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<b>State Bar Court of California Hearing Department San Francisco DISBARMENT</b>		
<b>Counsel For The State Bar</b>  <b>Lauren Williams</b> <b>Deputy Trial Counsel</b> <b>180 Howard St.</b> <b>San Francisco, CA 94105</b> <b>(415) 538-2527</b>  <b>Bar # 245948</b>	<b>Case Number(s):</b> <b>16-O-15084-LMA</b> <b>16-N-15019-LMA</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>  <b>JUN 26 2017</b> V.A.  <b>STATE BAR COURT CLERK'S OFFICE</b> <b>SAN FRANCISCO</b>
<b>Counsel For Respondent</b>  <b>Christopher R. Collins</b> <b>137 Court Street</b> <b>Auburn, CA 95603</b> <b>(530) 888-1905</b>  <b>Bar # 144069</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</b>  <b>DISBARMENT</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>In the Matter of:</b> <b>JOSEPH HENRY MARMAN</b>  <b>Bar # 129517</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>		

**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 **September 15, 1987**.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (11) pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."

(Effective November 1, 2015)



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- (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):
- Costs to be awarded to the State Bar.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

**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 **10-C-08329-LMA**
  - (b)  Date prior discipline effective **March 25, 2016**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Business & Professions Code §§ 6101 and 6102 [misdemeanor conviction - misconduct warranting discipline]**
  - (d)  Degree of prior discipline **Two years actual suspension**
  - (e)  If respondent has two or more incidents of prior discipline, use space provided below:  
**See Attachment at p. 8.**
- (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)  **Lack of Candor/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 at p. 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

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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. **See Attachment at p. 8.**
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

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**D. Discipline: Disbarment.**

**E. Additional Requirements:**

- (1) **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.
- (2)  **Restitution:** Respondent must make restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_. If the Client Security Fund has reimbursed \_\_\_\_\_ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than \_\_\_\_\_ days from the effective date of the Supreme Court order in this case.
- (3)  **Other:**

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

IN THE MATTER OF:                   JOSEPH HENRY MARMAN  
CASE NUMBERS:                    16-O-15084-LMA, 16-N-15019-LMA

**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-15084 (State Bar Investigation)

**FACTS:**

1. On August 31, 2015, the State Bar Court issued a decision in Case No. 10-C-08329-LMA [12-C-17749; 14-C-01846], recommending to the Supreme Court that the member be suspended for two years, stayed, and placed on probation for three years, subject to a two-year actual suspension and proof of rehabilitation, fitness to practice, and learning and ability in the general law. The State Bar Court also recommended the member comply with the following probation conditions:

- a. Within 30 days after the effective date of discipline, [the member] must contact the office of probation and schedule a meeting with the member's assigned probation deputy;
- b. 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;
- c. Attend at least four meetings per week of an abstinence program and provide satisfactory proof of attendance to the Office of Probation with each quarterly report.
- d. Arrange and submit to monthly alcohol and drug testing at an approved medical laboratory. Provide results of the testing to the Office of Probation within one week of testing; and,
- e. Provide medical waivers and access to the member's medical records to the Office of Probation at their request.

2. On February 24, 2016, the Supreme Court issued Order No. S229881, effective March 25, 2016, requiring the member to comply with the conditions of probation recommended by the State Bar Court in its August 31, 2015, decision. The member received the order.

3. On March 11, 2016, the member's probation deputy sent a courtesy letter to the member reminding him of his probation conditions. The member received the letter.

4. On May 11, 2016, the member's probation deputy sent a letter to the member advising that he was not compliant with his probation conditions. The member received the letter.

5. To date, the member has failed to comply with the following probation conditions:

- a. submit a quarterly report by its due date of July 10, 2016;
- b. contact the Office of Probation to schedule a meeting within 30 days of the effective date of the discipline;
- c. submit a medical waiver by its due date of April 24, 2016;
- d. submit lab reports by their due dates of April 10, May 10, June 10 and July 10, 2016; and, submit proof of attendance at an Abstinence Program Meeting by its due date of July 10, 2016.

**CONCLUSIONS OF LAW:**

6. By failing to comply with eight separate conditions attached to probation in State Bar Case No. 10-C-08329-LMA [12-C-17749; 14-C-01846], the member failed to comply with the conditions attached to his disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).

Case No. 16-N-15019 (State Bar Investigation)

**FACTS:**

7. On February 24, 2016, the Supreme Court issued Order No. S229881 (hereinafter "9.20 Order"), effective March 25, 2016, requiring the member to, among other things, comply with rule 9.20 of the Rules of Court. Specifically, the member was required to perform the acts specified in subdivisions (a) and (c) within 30 days and 40 days, respectively, after the effective date of the 9.20 Order. The member received the 9.20 Order.
8. Pursuant to rule 9.20(c), the member was required to file a rule 9.20 compliance declaration with State Bar Court no later than May 4, 2016.
9. On March 11, 2016, the member's probation deputy in the State Bar Office of Probation sent a courtesy reminder letter to the member notifying him of the 9.20 requirement. The member received the letter.
10. The member failed to file a rule 9.20 compliance declaration by May 4, 2016.
11. On May 11, 2016, the member's probation deputy sent a letter to the member advising that the member was not in compliance with the 9.20 Order and needed to come into compliance. The member received the letter.
12. On May 13, 2016, the member sent a letter to State Bar Court entitled "Notification of compliance with Rule of Court, § 9.20" which was not compliant with rule 9.20.
13. On June 1, 2016, a Supervising Attorney in the State Bar Office of Probation sent a letter to the member informing him that the document he submitted to the State Bar Court was not compliant with rule 9.20. The member received the letter.
14. On June 8, 2016, the member submitted a 9.20 compliance declaration.

