



ORIGINAL

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**PUBLIC MATTER**

**State Bar Court of California**  
**Hearing Department**  
**Los Angeles**  
**ACTUAL SUSPENSION**

Counsel For The State Bar  <b>Alex Hackert</b> <b>Deputy Trial Counsel</b> <b>845 S. Figueroa St.</b> <b>Los Angeles, CA 90017</b> <b>213-765-1498</b>  Bar # 267342	Case Number(s): <b>15-O-14716</b>	For Court use only   <div align="center"> <b>FILED</b>    <b>JUN 20 2016</b>  <b>STATE BAR COURT</b>  <b>CLERK'S OFFICE</b>  <b>LOS ANGELES</b> </div>
In Pro Per Respondent  <b>Verne Craig Scholl</b> <b>5751 Palmer Way Ste A1</b> <b>Carlsbad, CA 92010</b> <b>760-473-6905</b>  Bar # 48634	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>VERNE CRAIG SCHOLL</b>  Bar # 48634  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 **January 7, 1971**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

6.8

- (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 **11-O-16820, et al.**
  - (b) ☒ Date prior discipline effective **March 1, 2014.**
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 1-300(B), 4-100(A), 4-200(A) and 4-100(B) and Business and Professions Code section 6106.**
  - (d) ☒ Degree of prior discipline **three-year stayed suspension with two years of probation, including a one-year actual suspension.**
  - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.

See page 8-9.

- (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:**

**Financial Hardship, page 9.**

**Pre-filing Stipulation, page 9.**

**D. Discipline:**

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **4 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 **4 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 **3 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: .

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- (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:
- (5) ☒ **Other Conditions:** Within one year after the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory proof of attendance of the State Bar's Client Trust Accounting School and passage of the test given at the end of that session.

Since respondent has previously been ordered to complete State Bar Ethics School, State Bar Client Trust Accounting School and the Multistate Professional Responsibility Examination (see State Bar Case Nos. 11-O-16820, et al., 12-O-14406, et al., and 14-O-03022, et al.), should respondent complete any of those requirements prior to the effective date of discipline in this matter and provide the Office of Probation with satisfactory proof of completion, then that requirement shall be deemed completed for the purposes of this stipulation.

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      VERNE CRAIG SCHOLL

CASE NUMBER:                              15-O-14716

**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-14716 (State Bar Investigation)

**FACTS:**

1. On January 30, 2014, the California Supreme Court filed Order Number S214624 (State Bar Court Case Nos. 11-O-16820 and 11-O-18691), which ordered that respondent be suspended from the practice of law for three years, that execution of the suspense be stayed, and that respondent be placed on probation for two years, subject to conditions, including a one-year actual suspension. The order also required respondent to comply with the conditions of probation recommended by the Review Department in its Opinion, file on October 13, 2013, which included the requirement that respondent complete State Bar Ethics School and Client Trust Accounting School within one year from the effective date of discipline, and provide satisfactory proof of such to the State Bar's Office of Probation.
2. Respondent's deadline to complete State Bar Ethics School and Client Trust Accounting School was March 1, 2015.
3. On January 30, 2014, the Clerk of the Supreme Court of the State of California properly served upon respondent a copy of the Supreme Court Order. Respondent received the Supreme Court Order.
4. On February 13, 2014, the Office of Probation sent a letter to respondent's membership record address reminding respondent of the terms of the Supreme Court Order. The letter explicitly listed the above-mentioned terms of respondent's probation, and the deadlines for each condition's completion. Respondent received this letter.
5. On February 20, 2014 respondent held his required probation meeting with his assigned probation deputy. During the meeting, the probation deputy reviewed the terms of respondent's probation with respondent, and the deadlines for the completion of respondent's probation conditions, including Ethics School and Client Trust Accounting School.
6. Respondent did not complete Ethics School or Client Trust Accounting School by March 1, 2015. To date, respondent has not completed either course.

