


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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar R. Kevin Bucher Senior Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1630 Bar # 132003	Case Number(s): 16-O-11779; 16-O-12627	For Court use only PUBLIC MATTER FILED  FEB - 6 2017 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Peter Miles Hoffman Attorney At Law 1643 Queens Rd Los Angeles, CA 90069 (323) 372-3080 Bar # 66205	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: PETER MILES HOFFMAN Bar # 66205 A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 18, 1975**.
- (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 **13** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



(Do not write above this line.)

- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☒ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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-12855, see attachment page 8.**
 - (b) ☒ Date prior discipline effective **June 2, 2011**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code, section 6068(c).**
 - (d) ☒ Degree of prior discipline **Private Reprimand**
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

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- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the 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. See attachment, page 8.
- (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:

Pretrial Stipulation - See attachment, page 9.

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:
- (b) ☒ The above-referenced suspension is stayed.
- (2) ☒ **Probation:**
- Respondent must be 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)
- (3) ☒ **Actual Suspension:**
- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **six months**.
- 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: .
- (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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: PETER MILES HOFFMAN

CASE NUMBERS: 16-O-11779; 16-O-12627

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. 16-O-11779 (State Bar Investigation)

FACTS:

1. Pursuant to court order in State Bar case no. 14-C-01246, Respondent was placed on interim suspension after his felony conviction of conspiracy to commit mail or wire fraud, and aiding and abetting wire fraud. That interim suspension was effective September 28, 2015, and was continuously in effect through until the present.

2. Pursuant to the interim suspension order in case no. 14-C-01246, Respondent was required to comply with Rule of Court 9.20, and on or before October 28, 2015, was to notify clients, co-counsel, opposing counsel, or adverse parties in writing of his suspension and notify the State Bar of his compliance.

3. On November 13, 2015, Respondent stated in writing on a declaration filed with the State Bar Court that he notified all clients and co-counsel in writing via certified mail, of his suspension, and that he filed a copy of his notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending. The State Bar Office of Probation accepted the declaration as compliant.

4. At the time he was suspended, Respondent was representing a party in *United Care Network, LLC v. Baskom*, American Arbitration Association (AAA) Commercial Arbitration Tribunal, Case No. 01-15-0003-9085, a collective bargaining arbitration matter governed by AAA rules, not filed in Superior Court. Respondent was of the unreasonable belief that his representation did not constitute holding himself out as entitled to practice law, as Code of Civil Procedure section 1282.4(h) allows non-attorneys to represent a party in such matters, as does AAA Rule 26. Respondent now admits he held himself out to practice law when he was not entitled to do so, after his suspension took effect, by the following conduct:

- (a) Between November 4, 2015 and November 12, 2015, Respondent communicated with opposing counsel via email regarding substantive legal matters in *United Care Network, LLC*.
- (b) Between November 4, 2015 and March 1, 2016, Respondent communicated with the AAA tribunal regarding substantive legal matters in *United Care Network, LLC*.

(c) On November 20, 2015, Respondent submitted an Opposition of Claimant to Respondent's Motion for Judgment on the Pleadings to the AAA Tribunal in the *United Care Network, LLC* matter while on suspension.

5. Respondent did verbally advise his client and opposing counsel, but not the AAA Tribunal, that he was suspended from the practice of law, and he did not advise anyone of his suspension in writing via certified mail prior to the filing of his compliance declaration.

6. Respondent did advise his client of his suspension from the practice of law, by certified mail, after he filed his compliance declaration.

7. Respondent did not file a copy of his notice of his suspension to opposing counsel/adverse parties with the AAA tribunal.

8. Respondent's statements in his November 13, 2015 declaration that he notified all clients and co-counsel in writing via certified mail of his suspension, and that he filed a copy of his notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending were false. When Respondent made the statements he was grossly negligent in not knowing the statements were false.

