

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**MATTER OF MITCHELL ROBERT STERN, A SUSPENDED ATTORNEY, RESPONDENT.** -- Final order of suspension entered. Per Curiam Opinion: Respondent was admitted to the practice of law by the Appellate Division, First Department, on May 3, 2005. On October 29, 2012, he was convicted upon his plea of guilty in the Second Judicial District Court for the State of Utah (District Court) of wrongful appropriation (Utah Code Ann. § 76-6-404.5), a third degree felony. Respondent admitted in the corresponding plea agreement that he exercised unauthorized control over an operable motor vehicle belonging to another person, and District Court sentenced him to an indeterminate term of incarceration of five years, execution suspended, and a five-year term of probation, which included a requirement that he complete mental health treatment.

In December 2015, the Grievance Committee of the Seventh Judicial District filed with this Court proof of respondent's conviction. By order entered December 28, 2015, this Court determined that respondent had committed a serious crime within the meaning of Judiciary Law § 90 (4) (d), suspended him from the practice of law, and directed him to show cause why a final order of discipline should not be entered based on the conviction. Although respondent was personally served with that order on January 12, 2016, he failed to file a response or to appear on the return date thereof.

In determining an appropriate sanction, we have considered that respondent failed to respond in any fashion to the show cause order of this Court and that the record fails to establish that he completed the mental health treatment required by District Court. Accordingly, after consideration of all of the factors in this matter, we conclude that respondent should be suspended for a period of five years, effective December 28, 2015, or until the termination of his Utah term of probation, whichever period is longer, and until further order of this Court. In addition, upon any application to this Court for reinstatement to the practice of law, respondent shall submit a report from his medical provider confirming that he is in compliance with any recommended mental health treatment program and that he has the mental capacity to practice law. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, CURRAN, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)