

<p>Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT KEVIN B. TAYLOR, No. 151715 1149 South Hill Street, 9th Floor Los Angeles, CA 90015-2299 Telephone: (213) 765-1000</p>	<p>Case number(s) 01-0-04519-RMT</p> <p>kwiktag® 031 978 406</p> 	<p>(for Court's use) PUBLIC MATTER</p> <p>FILED</p> <p>JAN 21 2004</p> <p>STATE BAR COURT CLERKS OFFICE LOS ANGELES</p>
<p>Counsel for Respondent Richard Song 6230 Wilshire Blvd., #157 Los Angeles, CA 90048</p> <p>IN PRO PER</p>	<p>Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of Richard Song</p> <p>Bar # 187674</p> <p>A Member of the State Bar of California (Respondent)</p>		

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted March 11, 1997 (date)
- (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 and order consist of 9 pages.
- (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) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - costs added to membership fee for calendar year following effective date of discipline
 - costs to be paid in equal amounts prior to February 1 for the following membership years:

 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth under "Partial Waiver of Costs"
 - costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b).] Facts supporting aggravating circumstances are required.

(1) Prior record of discipline [see standard 1.2(f)]

(a) State Bar Court case # of prior case _____

(b) date prior discipline effective _____

(c) Rules of Professional Conduct/ State Bar Act violations: _____

(d) degree of prior discipline _____

(e) If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".

(2) Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) 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.

(4) Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5) Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6) Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see Standard 1.2(e.)] 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 deemed serious. Respondent has no record of prior discipline since being admitted to the State Bar of California on March 11, 1997.
- (2) No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) Candor/Cooperation: Respondent displayed ~~spontaneous~~ candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Respondent cooperated with the State Bar in resolving this matter.
- (4) Remorse: Respondent promptly took objective steps spontaneously demonstrating 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 in good faith.
- (8) Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities.
- (9) 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.
- (10) 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.
- (11) Good Character: Respondent's 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:

D. Discipline

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of Sixty (60) days

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- iii. and until Respondent does the following: _____

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of One (1) year which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) Within ten (10) days of any change ^{of the State Bar of California} Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, 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.
- (3) Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall 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. If the first report would cover less than 30 days, that report shall 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.

- (4) Respondent shall be assigned a probation monitor. Respondent shall 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 shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (5) Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit ~~of the Office of the Chief Trial Counsel~~ 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.

- (6) Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit 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.
- (7) Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (8) The following conditions are attached hereto and incorporated:
- Substance Abuse Conditions Law Office Management Conditions
- Medical Conditions Financial Conditions
- (9) Other conditions negotiated by the parties:

~~XX~~ Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit ~~of the Office of the Chief Trial Counsel~~ within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.

No MPRE recommended.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: RICHARD SONG, State Bar No. 187674
CASE NUMBER: 01-O-04519-RMT

FACTS AND CONCLUSIONS OF LAW

In or about January 1999, Simon Cho employed Respondent to represent him as a plaintiff in a personal injury matter arising out of a December 1998 automobile accident. Respondent's employment was documented with a written retainer agreement.

Respondent investigated and prosecuted Cho's case through December 1999 when he filed a civil complaint on Cho's behalf in the Los Angeles Municipal Court. In or about June 2000, Respondent secured a settlement offer from the defendant's insurance carrier. That offer consisted of a \$500 payment to Cho for his bodily injuries and a \$186.84 payment to Cho for the damage his vehicle sustained as a result of the December 1998 automobile accident.

Respondent conveyed the settlement offer to Cho by way of letters dated June 14, 2000 and June 21, 2000. At this point in time, Respondent had come to believe that Cho had lost interest in his lawsuit. Respondent based this belief on the fact that Cho had not been sufficiently responsive in his obligation to present his vehicle for inspection by the defendant's insurance carrier and that he had not responded to Respondent's letter of June 14, 2000.

In addition, Respondent believed that the settlement offer made by defendant's insurance carrier was fair and reasonable given Respondent's belief that the damage sustained by Cho's vehicle was minimal.

Because of the facts set forth above, Respondent believed that he had to settle Cho's case or the matter would be dismissed with Cho collecting nothing. Therefore, Respondent's letter to Cho of June 21, 2000, advised Cho that Respondent would accept the settlement offer on Cho's behalf if Cho did not respond to him within five days.

Cho did not respond to Respondent's letters regarding the settlement offer and never authorized Respondent to settle his case. Nonetheless, in or about July 2000, Respondent accepted the defendant's settlement offer on Cho's behalf. Respondent did this with a good faith, but unreasonable, belief that he was acting in the best interest of his client, Cho.

In settling Cho's case Respondent executed a dismissal of Cho's civil action. The dismissal was filed in the Los Angeles Municipal Court. Respondent also executed a release of all claims on Cho's behalf. The release was delivered to the defendant's insurance company. These actions were taken without Cho's knowledge.

Respondent notes that his retainer agreement with Cho authorized him to execute settlement drafts, releases and dismissals on Cho's behalf.

In addition, after signing Cho's name to the release of all claims, Respondent delivered the document to the defendant's insurance company without advising the defendant or the insurance company that it was Respondent and not Cho who had actually signed the release. As with the settlement of Cho's case without express authorization, this conduct constituted an act of gross negligence.

Respondent's communication problems with Cho continued after Respondent settled Cho's case. However, Cho did eventually contact Respondent and receive proceeds from the settlement funds discussed above.

LEGAL CONCLUSIONS

By settling Cho's case without Cho's express authority and delivering a release to the defendant's insurance company without advising the defendant that he, Respondent, and not Cho, had actually executed the document, Respondent failed to perform the legal services for which he was employed in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notice of Disciplinary Charges filed on October 8, 2003, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph A.(6), was January 15, 2004.

DISMISSALS

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
01-O-04519	ONE	RPC 4-100(B)(1)
	TWO	RPC 4-100(B)(4)
	THREE	B&P 6068(m)
	FOUR	B&P 6106

Date 1/15/04

Respondent's signature *Richard Song*

Richard Song
print name

Date _____

Respondent's Counsel's signature _____

print name _____

Date 1/15/04

Deputy Trial Counsel's signature *Kevin B. Taylor*

Kevin B. Taylor
print name

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.

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 135(b), 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 953(a), California Rules of Court.)

Date 1-16-04

[Signature]
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 January 21, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed January 21, 2004**

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

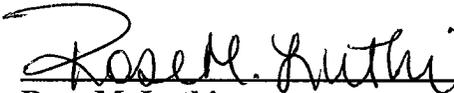
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

RICHARD SONG, ESQ.
6230 WILSHIRE BLVD. #157
LOS ANGELES CA 90048

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

KEVIN TAYLOR, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 21, 2004**.



Rose M. Luthi
Case Administrator
State Bar Court