CONCLUSIONS OF LAW:

9. By communicating with opposing counsel, the arbitrator and others via email regarding substantive legal matters, and submitting an Opposition of Claimant to Respondent's Motion for Judgment on the Pleadings in *United Care Network, LLC* arbitration matter when he was on interim suspension, and before advising them that he was on interim suspension from the practice of law, Respondent held himself out as entitled to practice when he was not an active member of the State Bar, in violation of Business and Professions Code, Section 6126/6126, and thereby willfully violated Business and Professions Code, Section 6068(a).

10. By communicating with opposing counsel, the arbitrator and others via email regarding substantive legal matters, and submitting an Opposition of Claimant to Respondent's Motion for Judgment on the Pleadings in *United Care Network, LLC* arbitration matter when he was on interim suspension, and before advising them that he was on interim suspension from the practice of law, Respondent held himself out as entitled to practice when he was not an active member of the State Bar, thereby committing an act of moral turpitude, in violation of Business and Professions Code, 6106.

11. By stating in writing on a 9.20 declaration to the State Bar Court that he notified all clients and co-counsel in writing via certified mail, of his suspension, and that he filed a copy of his notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending, when he was grossly negligent in not knowing the statements were false, Respondent committed an act involving moral turpitude, dishonesty, or corruption in willful violation of Business and Professions code, section 6106.

12. By failing to notify all clients and co-counsel in writing via certified mail, of his suspension, and failing to file a copy of his notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending, Respondent failed to comply with California Rules of Court, rule 9.20, in conformity with the requirements of rule 9.20(a), as required by the Review Department's Interim Order in case no. 14-C-01246.

Case No. 16-O-12627 (State Bar Investigation)

FACTS:

13. On June 25, 2015, Respondent filed the complaint in the *Oksana Baiul v. Sonar Entertainment*, case # BC586048 on behalf of his client. On July 10, 2015, Respondent filed the First amended Complaint on behalf of his client.

14. Pursuant to court order in State Bar case no. 14-C-01246, Respondent was placed on interim suspension after his felony conviction of conspiracy to commit mail or wire fraud, and aiding and abetting wire fraud. That interim suspension was effective September 28, 2015, and was continuously in effect through until the present.

15. On October 21, 2015, Respondent substituted out of the *Baiul* matter as counsel of record.

16. Pursuant to the interim suspension order in case no. 14-C-01246, Respondent was to comply with Rule of Court 9.20, and on or before October 28, 2015, was to notify clients, co-counsel, opposing counsel, or adverse parties in writing of his suspension and notify the State Bar of his compliance.

17. Respondent was of the unreasonable belief that since he had substituted out of the *Baiul* matter before his compliance date, he did not have to comply with rule 9.20 by giving notice of his suspension to his client and co-counsel and file a copy of his notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending.

18. On November 13, 2015, Respondent stated in writing on a declaration filed with the State Bar Court that he notified all clients and co-counsel in writing via certified mail, of his suspension, and that he filed a copy of his notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending. The State Bar Office of Probation accepted the declaration as compliant.

19. Respondent did verbally advise his client and opposing counsel in the *Baiul* matter of his suspension, but he did not advise them in writing via certified mail.

20. Respondent did not file a copy of his notice of his suspension to opposing counsel/adverse parties with the court before which the *Baiul* matter was pending.

21. When Respondent stated in his November 13, 2015 declaration that he notified all clients and co-counsel in writing via certified mail, that he was suspended, and that he filed a copy of his notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending, he was grossly negligent in not knowing the statements were false.

CONCLUSIONS OF LAW:

22. By stating in writing on a 9.20 declaration to the State Bar Court that he notified all clients and co-counsel in writing via certified mail, of his suspension, and that he filed a copy of his notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending, when he was grossly negligent in not knowing the statements were false, Respondent committed an act involving moral turpitude, dishonesty, or corruption in willful violation of Business and Professions code, section 6106.