## CONCLUSIONS OF LAW:

7. By failing to: attend State Bar Ethics School, pass the test at the end of Ethics School and submit proof of same to the Office of Probation by March 1, 2015, and by failing to: attend State Bar Client Trust Accounting School, pass the test at the end of Client Trust Accounting School and submit proof of same to the Office of Probation by March 1, 2015, respondent failed to comply with conditions attached to his disciplinary probation from Supreme Court Order S214624 (State Bar Court Case Nos. 11-O-16820 and 11-O-18691), in willful violation of Business and Professions Code section 6068(k).

## AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has three prior records of discipline.

The underlying matter that is the basis of the instant probation violation consisted of a three-year stayed suspension with two years of probation, including a one-year actual suspension. (State Bar Court Case Nos. 11-O-16820 and 11-O-18691.) This discipline became effective on March 1, 2014. The Review Department found respondent culpable of one count of violating Rules of Professional Conduct, rule 1-300(B) (unauthorized practice of law in a foreign jurisdiction), one count of violating Rules of Professional Conduct, rule 4-200(A) (collecting an illegal fee), one count of violating Rules of Professional Conduct, rule 4-100(A) (failure to maintain client funds in a trust account), one count of violating Business and Professions Code section 6106 (moral turpitude, misappropriation by gross negligence) and one count of violating Rules of Professional Conduct, rule 4-100(B) (failing to promptly pay/deliver client funds). The misconduct in this case occurred in 2010 through 2011. In one client matter, respondent was hired to obtain a loan modification for a home in Illinois, where respondent is not licensed. In the other client matter, respondent misappropriated \$49,640 from a client based on his gross neglect in failing to properly supervise an employee. Aggravating factors were multiple acts of misconduct and harm to a client. Mitigating circumstances were no prior record of discipline over nearly forty years in practice, candor and cooperation, good character and community service, and remorse and recognition of wrongdoing.

In respondent's second discipline, he received a two-year stayed suspension with three years of probation, including an actual suspension for one year, and until respondent pays restitution and makes a successful Std. 1.2(c)(1) showing. (State Bar Court Case Nos. 12-O-14406, 12-O-15267, 12-O-15689, 12-O-15871, 12-O-17143, 12-O-17158, 12-O-18182, 13-O-10034, 13-O-12143, 12-O-11084, 12-O-15064, 12-O-15719 and 12-O-16177.) This discipline became effective on July 26, 2014. Respondent stipulated to eight violations of Rules of Professional Conduct, rule 1-300(B) (unauthorized practice of law in a foreign jurisdiction) and rule 4-200(A) (collecting an illegal fee), and five violations of California Business and Professions Code, section 6106.3 (illegal advanced fee in violation of Civil Code, section 2944.7(a)(1)). In eight client matters, respondent was hired to obtain loan modifications in jurisdictions where he was not licensed to practice. In five client matters, respondent was hired to obtain loan modifications in California and he collected illegal advanced fees. Aggravating factors were a prior record of discipline, multiple acts of misconduct and harm to the clients. Mitigating credit was given for good character references, extensive community service and entering into a pretrial stipulation.

This misconduct occurred between 2010 and 2012, which overlapped the misconduct in the previous case and occurred prior to the imposition of discipline in respondent's first case. The level of discipline was reached by considering "the totality of the findings in the two cases to determine what the discipline would have been had all the charged misconduct in this period been brought as one case." (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619.)

In respondent's third discipline, he received a two-year stayed suspension with two years of probation, including an actual suspension for one year and until respondent pays restitution. (State Bar Court Case Nos. 14-O-03022 and 14-O-03733). This discipline became effective on June 7, 2015. Respondent stipulated to two counts each of violations of Rules of Professional Conduct, rule 1-300(B) (unauthorized practice of law in a foreign jurisdiction) and rule 4-200(A) (collecting an illegal fee) for two matters where he was hired to obtain loan modifications in jurisdictions where he was not licensed to practice. Aggravating factors were a prior record of discipline, multiple acts of misconduct and failing to pay restitution. Mitigating credit was given for entering into a pretrial stipulation. This misconduct occurred in 2009 and 2011, and therefore *In the Matter of Sklar, supra*, 2 Cal. State Bar Ct. Rptr. 602 applied to reaching the appropriate level of discipline.

