(Do not write above this line.)

ORIGINAL

State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

PUBLIC MATTER

Counsel For The State Bar	Case Number(s):	For Court use only
Alex Hackert **Deputy Trial Counsel** **845 S. Figueroa Street** **Los Angeles, CA 90017** **(213) 765-1498** Bar # **267342**	**15-O-14468**	FILED MAY 18 2016 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent **Edward Joseph Roenker, Jr.** **6036 Eastwood Terrace** **Norfolk, VA 23508** **(619) 252-2080** Bar # **181658**	Submitted to: **Assigned Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: **EDWARD JOSEPH ROENKER, JR.** Bar # **181658** A Member of the State Bar of California (Respondent)	**ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED	

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 **February 6, 1996**.

(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".

(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 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.

(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.

(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 convincing proof of subsequent rehabilitation.

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

Additional mitigating circumstances:

No Prior Discipline: see page 7.

Prefiling Stipulation: see page 7 - 8.

D. Discipline:

(1) ☒ ***Stayed Suspension:***

(a) ☒ Respondent 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) ☐ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **one (1) year**, 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 **thirty (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.

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: **Respodent resides in Virginia. A comparable alternative to Ethics School is provided in section F below.**

(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: .

(5) ☒ **Other Conditions: As a further condition of probation, because respondent lives out of state, respondent must either (1) attend a session of State Bar Ethics School, pass the test given at the end of that session, and provide proof of the same satisfactory to the Office of Probation of the State Bar of California within one (1) year of the effective date of the disicpline herein; or (2) complete a total of six (6) hours of live, in-person Minimum Continuing Legal Education (MCLE) approved courses in legal ethics offered through a certified MCLE provider in Virginia or California and provide proof of the same sastifactory to the Office of Probation within one (1) year of the effective date of the discipline.**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: EDWARD JOSEPH ROENKER, JR.

CASE NUMBER: 15-O-14468

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of the violation of the specified statute.

Case No. 15-O-14468 (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 25 hours of MCLE during the compliance period.

3. In fact, respondent had not completed any hours of MCLE within the compliance period.

4. At the time he reported to the State Bar that he was in compliance with the MCLE requirements, respondent knew that he had not completed the required 25 hours of MCLE. Respondent was not representing any clients during that time, and had not represented any clients since late 2007.

CONCLUSION OF LAW:

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

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent has been an attorney since 1996 and has no record of discipline. Respondent's almost 18 years in practice with no prior discipline at the time of the misconduct is entitled to significant mitigation. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49; see *Friedman v. State Bar* (1990) 50 Cal.3d 235, 242.)

Prefiling Stipulation: Respondent has 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 is applicable to respondent's misconduct and provides that "[d]isbarment or actual suspension is the presumed sanction for an act of moral turpitude [or] dishonesty" and that the "degree of sanction depends on the magnitude of the 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."

Respondent's false statement regarding his MCLE compliance is serious and constitutes an act of dishonesty directly relating to the practice of law. Pursuant to Standard 2.11, an actual suspension is appropriate in this matter. Although respondent made a false statement regarding his MCLE compliance, respondent's misconduct did not harm or mislead a client and did not harm the administration of justice. Nevertheless, properly complying with continuing education requirements is an important part of the practice of law. Respondent has almost 18 years in practice with no prior record of discipline. Due to the mitigating circumstances present and the lack of aggravating circumstances, a discipline at the lower end of the range suggested by Standard 2.11 is appropriate. Thus, a one (1) year stayed suspension and one (1) year probation with conditions including a thirty (30) day actual suspension will serve to protect the public, the courts and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession.

In *In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330, Yee affirmed her MCLE compliance when she had not taken any courses during the relevant reporting period. Yee mistakenly recalled that she had completed the courses and did not check or maintain any records to confirm if her recollection was accurate. The Review Department found that Yee's failure to verify records before submitting a statement of compliance amounted to moral turpitude based on gross negligence. The Review Department found no aggravation, but did find compelling mitigation consisting of no prior record of discipline, candor and cooperation, good character, remorse and recognition of wrongdoing, pro bono work and community service, and no harm to the public or the judicial system. Due to the compelling mitigation, the lack of aggravating circumstances, and Yee's genuine recognition of wrongdoing, the Review Department recommended discipline consisting of a public reproval.

Similar to *Yee*, respondent submitted a false statement regarding his MCLE compliance. Also like *Yee*, there is a lack of aggravating circumstances and the mitigating circumstance of no prior record of discipline. However, unlike *Yee*, respondent does not have the compelling mitigating circumstances including good faith, pro bono work, and community service, and respondent admits that he knew he was not in compliance when he affirmed that he was.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 1, 2016, 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 Ethics School or MCLE hours completed in lieu of Ethics School ordered as a condition of discipline. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: **EDWARD JOSEPH ROENKER, JR.**	Case number(s): **15-O-14468**

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.

5/3/16 Date	Edward J. Roenker Jr. Respondent's Signature	Edward J. Roenker, Jr. Print Name
Date	Respondent's Counsel Signature	Print Name
5/6/16 Date	Deputy Trial Counsel's Signature	Alex Hackert Print Name

(Do not write above this line.)

In the Matter of: EDWARD JOSEPH ROENKER, JR.	Case Number(s): 15-O-14468

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.)**

5/17/16
Date

Judge of the State Bar Court
DONALD F. MILES

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 May 18, 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:

EDWARD J. ROENKER JR
6036 EASTWOOD TER
NORFOLK, VA 23508

☒ 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 May 18, 2016.

Rose M. Luthi

Rose M. Luthi
Case Administrator
State Bar Court