23. By failing to notify all clients and co-counsel in writing via certified mail, of his suspension, and failing to file a copy of his notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending, Respondent failed to comply with California Rules of Court, rule 9.20, in conformity with the requirements of rule 9.20(a), as required by the Review Department's Interim Order in case no. 14-C-01246.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent's acts of the unauthorized practice of law, misrepresentations to the court in his 9.20 declaration, and failure to comply with rule 9.20(a) constitute multiple acts of misconduct.

Prior Record of Discipline (Std. 1.5(a)): Respondent has a record of a single prior discipline involving a reportable action for committing an act involving contempt of court, for filing frivolous lawsuits and motions in a civil matter in Superior Court, after the matter had been removed to and was pending in federal court, in violation of Business and Professions Code, section 6068(c), in State Bar case number 11-O-11825, resulting in a private reproof, effective June 2, 2011.

MITIGATING CIRCUMSTANCES.

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 Spait* (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 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. (Std. 1.7(b) and (c).)

Standard 1.8(a) states that if a member has a prior discipline, the degree of discipline in the current proceeding shall be greater than the discipline imposed in the prior proceeding unless the prior discipline was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing a greater discipline in the current proceeding would be manifestly unjust.

Standard 2.10 provides disbarment or suspension is the presumed sanction when a member engages in the unauthorized practice of law when he or she is on actual suspension for disciplinary reasons. The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.

Standard 2.11 provides "[d]isbarment or suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. 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.

Rule 9.20(d) provides that a suspended member's willful failure to comply with the provisions of rule 9.20 of the California Rules of Court is cause for disbarment or suspension and for revocation of any pending probation.

Accordingly, the appropriate level of discipline here falls within the range of disbarment and suspension, depending on several factors.

In the present matter, Respondent's misconduct was not remote in time to his prior discipline which was serious and misled the adjudicator, opposing counsel and the State Bar Court. Respondent's misconduct caused harm to the administration of justice inherent in all cases involving unauthorized practice of law, Respondent has committed multiple acts of misconduct, and Respondent has presented no mitigation. Respondent's misrepresentations to the court in his 9.20 declaration and failure to comply with the court order regarding rule 9.20 is further related to the practice of law, but occurred as a result of gross negligence. Accordingly, while disbarment is not necessary to protect the public interests, a period of actual suspension is appropriate. A one year suspension, stayed, with one year of probation, with conditions that Respondent be actually suspended for the first six months, and that he attend a session of State Bar Ethics school, and pass the test given at the end, and that he take and pass the MPRE, will serve the purposes of protecting the public, the courts and the legal profession.

Pursuant to case law, disbarment is generally the appropriate sanction for a willful violation of rule 9.20. (See *Bercovich v State Bar* (1990) 50 Cal.3d 116.) To avoid disbarment, the attorney must generally prove substantial mitigation, such as diligent but unsuccessful efforts to timely comply, physical impediments preventing timely compliance or misinformation from a probation officer or monitor. (See *Shapiro v State Bar* (1990) 51 Cal.3d 251.) In fact, deviation from disbarment has been applied in rule 9.20 violation cases where the attorney has demonstrated good faith, significant mitigation, and little or no mitigation. (See *Durbin v State Bar* (1979) 23 Cal.3d 461; *In the Matter of Rose* (Review Dept. 1994)

3 Cal. State Bar Ct. Rptr. 192; *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527.) In this matter, Respondent did file a 9.20 declaration with the State Bar Court, and it was deemed compliant by the Office of Probation. However, by gross negligence, due to his belief, though unreasonable, that representing a client in an arbitration is not the practice of law, and that he did not need to give notice in a case where he had substituted out as counsel, his declaration was not truthful. Further, Respondent did comply with all other requirements of his probation. Accordingly, deviation from the recommended sanction of disbarment is appropriate.