### MITIGATING CIRCUMSTANCES.

**Financial Difficulties:** For the past several years, respondent's only income has been from social security benefits and he has had to rely on friends and family members for financial assistance. It is difficult for respondent to incur the expense of traveling from his home in San Diego County to Los Angeles to attend Ethics School and Client Trust Accounting School. (See *In re Brown* (1995) 12 Cal.4th 205 [attorney's financial difficulties may be considered in mitigation of misconduct].)

**Pre-filing Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant 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].)

### 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 Silvertown* (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).)

Since respondent has three prior records of discipline, Standard 1.8(b) must be considered. Standard 1.8(b) states:

If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:

1. Actual suspension was ordered in any one of the prior disciplinary matters;
2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

However, case law supports the proposition that not every case in which Standard 1.8(b) applies is automatically appropriate for disbarment, and in the instant matter, a deviation from Standard 1.8(b) is permissible. Notwithstanding its unequivocal language to the contrary, it has long been established by the California Supreme Court that disbarment is not always mandated under Standard 1.8(b) (and its predecessor, Standard 1.7(b)), even where there are no compelling mitigating circumstances that predominate in a case. (*Conroy v. State Bar* (1991) 53 Cal.3d 495, 506-507 [attorney found to have abandoned a client and had two prior records of discipline, including a private reproof and a sixty-day actual suspension, with aggravation for failing to cooperate, and no evidence of mitigation presented, but a one year actual suspension imposed rather than disbarment].)

Looking to the first factor in Standard 1.8(b), while respondent has previously received discipline including periods of actual suspension, the Review Department has instructed that, "[m]erely declaring that an attorney has [multiple] impositions of discipline, without more analysis, may not adequately justify disbarment in every case." (*In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131,136.) Disbarment recommendations under Standard 1.8(b) should not be made solely on the number of times a respondent has been disciplined without giving due regard for the nature and extent of respondent's prior records of discipline and the facts and circumstances of the present misconduct. (*In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 704; see also *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222 [court not bound to follow Standards in a "talismanic" fashion, allowing for findings "with considerations peculiar to the offense and the offender"].) Because the misconduct in respondent's three prior disciplines occurred during overlapping time periods, the aggravating force of respondent's prior disciplines is diminished and therefore, it would not be appropriate to require respondent's disbarment under the first factor of Standard 1.8(b). (See *In the Matter of Sklar*, *supra*, 2 Cal. State Bar Ct. Rptr. at 618-619.)

Consideration of the latter two factors in Standard 1.8(b) also does not necessarily mandate respondent's disbarment. Respondent's efforts to comply with his other probation conditions demonstrates some willingness to conform to his ethical duties. It is more plausible that respondent's financial difficulties

were the primary cause of his failure to timely complete Ethics School and Client Trust Accounting School, rather than a conscious dereliction of his ethical obligations. (Compare with *In the Matter of Sullivan* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189 [disbarment appropriate where a member was convicted of misdemeanor obstruction of justice, a crime of moral turpitude, which he failed to report to the State Bar, and he had three prior records of discipline for incompetently performing legal services, thus demonstrating a pattern of carelessness towards his ethical obligations over the course of two decades].) As such, deviation from disbarment under Standard 1.8(b) is permissible, but respondent's prior misconduct is relevant to determine where along a continuum the level of discipline should be fixed, and the requirement of progressive discipline under Standard 1.8(a) is still applicable.

Since deviation from Standard 1.8(b) is permissible, the level of discipline is to be determined under the Standard applicable to the misconduct at issue. Standard 2.14 indicates that actual suspension is the presumed sanction for failing to comply with a condition of discipline, with the degree of sanction depending on the nature of the condition violated and the member's unwillingness or inability to comply with disciplinary orders.