15. On June 9, 2016, the Supervising Attorney in the State Bar Office of Probation sent a letter to the member informing him that the 9.20 compliance declaration was rejected because it was not compliant with rule 9.20. The member received the letter.

16. On June 28, 2016, the member filed a compliant 9.20 compliance declaration.

**CONCLUSIONS OF LAW:**

17. By failing to file a 9.20 compliance declaration by May 4, 2016, the member failed to file a declaration of compliance with California Rules of Court, rule 9.20, in conformity with the requirements of rule 9.20(c) with the clerk of the State Bar Court, as required by Supreme Court Order No. S229881, in willful violation of California Rules of Court, rule 9.20.

**AGGRAVATING CIRCUMSTANCES.**

**Prior Record of Discipline (Std. 1.5(a)):**

The member has four prior records of discipline - three of which included actual suspension from the practice of law:

<b>EFFECTIVE DATE</b>	<b>CASE NO. AND DISCIPLINE</b>
July 14, 1995	<b>92-O-13001 (S045983)</b> Moral turpitude; failure to perform; failure to deposit client funds; failure to supervise. 2-year stayed suspension; 4-year probation with 60-day actual suspension. Costs to State Bar.
April 25, 1998	<b>95-O-15064 (S067309)</b> Unauthorized practice of law; failure to pay restitution. 14-day stayed suspension; one-year probation. Costs to State Bar.
September 7, 2000	<b>98-O-01683 (S088572)</b> Failure to pay restitution. 90-day stayed suspension; one-year probation with 30-day actual suspension. Costs to State Bar.
March 25, 2016	<b>10-C-08329 (S229881)</b> Misdemeanor convictions warranting misconduct; terminated from Alternative Discipline Program. 2-year stayed suspension; three-year probation with two year actual suspension and until the member proves rehabilitation, fitness to practice and learning and ability in the general law. Costs to State Bar.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):**

The member committed multiple acts of misconduct by failing to satisfy the requirements of rule 9.20, and by violating eight separate conditions of probation ordered by the Supreme Court.

**MITIGATING CIRCUMSTANCES.**

**Good Character (Std. 1.6(f)):**

The member submitted eight letters attesting to his good character from individuals in the legal and general community who were aware of the full extent of the member's misconduct.



## 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).)

In this matter, respondent violated Rules of Court, rule 9.20, by failing to submit a compliance declaration in within the required time period. Rule 9.20(d) provides: "A suspended member's willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation." "The sanction recognized and generally imposed by the Supreme Court in [former] rule 955 [now rule 9.20] willful violation cases is disbarment." (*In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Rptr. 322, 334, citing *Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.)

Standard 1.8(b) also applies in this case due to respondent's four prior records of discipline. Standard 1.8(b) provides: "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."

Respondent's charged misconduct is serious on its own and aggravated by four prior records of discipline, two for similar misconduct. There is no reason to deviate from the disbarment sanction

recommended by standard 1.8(b) as the most compelling mitigating circumstances do not predominate here and the instant misconduct did not occur during the same time period as the prior misconduct.

Respondent meets two of the factors addressed in standard 1.8(b) that support disbarment. First, actual suspension was ordered in three of respondent's prior disciplines. Second, respondent's long disciplinary history and repeated failure to comply with probation conditions demonstrate an inability or unwillingness to conform his conduct.

In light of the serious and repetitive nature of respondent's misconduct, disbarment is necessary to protect the public and will serve the purposes of attorney discipline.

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

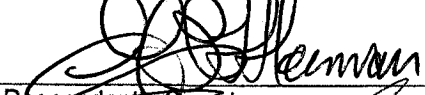
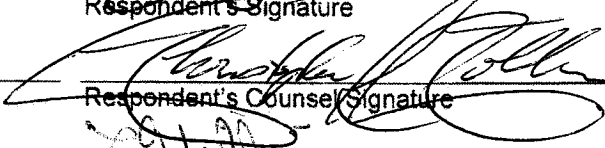
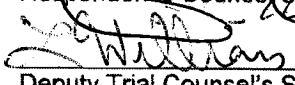
Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of June 8, 2017, the discipline costs in this matter are \$7,609. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of: <b>JOSEPH HENRY MARMAN</b>	Case number(s): 16-O-15084-LMA 16-N-15019-LMA
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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>6-12-17</u> Date	 Respondent's Signature	<u>Joseph H. Marman</u> Print Name
<u>6/12/17</u> Date	 Respondent's Counsel's Signature	<u>Christopher Collins</u> Print Name
<u>6/15/17</u> Date	 Deputy Trial Counsel's Signature	<u>Lauren Williams</u> Print Name

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In the Matter of: JOSEPH HENRY MARMAN	Case Number(s): 16-O-15084-LMA 16-N-15019-LMA
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### DISBARMENT 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 p. 2, par. B. (1)(d), after "Two years actual suspension," insert "two years' stayed suspension and three years' probation."

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.)**

Respondent Joseph Henry Marman is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date June 26, 2017

  
**PAT E. MCELROY**  
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 San Francisco, on June 26, 2017, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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 San Francisco, California, addressed as follows:

CHRISTOPHER R. COLLINS  
COLLINS & COLLINS  
137 COURT ST  
AUBURN, CA 95603 - 5003

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

Lauren M. Williams, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 26, 2017.



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Vincent Au  
Case Administrator  
State Bar Court