The gravamen of the misconduct in the present matter is Respondent's unauthorized practice of law. Engaging in the unauthorized practice of law is a grave breach of the duties of an attorney and therefore actual suspension is warranted. (See *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896.) In *Wells* the court considered prior case law in reaching its decision. "We look to the standards for guidance (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11, 261 Cal.Rptr. 59, 776 P.2d 1021), but we also give due consideration to the decisional law. (*In the Matter of Respondent F* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17, 30.) The hearing judge focused on cases involving UPL, including *In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229; *In the Matter of Mason* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639; *Chasteen v. State Bar* (1985) 40 Cal.3d 586, 220 Cal.Rptr. 842, 709 P.2d 861; *In the Matter of Johnston* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585; and *Farnham v. State Bar* (1988) 47 Cal.3d 429, 253 Cal.Rptr. 249, 763 P.2d 1339. The discipline in those cases ranged from 30 days' to six months' actual suspension". (*Wells, supra*, 4 Cal. State Bar Ct. Rptr. 896, 913.)

In the Matter of Wells, supra, 4 Cal. State Bar Ct. Rptr. 896, was a case that involved unauthorized practice of law in another jurisdiction, charging an illegal fee, failure to refund unearned fees and making misrepresentations to the State Bar. The attorney had a prior discipline including a one-year stayed suspension. The Review Department confirmed the lower court's order of a six-month actual suspension. The misconduct in *Wells* was similar to that here, as it involved the unauthorized practice of law, moral turpitude, and misrepresentations to the court. In both *Wells* and in the present matter the attorney had a prior discipline not involving actual suspension. Accordingly, a level of discipline consistent with *Wells*, that is, a six month actual suspension, is appropriate here.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of November 22, 2106, the discipline costs in this matter are \$4,140. 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/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

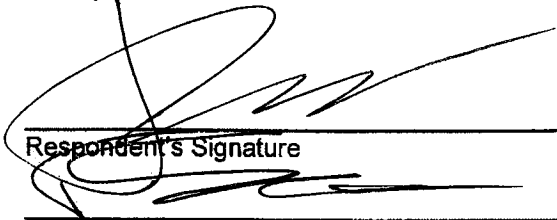
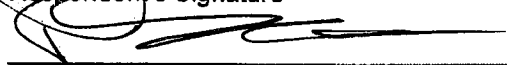
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In the Matter of
PETER MILES HOFFMAN

Case number(s):
16-O-11779; 16-O-12627

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 Fact, Conclusions of Law and Disposition.

Date	<u>1/25/17</u>		<u>Peter Miles Hoffman</u>
		Respondent's Signature	Print Name
Date	<u>1.31.17</u>		<u>R. Kevin Bucher</u>
		Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:
PETER MILES HOFFMAN

Case Number(s):
16-O-11779; 16-O-12627

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.

- On page 2 of the Stipulation, at paragraph B.(1)(a), "page 8" is deleted, and in its place is inserted "page 10".
- On page 3 of the Stipulation, at paragraph B.(11), "page 8" is deleted, and in its place is inserted "page 10".
- On page 4 of the Stipulation, under "Additional mitigating circumstances," "Pretrial" is deleted, and in its place is inserted "Pre-filing". Also, "page 9" is deleted, and in its place is inserted "page 10".
- On page 8 of the Stipulation, at numbered paragraph 9, line 6, "Section 6126/6126" is deleted, and in its place is inserted "Section 6126".
- On page 10 of the Stipulation, "Prior Record of Discipline," line 5, "11-O-11825" is deleted, and in its place is inserted "11-O-12855".
- On page 11 of the Stipulation, sixth full paragraph, line 4, "other than recognition of wrongdoing and saving the State Bar significant time and resources by entering into a stipulation" is added after "mitigation."
- On page 12 of the Stipulation, under "Costs of Disciplinary Proceedings," line 2, "2106" is deleted, and in its place is inserted "2016".

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

2/6/17


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 February 6, 2017, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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


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

PETER MILES HOFFMAN
ATTORNEY AT LAW
1643 QUEENS RD
LOS ANGELES, CA 90069

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

RONALD K. BUCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 6, 2017.



Mazie Yip
Case Administrator
State Bar Court