mitigate an attorney's misconduct and respondent should receive significant mitigation for his pro bono work. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785).

Prefiling Stipulation: Respondent voluntarily entered into this stipulation to resolve the matter before the filing of disciplinary charges and should receive mitigative credit for his admission of culpability and consent to the imposition of discipline, thus saving limited State Bar resources and acknowledging and accepting responsibility for his misconduct. (*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).)

Standard 2.11 applies to respondent's misrepresentation regarding MCLE compliance. It states that, "disbarment or actual suspension is the presumed sanction for an act of moral turpitude." Failing to review records prior to affirming MCLE compliance constitutes gross negligence rising to moral turpitude, as the member's compliance statement represents that not only did they complete the required MCLE courses but that they also have the records to prove it. (*In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. 330, 333-334.)

Here, respondent is entitled to significant mitigation based on his 19 years in practice without prior discipline, in addition to mitigation for entering into a pre-filing stipulation and for evidence of good character and pro bono work. When combined with the absence of aggravating circumstances, deviation to a level of discipline without a period of actual suspension is warranted since it appears unlikely that this misconduct will reoccur. Therefore, the imposition of a one year stayed suspension and one year of probation, is appropriate. This result would fulfill the primary purposes of attorney discipline, and specifically, "inform[s] the public and members of the State Bar that failing to comply with MCLE requirements may result in discipline." (*In the Matter of Yee, supra*, 5 Cal. State Bar Ct. Rptr. at p. 337.)

In *In the Matter of Yee, supra*, 5 Cal. State Bar Ct. Rptr. at p. 334, the member did not check her MCLE certificates prior to affirming compliance with her MCLE requirements, when she actually had no documentation to demonstrate her compliance. The Review Department found this to be a grossly negligent act arising to moral turpitude. (*Id.*) However, the attorney's conduct was also significantly mitigated by ten years of discipline-free practice, significant good character references, candor and cooperation, remorse and recognition of wrongdoing and pro bono work and community service. (*Id.* at 335-336.) Based on the lack of intent (which was supported by testimony from the attorney's partner, corroborating the attorney's recollection that she did her coursework at home) and the highly significant mitigation, the member received a public reproof. (*Id.* at 336-337.)

This matter involves similar misconduct. Respondent asserts that he complied with his MCLE requirements, but he failed to ensure that his records were complete when he affirmed his compliance. Respondent's misrepresentation to the State Bar appears to be grossly negligent. Like the attorney in *Yee*, respondent also has factors in mitigation. While respondent's misconduct is not as heavily

mitigated as the misconduct in *Yee*, and therefore warrants greater discipline than imposed in *Yee*, it nevertheless warrants a downward departure from Standard 2.11. A stayed suspension is appropriate.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of May 18, 2016, the prosecution costs in this matter are \$3,139. 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

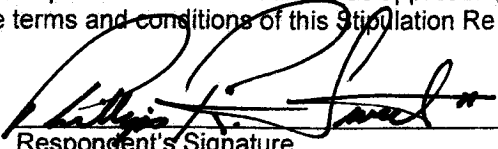
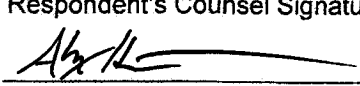
Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: PHILLIPS RANTA SWEET	Case number(s): 15-O-14406
--	--------------------------------------

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.

<u>5-24-16</u> Date	 Respondent's Signature	<u>Phillips Ranta Sweet</u> Print Name
<u>5/31/16</u> Date	 Deputy Trial Counsel's Signature	<u>Alex Hackert</u> Print Name

P.S.

(Do not write above this line.)

In the Matter of: PHILLIPS RANTA SWEET	Case Number(s): 15-O-14406
---	-------------------------------

STAYED 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.

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

6/13/16


DONALD F. MILES

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 Los Angeles, on June 14, 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 Los Angeles, California, addressed as follows:

PHILLIPS R. SWEET
512 MYSTIC WAY
LAGUNA BEACH, CA 92651

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

ALEX HACKERT, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 14, 2016.



Rose M. Luthi
Case Administrator
State Bar Court