Respondent's probation conditions requiring him to attend Ethics School and Client Trust Accounting School are directly related to the misconduct in the underlying cases, particularly the grossly negligent misappropriation of client funds. While respondent's misconduct is mitigated by his financial difficulties, his failure to complete these two courses still raises concerns about public protection and respondent's compliance with his ethical duties. Even in light of respondent's mitigation and that aggravating force of his prior record of discipline is diminished, the requirement of progressive discipline requires a lengthy period of suspension in this matter given the previously imposed periods of actual suspension. The recommended level of discipline is a four year stayed suspension, four years of probation and a three-year actual suspension. Respondent's probation conditions must include the requirement that he complete Ethics School and Client Trust Accounting School, as previously ordered.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of June 9, 2016, the prosecution costs in this matter are \$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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT**

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

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In the Matter of: <b>VERNE CRAIG SCHOLL</b>	Case number(s): <b>15-O-14716</b>
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### 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>6-9-2016</u>	<u>Verne Craig Scholl</u>	<u>Verne Craig Scholl</u>
Date	Respondent's Signature	Print Name

<u>6/13/16</u>	<u>Alex Hackert</u>	<u>Alex Hackert</u>
Date	Deputy Trial Counsel's Signature	Print Name

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In the Matter of: VERNE CRAIG SCHOLL	Case Number(s): 15-O-14716
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### 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.

1. On page 4 of the Stipulation, under "Additional mitigating circumstances," "Financial Hardship" is deleted, and in its place is inserted "Financial Difficulties".
2. On page 6 of the Stipulation, the "X in the box at paragraph F.(1) requiring Respondent to provide proof of passage of the MPRE is deleted, and an "X" is inserted in the box next to "No MPRE recommended." Furthermore, the following sentence is added after "Reason:".

Respondent was ordered to take and pass the MPRE pursuant to Supreme Court Order S214624 (State Bar Court Nos. 11-O-16820, 11-O-18691) filed on January 30, 2014. Respondent was suspended effective July 27, 2015, for failing to pass the MPRE within the time prescribed in the Supreme Court's order, and he will remain suspended until he provides proof of passage of the MPRE.


3. On page 6 of the Stipulation, the last paragraph is deleted, and in its place is inserted the following language: "Respondent was previously ordered to complete State Bar Ethics School and State Bar Client Trust Accounting School. Should Respondent complete either of those requirements prior to the effective date of discipline in this matter and provide the Office of Probation with satisfactory proof of such completion, that requirement will be deemed completed for purposes of this Stipulation."
4. On page 9 of the Stipulation, line 3 at the top of the page, "June 7, 2015" is deleted, and in its place is inserted "June 6, 2015".
5. On page 10 of the Stipulation, third full paragraph, line 13, a period is inserted after "disbarment" and "under the first factor of Standard 1.8(b)" is deleted.

(Do not write above this line.)

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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.)**

*June 20, 2016*  
Date

  
\_\_\_\_\_  
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 Los Angeles, on June 20, 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:

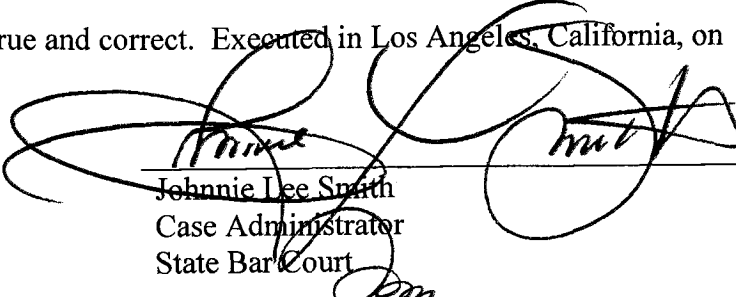
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**VERNE CRAIG SCHOLL  
5751 PALMER WAY STE A1  
CARLSBAD, CA 92010**

- ☒ 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 20, 2016.

  
Johnnie Lee Smith  
Case Administrator  
State Bar Court